



## CROSS-BORDER DISPUTE RESOLUTION MECHANISMS IN EUROPE – PRACTICAL REFLECTIONS ON THE NEED AND AVAILABILITY

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AND AVAILABILITY**

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# Introduction

Cross-border trade within the EU is growing and there is a general consensus that this is a positive development since it means a wider choice of products and services as well as lower prices for consumers. But as cross-border trade is growing so are cross-border complaints.

If consumers are to have trust in cross-border trade they need to know that it is safe to shop in other EU-countries. And different remedies are already in place to help consumers solve their cross-border complaints, one of these being the European Consumer Centres Network (The ECC-Network).

The ECC-Network is an EU-wide network consisting of 29 centres, one in each EU member state together with a centre in both Iceland and Norway. The Network is co-financed by the Health and Consumer Protection Directorate General of the European Commission and by the member states. The main aim of the ECC-Network is to create consumer confidence in the Internal Market and assisting consumers with cross-border complaints is one of the key objectives of the network.

Since 2007 the ECC-Network has systematically been registering complaints received in an online case handling system and data shows that the number of complaints has grown from 5,000 in 2007 to 6,500 in 2008 to estimated 8,000 in 2009. In other words an increase in the number of complaints of 60 % from 2007 to 2009.

With this network report we want to have a look at how likely consumers are to have their cross-border complaints solved today and which role alternative dispute resolution mechanisms (ADR) play in this. ADR we define as complaint handling mechanisms<sup>1</sup> dealing with consumer complaints without involving the traditional court system.

Cooperation with and development of ADR are among the core objectives of the ECC Network and in the EU consumer policy strategy for 2007-2013 the use of ADR<sup>1</sup> is mentioned as one of the ways to reach the goal of the consumer strategy that every EU-consumer should be able to shop from anywhere in the EU confident they are equally effectively protected.

Even though cross-border trade is growing it has the potential to grow much more in coming years so it is important to prepare for this by setting up systems being able to deal with cross-border complaints in an effective way. We hope with this report to be able to contribute to this.

A special thanks to Laine Vitola, former manager/adviser at European Consumer Centre Latvia, now ph.d. student at the University of Latvia, for all her help in preparing this report, especially chapters 3, 4 and 5.

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<sup>1</sup> Meeting the two existing recommendations, 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, and 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.

# Scope

The purpose of this report is:

1. To analyse the number of complaints received in the ECC-Network in 2007 and 2008 and the outcome of these cases to the extent that they have been closed by the end of 2007/2008
2. To analyse the existence of ADR in a cross-border context and how ECCs are working together with ADR in dealing with cross-border complaints
3. To identify the product/service-specific areas where each ECC receives the most cross-border complaints today against traders in its country
4. To suggest recommendations for possible improvements in the dealing of cross-border complaints

Each member of the European Consumer Centres Network has participated in this joint project which means that the report covers 29 countries. Countries such as Bulgaria, Romania, Slovenia and Slovakia are the newest members of the ECC-Network and therefore the numbers of received complaints in their centres are not yet very big as well as ADR activity is not very high.

Data has been collected in two ways:

1. statistical data concerning the number of complaints and the outcome of the cases has been provided by the European Commission which collected the data from the so-called it-tool, the common online case-handling system used by all ECCs to register all complaints received in the network
2. a questionnaire asking for additional information not registered in the it-tool has been answered by all ECCs (the questionnaire can be found in Appendix 1)

The way data has been collected presents some limitations. Only complaints received and registered by the European Consumer Centres are analyzed, the way complaints are registered may vary to some extent from centre to centre and regarding the distributed questionnaire not all ECCs have been able to answer all questions. This should be kept in mind throughout the report.

The following terms are referred to throughout the report:

- Normal complaint: a statement of dissatisfaction by a consumer concerning a cross-border transaction with a seller or a supplier
- Simple complaint: a complaint that has been dealt with by an ECC in a one-step operation without any follow-up (typically an e-mail or telephone answer to a consumer inquiry about a complaint where the consumer is informed about his/her rights and advised on how to approach the trader in order to solve the issue directly with the trader)
- ECC: European Consumer Centre
- ADR: Alternative Dispute Resolution mechanisms dealing with consumer complaints without involving the traditional court system
- NEB: National Enforcement Bodies responsible for dealing with air passenger complaints according to Regulation 261/2004
- ODR: Online Dispute Resolution

The opinions contained in this Report are not those of the European Commission or national funding bodies.

# 1. Alternative Dispute Resolution in the European Union

Alternative Dispute Resolution (meaning complaint handling mechanisms dealing with consumer complaints without involving the traditional court system) has been an important part of the European Commission's concept of consumer policy for a number of years. In view of its potential effectiveness in the resolution of disputes, the practical benefits for consumers are self-evident. Though in practice there is still a need for consistent movement towards full exploitation of the potential of these kinds of mechanisms throughout Europe.

## 1.1. Structure and procedure

Many member states have not had long traditions of ADR, and the development of such mechanisms was determined significantly by the needs of the Common Market, as well as by EU membership. The Commission adopted a Communication on the out-of-court settlement of consumer disputes in 1998, *which in turn included the Commission Recommendation 98/257/EC on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes*. Three years later this recommendation was supplemented by Recommendation 2001/310/EC which widened the scope from procedures where a third party proposes or imposes a decision to resolve the dispute to also include consensual settlement procedures (such as mediation) where the third party facilitates the resolution of a consumer dispute by bringing the parties together and assisting them in reaching a solution by common consent. Member States may notify to the Commission the ADR that they deem in conformity with these two Recommendations (the so-called notified ADRs). A list of these notified ADRs can be found in the EU Commissions ADR database ([http://ec.europa.eu/consumers/redress/out\\_of\\_court/adrd\\_en.htm](http://ec.europa.eu/consumers/redress/out_of_court/adrd_en.htm))

ADRs may be set up by public authorities both at central level (such as the model of consumer complaints boards in the Nordic countries) and at local level (such as the arbitration courts in Spain and the mediation of the regional units of the Trade Inspection in Poland). On the other hand, extra-judicial schemes can arise as initiatives supported or organized by associations or federations running their activities in specific sectors (e.g., mediators or ombudsmen for banking or insurance sectors in France, Ireland, or the United Kingdom), or by professionals or establishments offering mediation or arbitration services as their main activity (e.g., lawyers or private arbitration centres).

## 1.2. Overview of the different ADR-schemes existing today

This significant diversity in the ADR-schemes mentioned above is obviously reflected in the procedural form as well as in the status of the conclusion of disputes relating to the various kinds of ADR bodies.

Some schemes might be aimed at settlement between the parties and a solution based on mere recommendations (seen in consumer complaints boards and the private ombudsmen schemes across the EU), while others result in decisions that are binding (e.g. arbitration) or semi-binding (as in the case of most of the bank ombudsmen).

In the following you will find a short overview of the main groups of ADR-schemes existing today. It should be taken into account that apart from the below-mentioned basic types of schemes the formula of ADR allows to produce a wide range of extra-judicial

procedural variants and hybrid forms, such as: med-arb, adjudication, neutral fact finding, semi-binding mediation, high-low or final-offer arbitration etc.<sup>2</sup>

### 1.2.1. Mediation and conciliation

With mediation or conciliation, the parties try to reach an amicable agreement through the participation of a third party.

Mediation is the technique by which a third party mediator, who is neutral in the dispute, is appointed by mutual consent to try to explore ways in which the parties can reach an outcome which satisfies both of them. At the same time, it needs to be stressed that the outcome is not necessarily that which a court would have reached, or even would have had the power to reach. The mediator does not impose any solution, but tries to ensure that the parties reach a compromise independently.

Conciliation is the mechanism in which the neutral third party assists the parties to settle their differences and apart from that may deliver his opinion as to the merits of the case. In some variants the conciliator may be required to make a recommendation as to the dispute resolution if agreement cannot be reached.

In mediation and conciliation proceedings, the parties are not limited either by the provisions of substantive law or by rules of procedure. The dispute settlement, therefore, does not have to be based on specific legal regulations, but may invoke general principles such as honesty, legitimacy, loyalty, or good faith. In most cases, an amicable agreement concluded in such proceedings requires in addition the granting of an enforcement clause by a court.<sup>3</sup>

### 1.2.2. Ombudsmen

In the context of ADR an ombudsman is a person appointed individually to settle disputes between entrepreneurs and consumers (some countries use the word ombudsmen in another meaning where the ombudsman can not be considered an ADR dealing with individual cases). Those appointed to this position possess expert knowledge and professional qualifications in the field in question, and enjoy considerable standing in society as well as an untarnished reputation. This ADR type most often stems from the initiative of an entrepreneur in a given sphere, and constitutes one of the instruments of soft law. Although the ombudsman is appointed by such entrepreneurs, he or she usually has the status of an independent authority when it comes to settlement of the dispute. Ombudsmen generally have competence for a given range of cases, and arrive at their decisions on the basis of legal provisions, rules of equality or guidelines accepted in the branch of activity concerned. Such decisions are usually binding on the entrepreneur, or else not binding on any party.

### 1.2.3. Complaints boards

Consumer organisations, associations of traders or commercial institutions may jointly or independently organize complaints boards based on the provisions of national legislation as well as soft-law instruments (such as codes of conduct, trust-mark systems, guidelines etc.). Complaints boards are of a collective nature with equal representation of consumers and entrepreneurs.

A complaints board's settlements are not usually binding, although in some systems they are binding on the entrepreneur.

2 It is noteworthy that in line with various sources, such as the Green Paper of 2002 on alternative dispute resolution in civil and commercial law, there is a need to set "ADR in the context of judicial proceedings" apart from "conventional ADRs". In other words there are schemes conducted by the court or entrusted by the court to a third party and mechanisms used by parties on a strict out-of-court procedural basis. Though facing the fact that courts are a rare solution for consumer complaints that division does not seem to have a crucial meaning for the individuals' access to justice.

3 See art. 3 of Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters: For the purposes of this Directive the following definitions shall apply: 'Mediation' means a structured process, however named or referred to, whereby two or more parties to a dispute attempt by themselves, on a voluntary basis, to reach an agreement on the settlement of their dispute with the assistance of a mediator. This process may be initiated by the parties or suggested or ordered by a court or prescribed by the law of a member state.

Some complaints boards can conduct consumer cases even without the entrepreneur's consent. Though decisions in such cases are not binding, they may have an impact on the entrepreneur's reputation.

#### **1.2.4. Arbitration**

Arbitration is a formal and binding process where the dispute is resolved by the third body either of a collective or an individual nature. Through reviewing the case this kind of settlement technique leads to decisions (awards) that are enforceable in the same way as court judgments and in principle limited possibilities for appeal exist.

The procedure can be governed by private agreement or parties can refer to an institutionalized scheme founded on the basis of legal framework.

This kind of ADR scheme is more formal or "court-like" than consensual mechanisms, since parties resign from reaching amicable solutions by themselves agreeing to be bound by the final decision of the one or more neutral persons.

Arbitration is generally considered to offer the following advantages: speedy proceedings, anonymity, binding and enforceable decisions, a comprehensive framework for international arbitration and recognition and enforcement of foreign arbitral decisions, and the free choice of the parties of the body responsible for arbitration, the arbitrator, the procedural law and the law applicable to the dispute. The key disadvantage is that the decision of an arbitrator cannot be appealed.

### **1.3. Online dispute resolution**

Another crucial aspect of European consumer policy and the real challenge for the development of the information society is Online dispute resolution, often abbreviated ODR. The term refers to methods of alternative dispute resolution that incorporate the use of information technology in alternative dispute resolution processes (the internet, web-sites, e-mail communications, streaming data etc.).

Despite the fact that certain online ADR-services may only be used to resolve disputes arising from online transactions, this formula may also be adapted to all other forms of disputes. However, at the moment the use of ODR is not very widespread.

## 2. The ECC-Network's role in solving cross-border consumer complaints

### 2.1. About the European Consumer Centres Network (the ECC-Network)

The European Consumer Centres Network (the ECC-Network) is an EU-wide network designed to promote consumer confidence in cross-border trade by advising consumers on their rights when shopping cross-border and by providing them with information and easy access to redress in the event of a complaint.

The ECC-Network consists of 29 centres all around EU, Island and Norway. The network is co-financed by the Health and Consumer Protection Directorate General of the European Commission and by each national government. According to the Consumer Programme the host organisations of the European Consumer Centres must be a public body or a non-profit-making body designated by the member state or the competent authority concerned and agreed by the European Commission.

The network was created in 2005 by merging two previously existing networks:

- the European Consumer Centres or 'Euroguichets', which provided information and assistance on cross-border issues
- the European Extra-Judicial Network or "EEJ-Net" which helped consumers to resolve their disputes through alternative dispute resolution schemes (ADRs) using mediators or arbitrators

The aim of the European Consumer Centres is to guarantee consumer confidence when buying cross-border similar to when buying in their own country. The role of the ECC-Network is to provide consumers with a wide range of services, from providing information on their rights to giving advice and assistance with their complaints and the resolution of disputes with the help of appropriate ADR schemes.

The ECC-Network deals only with business-to-consumer issues and among its main objectives and tasks are the following:

- to inform consumers and to give them advice about their rights when shopping cross-border within the boundaries of EU, Iceland and Norway;
- to give advice and support to any consumer with a complaint related to a cross-border purchase;
- to provide easy access to ADR-bodies in situations where it has not been possible to solve a cross-border consumer complaint amicably and to assist in this process;
- to raise the awareness of the out-of-court resolution schemes (ADR) among consumers and businesses by organising seminars, workshops and conferences and sharing problems and best practices at national and EU level;
- to cooperate with other EU-networks which provide essential information on EU, national legislation and case-law, such as SOLVIT which addresses problems arising from misapplication of internal market rules by national authorities, and FIN-NET, an out-of-court network for financial services;

### 2.2. Case-handling procedures within the ECC-Network

Ideally consumers should be able to resolve problems regarding cross-border purchases on their own, complaining directly to the trader who would then respond seriously to the

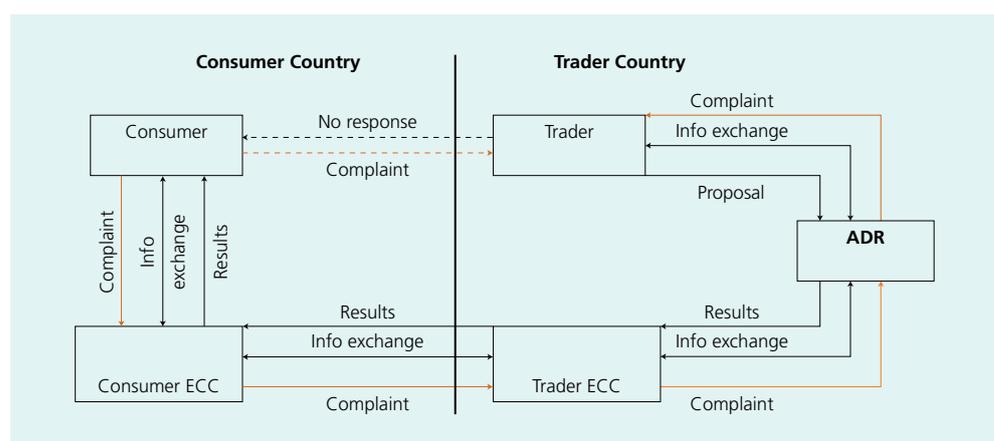
complaint and comply with European legislation in trying to solve the complaint amicably with the consumer where the claim is not ill-founded.

Where the consumer and the trader are not able to reach an amicable settlement the consumer should turn to the ECC in the consumer's own country for assistance. The two ECCs in the country of the consumer and in the country of the trader can decide to try and assist the consumer in contacting the trader (again) but besides that the role of the ECCs should be to act as intermediaries between the consumer, who faces a cross-border problem and the appropriate alternative dispute resolution mechanisms competent to assist in finding an amicable settlement between the consumer and the trader. In this context the work of the ECCs includes the following:

1. to determine the appropriate out-of-court scheme;
2. to provide the consumer with detailed information about such an out-of-court body. If more than one out-of-court body is available, the consumer should be provided with details on the various options in order to make his/her own choice;
3. to inform the consumer of the advantages and disadvantages that out-of-court resolution may have over other methods of redress, such as any time limits, or any other factors which may affect the consumer's ability to enforce his rights;
4. to help consumers monitor their dispute, where necessary;
5. to provide access to translation services when required.

Therefore theoretically, when a consumer with a cross-border complaint has not succeeded in finding an amicable settlement with the trader on his own, he/she should turn to the ECC in his own country – the consumer ECC – for help and assistance. The consumer ECC should then assist the consumer with the translation of the complaint into English, if necessary, and then transfer the complaint to the ECC where the trader is located – the trader ECC. The trader ECC should find an appropriate ADR scheme which would be competent to solve the case and then forward the case to this ADR. Afterwards the competent ADR according to its own procedures should contact the trader and try to solve the case. When an amicable settlement would be reached the ADR should inform the trader ECC about the results, which afterwards would forward this information to the consumer ECC, which accordingly would inform the consumer about the ADR decision. In picture (2.1.) below the procedure is illustrated.

**Pict. 2.1. Theoretical cross-border case handling – the ECC-Network cooperating with ADR**

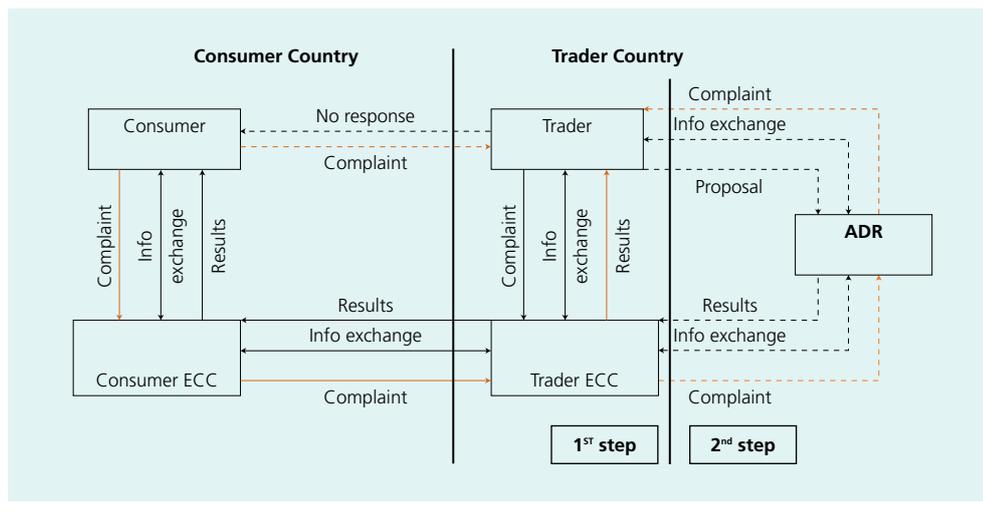


As the statistics in chapter 3 will show the possibility of forwarding a complaint to a competent ADR-body does not exist in the vast majority of complaints received by the ECC-Network. Due to this ECCs normally play a more active role in trying to help the consumer solve his/her complaint.

In reality, after the case has been submitted to the consumer's ECC and translated into English, it is forwarded to the ECC where the trader is located, where case handlers of the trader's ECC make a legal assessment of the case and try to solve it on their own as a first step. If they have not been successful in solving the case, then only very rarely and only as a step 2 they try to contact appropriate ADR. In the vast majority of cases the reason for this is that no ADR possibility exists for the complaint in question.

In picture (2.2.) below the real procedure is illustrated.

**Pict. 2.2. Real cross-border case handling – the ECC-Network cooperating with ADR**



### 3. Statistical analysis of complaints received in the ECC-Network in 2007 and 2008

On the following pages we will take a look into the statistics of the European Consumer Centres. Since 2007 the ECC-Network has systematically been registering all complaints received in an online case handling system, specifying among other things what kind of product/service the consumer is complaining about, the nature of the complaint (delivery problems, faulty goods, unfair contract terms etc.) and the outcome of the case. Based on these data we are able to see how many cases have been received during 2007 and 2008, in what areas the number of complaints are the highest and what the outcome of the cases has been.

Before reading the diagrams you should know the distinction between normal complaints and simple complaints. The definitions used for the purpose of this report are as follows:

- Normal complaint: a statement of dissatisfaction by a consumer concerning a cross-border transaction with a seller or a supplier
- Simple complaint: a complaint that has been dealt with by an ECC in a one-step operation without any follow-up (typically an e-mail or telephone answer to a consumer inquiry about a complaint where the consumer is informed about his/her rights and advised on how to approach the trader in order to solve the issue directly with the trader)

The reason for showing also the simple complaints is to illustrate the existing potential of cross-border complaints to the extent that these complaints have reached the European Consumer Centres.

### 3.1. Complaints received in 2007 and 2008

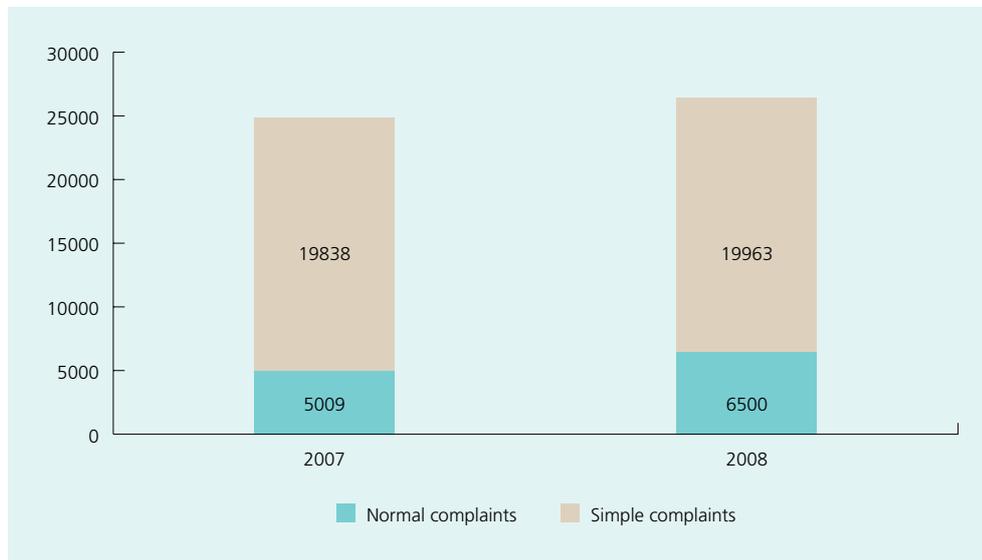
#### 3.1.1. Total number of received complaints in 2007 and 2008

In 2007 the European Consumer Centres received almost 20,000 simple complaints and 5,000 normal complaints. In 2008 the number normal complaints increased by 1,500 or 30 % whereas the number of received simple complaints stayed at around 20,000.

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#### Total number of received simple and normal complaints in 2007 and 2008

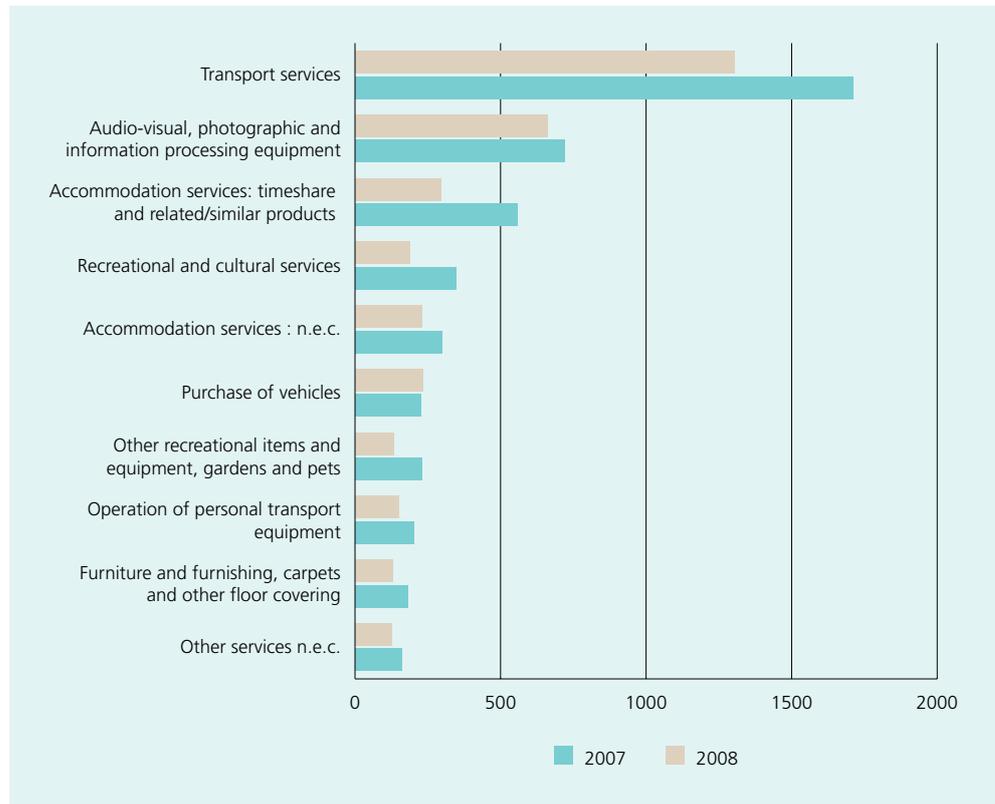
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### 3.1.2. Top 10 of all received normal complaints in 2007 and 2008

When analyzing the received normal complaints by type of the complaints, data shows that the types of cases located in the top 10 are quite similar in the two years with some minor changes in the last places. Complaints about transport services have taken the 1st place in both years, even with an increase of 400 complaints or 31% from 2007 to 2008, confirming the fact that complaints related to airline transport is the single biggest category of complaints in most ECCs.

**Top 10 of all received normal complaints in 2007 and 2008**



### 3.1.3. Solution of the normal complaints in 2007 and 2008

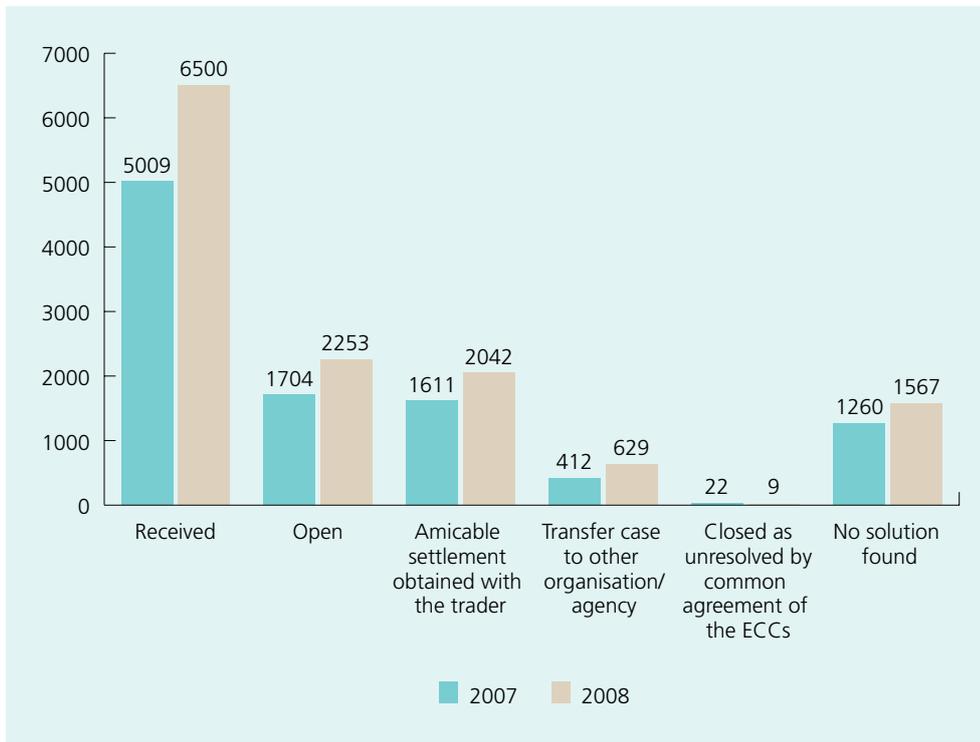
Out of the 5009 normal complaints received in 2007 approximately two thirds had been closed by the end of the year with the ECCs being able to solve about half of the closed cases amicably without the intervention of others. The percentages were approximately the same in 2008, having the 30 % increase in the number of complaints in mind. Data also reveals that most of the rest of the cases (38 %) were closed without any solution.

From all the normal complaints closed in 2007 only 8 % were forwarded to other organisations such as ADRs, NEBs (national enforcement bodies dealing with air passenger complaints) and other appropriate organisations. This number increased to 15% of all received cases in 2008, still leaving, however, 85% of all received cases for the ECC-Net itself to deal with.

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#### Solution of normal complaints in 2007 and 2008

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## 3.2. Complaints forwarded to ADR

### 3.2.1. Total number of complaints forwarded to ADR in 2007 and 2008

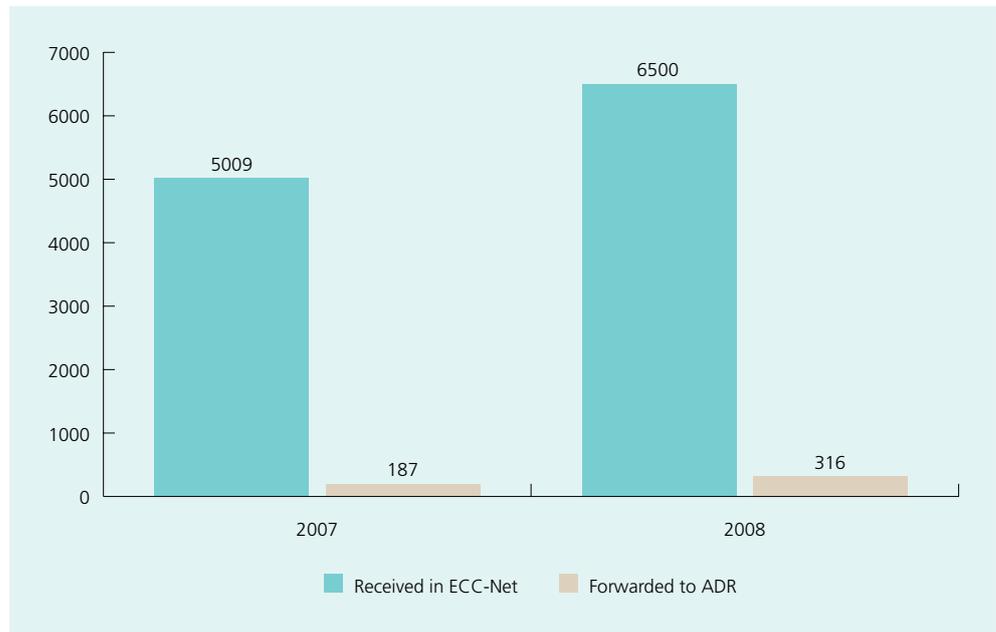
Looking only at the complaints forwarded to ADR the statistics show that from all received normal complaints in 2007 only 3.7 % were forwarded to appropriate ADR-bodies. Although the number of forwarded complaints increased by 69% in 2008, proportionally it almost stayed the same – only 4.9 % of all received normal complaints in 2008 were forwarded to ADR.

This diagram probably is the most illustrative way of showing that in practice ADR-bodies only play a very small role in dealing with cross-border complaints today.

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#### Normal complaints forwarded to ADR in 2007 and 2008

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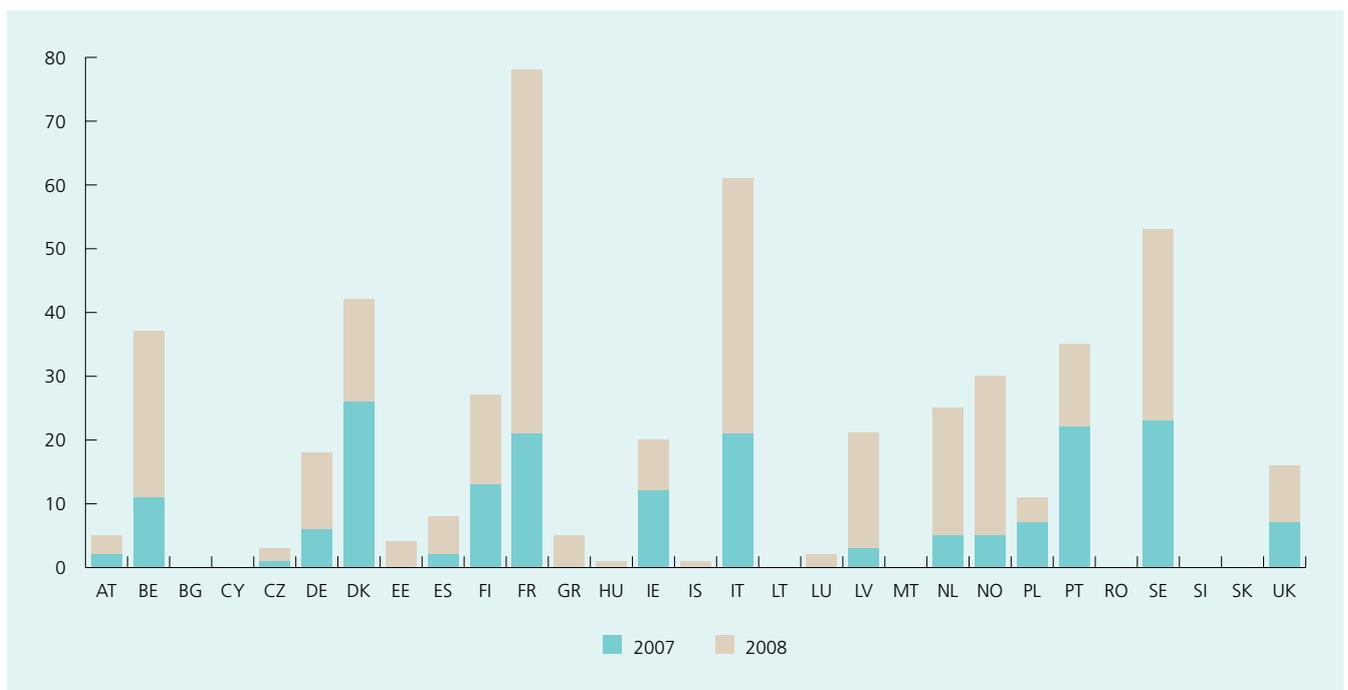


### 3.2.2. Complaints forwarded to ADR in 2007 and 2008 by country

The possibility for consumers to have their complaints against businesses dealt with by an ADR meeting one of the EU Commission's recommendations on out-of-court settlements is traditionally considered as a positive thing since it gives the consumer the possibility to get an independent decision on whether he/she or the trader is right and a better chance of actually getting what he/she is entitled to.

Even though the total numbers of complaints transferred to ADR are very low some positive progress can be noted by looking at the country-specific data. Many of the country-specific numbers indicate that the number of cases forwarded to appropriate ADRs is increasing in 2008 compared to 2007. Significant increases of the cases forwarded to ADR comparing to 2007 can be observed in Belgium, France, Italy, Latvia, The Netherlands and Norway. There are some countries as well where no cases at all to ADRs have been forwarded in neither 2007 nor 2008. These are Bulgaria, Cyprus, Lithuania, Malta, Romania, Slovakia and Slovenia. One of the reasons for this is that some countries such as Bulgaria, Slovenia, Slovakia and Romania are the newest ECC-Net members opening their centres in 2007 and 2008 and so far they have received only a very small number of cross-border complaints. For other countries the reason of such data could be mentioned as lack of ADRs meeting the requirements of the European Commission.

**Forwarded normal complaints to ADR by country in 2007 and 2008**

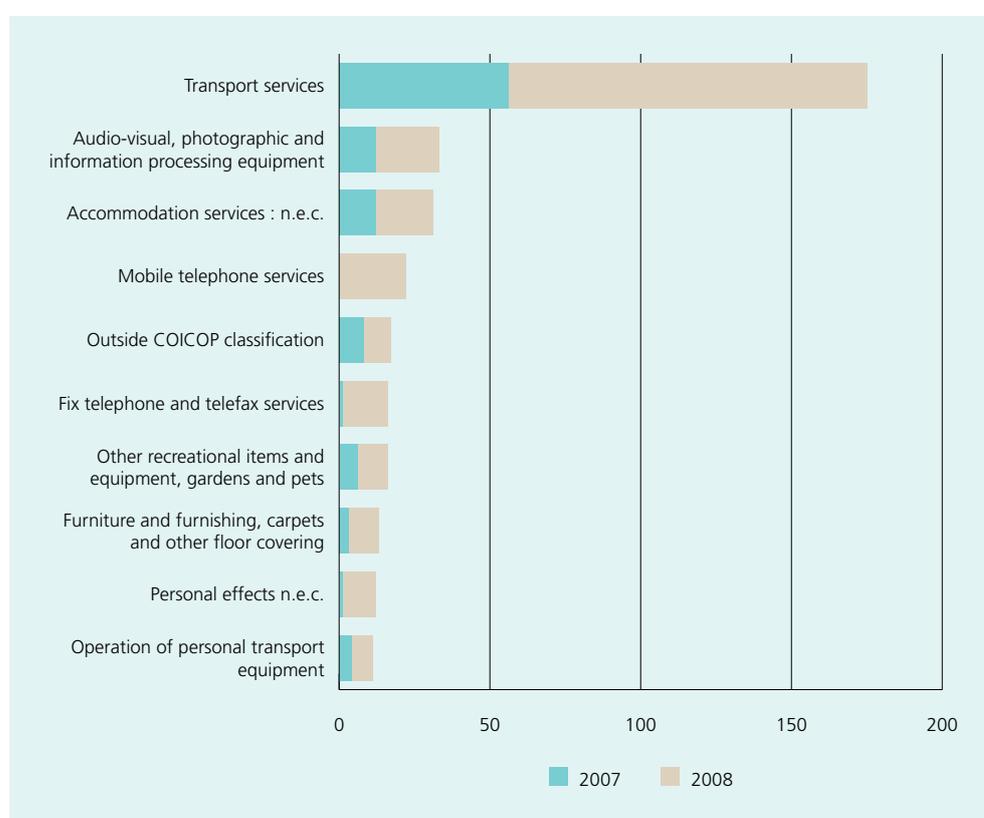


### 3.2.3. Top 10 categories of complaints forwarded to ADR in 2007 and 2008

The type of complaints in the top 10 has changed within the two years. Whereas insurance, package holidays and financial services were in the top 10 looking only at 2007 these categories are not in the top 10 for 2007 and 2008 together due to more complaints transferred in 2008 in the categories personal effects, fixed telephone and telefax services and mobile telephone services.

The highest increase of complaints forwarded to ADR has been in the transport service area - from 56 cases in 2007 up to 119 cases in 2008 (regarding this particular area it should be noted, however, that some ECCs register cases as forwarded to ADR when in fact the case is forwarded to one of the national enforcement bodies dealing with air passenger complaints). Second place in 2008 is taken by mobile telephone services which is a completely new area where no cases were forwarded to ADR in 2007. Of course the low number of cases forwarded to ADR in general should be taken into consideration when comparing these data.

#### Top 10 of normal complaints forwarded to ADR in 2007 and 2008



### 3.2.4. Solution of complaints handled by ADR in 2007 and 2008

In 2007 from all received cases in the ECC-Network only 3.7 % or 187 complaints were forwarded to appropriate ADR. By the end of 2007 71 % of these forwarded complaints were still open. Only in 29 % of these cases the ADR-bodies had dealt with and closed the case by the end of the year. The ADR-bodies had decided in favor of the consumers or a compromise had been reached in 38% of the cases that were closed during the year. In the rest of the cases decisions by the ADR-bodies were not in favor of the consumer, the ADR had not been competent or it was impossible to obtain information on the ADR-decision.

This clearly shows that even if cases are forwarded to appropriate ADRs there is no guarantee that the consumer will receive a decision in his/her favor. This may be due to the claim being ill-founded in some cases but to the extent there are other reasons this may

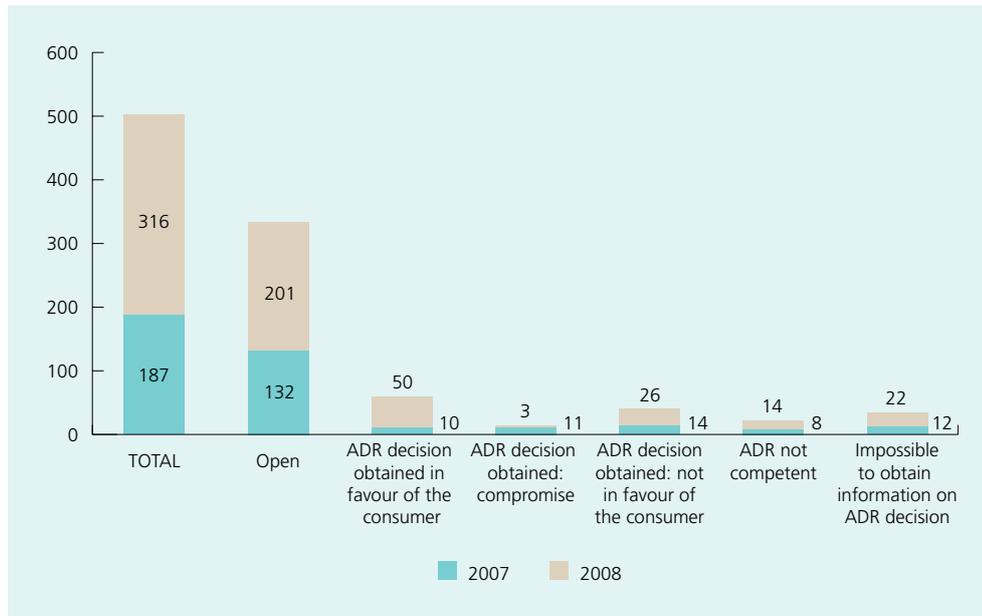
be a barrier in relation to consumer confidence in cross-border shopping in general and in relation to increasing trust in ADRs in specific.

In 2008 the situation has improved and the number of forwarded cases to appropriate ADRs has increased to 316 cases which is an increase of 69 % according to 2007. However, proportionally it is almost the same percentage of forwarded cases to appropriate ADR by the ECCs as in 2007, that is, 4.9 %. By the end of 2008 36 % of the cases had been closed by the ADRs, leaving 64 % still open. (see also chapter 4.2.2 for average case handling times at ADRs)

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### Solution of complaints handled by ADR in 2007 and 2008

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## 4. Questionnaire results

### 4.1. General cooperation between ECCs and ADRs in EU

One of the aims of this report is to get a clearer picture of the real cooperation between ECCs and ADRs in each member state and try to identify possible obstacles withholding ECCs from forwarding complaints to appropriate ADRs.

Because of this all ECCs were asked to provide typical examples of ADR cases dealt with by their respective centres. A review of the ADR cases presented by the ECCs presents a number of patterns from which partial conclusions can be made. It should be stated here that the information is taken from a qualitative survey question, and as such cannot be seen as statistically representative of ADR experiences but it gives information on practical experience which could be followed up by a quantitative survey at a later stage.

It seems that the responses can be divided into 4 categories:

1. The first type is the nil returns where no cases have been sent to ADR by the ECCs. The reasons for this vary but the main reasons are the lack of competent ADR-bodies, no cases appropriate for ADR have been identified, high success rates using more conventional techniques such as the ECC contacting the trader and solving the case amicably, or barriers preventing the correct function of ADR. (see Appendix 3)

At present few firm conclusions can be drawn from the nil returns from countries other than those without ADR schemes. Follow up action is recommended to further probe the reasons behind the nil returns.

2. In a number of the case-examples ECCs have not been able to find solutions using their current modus operandi but the possibility to refer to a relevant ADR is not available. These cases have been offered as possible candidates for ADR since the impartial and independent nature of ADR could probably help lift the current deadlock in these cases. Typical examples of this type are related to the tourist industry and include difficult traders who refuse to accept the opinion of the ECCs or other agencies related to the industry, and airlines who refuse to give adequate compensation for delay or loss of luggage. The lack of ADR in the relevant area/industry is resulting in these cases being closed without any solution.
3. Some of the cases have been referred to ADR but the trader has refused to participate in the resolution, or systemic failures during cross border disputes have lead to the apparent failure of the ADR process. For the former, there appears to be a lack of incentives for the trader to take part in the ADR, and for the latter there appears to be a lack of transparency, or system robustness which is causing blockages to the ADR process.
4. The last category consists of cases which have been forwarded to ADR and where a solution has been found through full co-operation from the trader. The cases submitted are very encouraging as they often feature traders who would not respond positively to direct communication from either the consumer, or the ECC, but have responded to ADR and a resolution has been found.

As it can be seen from categories 1-3 gaps in the process have been identified, and resolving these issues form a significant challenge to the ECC-Network, although the final outcomes, as many of the cases testify, will be rewarding. The cases in the last category are encouraging, and there is plenty of scope for best practices to be adopted with due respect to national contexts.

Overall, when the national context is favorable to allow ADR to proceed, the results have been highly encouraging and there is a lot of scope for lesson learning and sharing amongst the ECCs and ADRs as well. There is still a lack of viable ADR schemes in a large number of the countries, which is or in the majority of cases are due to the fact that no ADRs are currently up and running, or that the individual powers of the ADR in certain sectors are weak, or in a minority of cases there is a systemic failure resulting in ADR 'ready' cases going unresolved.

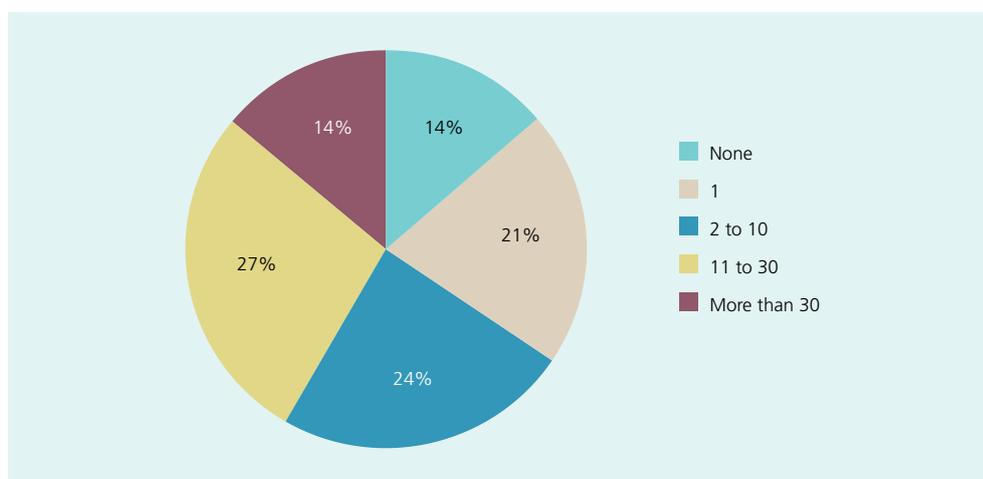
## 4.2. Analysis of the answers to the specific questions in the circulated questionnaire

### 4.2.1. ADR bodies in EU, Iceland and Norway

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#### Number of notified ADR bodies in EU, Iceland and Norway

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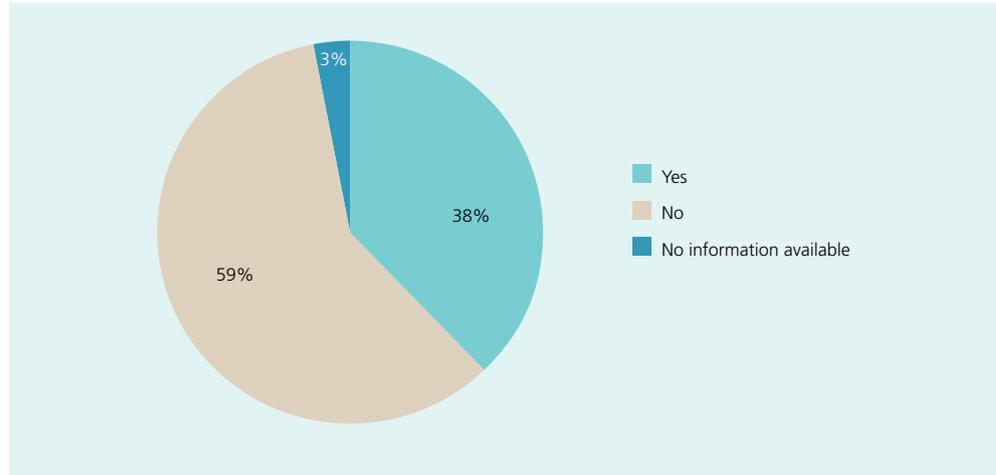
\*Information source – 29 countries

About 1/3 of the countries have no or only 1 ADR notified under the two EC recommendations whereas half of the countries have from 2 and up to 30 notified ADRs. Of course the number of ADRs does not give any detail on the ADR coverage in the country in question but it can give a general indication as to the use of ADR.

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### Do you have any ADR bodies not notified yet?

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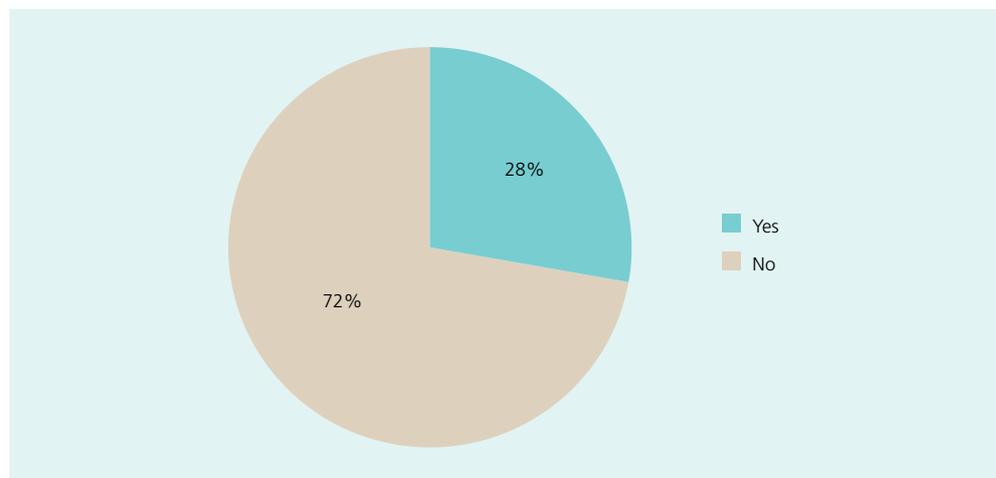
\*Information source – 29 countries

In most countries relevant ADR bodies have been notified according to the EC recommendations but it is worth noticing that in 11 countries (38 %) ADR-bodies exist that could have been notified but for some reason have not been notified. This suggests that a very relevant activity following this joint project could be to contact these ADR bodies and convince them to become notified.

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### Do you have any ADRs acting as ODRs?

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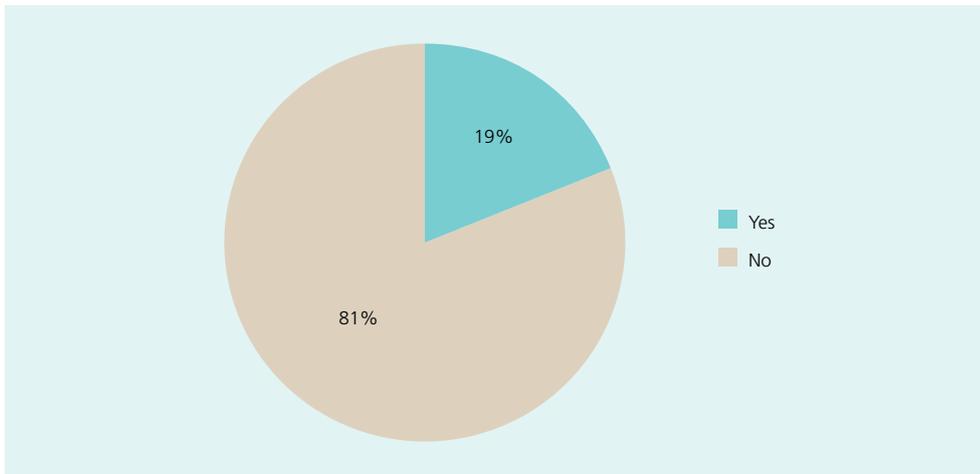


\*Information source – 29 countries

An Online Dispute Resolution mechanism (ODR) is an ADR which is able to handle consumer complaints only via internet/e-mails, that is, it communicates with all parties involved in the case via the internet. At the moment these types of institutions are established only in 28 % of the ECC countries and mostly in the largest countries. Obviously ODR would be particularly relevant when dealing with cross-border complaints so this might be an area where further development would be welcomed.

#### 4.2.2. ADR case-handling procedures in EU, Iceland and Norway

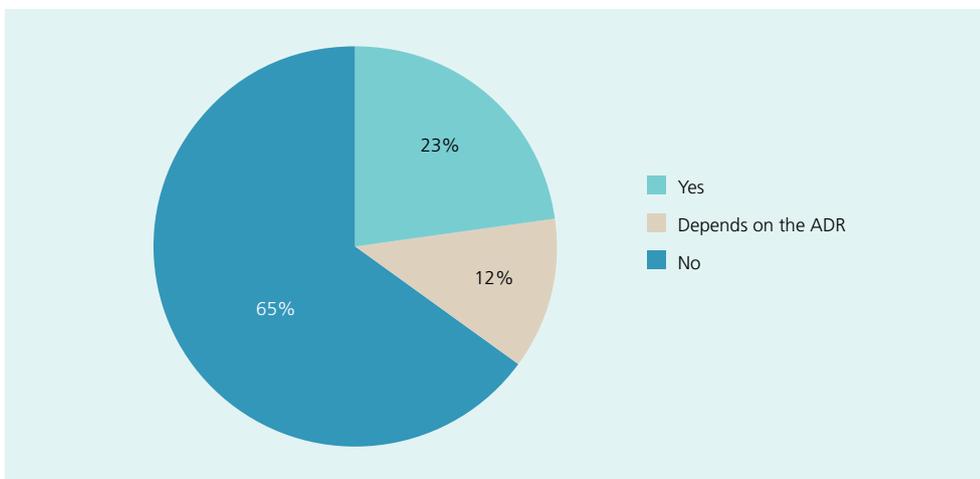
##### Do ADRs accept complaints only in the language of the ADR?



\*Information source – 26 countries (not included – Bulgaria, Malta, Slovenia)

Most ADRs seem to accept complaints not only in their own language but at least in English as well. Some ADRs accept complaints in several languages. However, it does not mean that all ADRs in a certain country will accept several languages. Mostly it means that in a certain country one or more ADRs, but not all, accept consumer complaints not only in the language of the ADR.

##### Do ADRs have minimum/maximum values for accepting complaints?



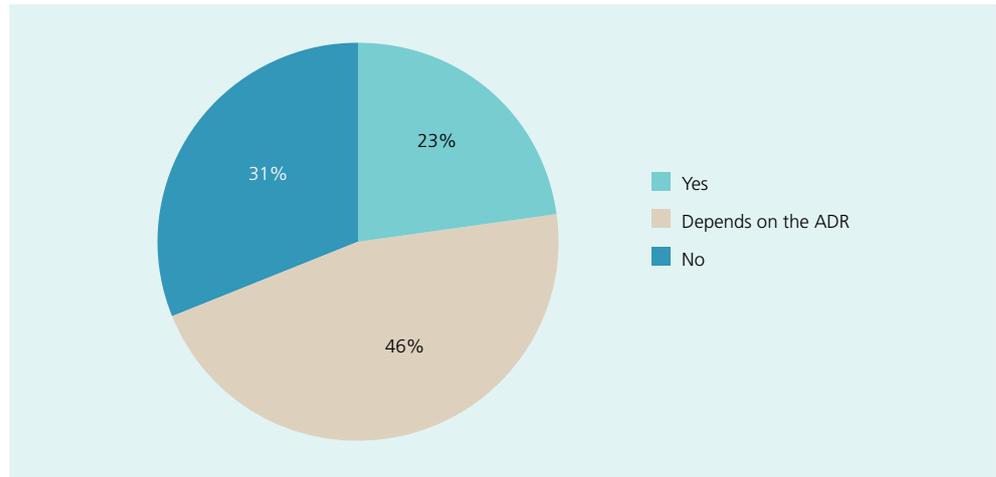
\*Information source – 26 countries (not included – Bulgaria, Malta, Slovenia)

ADRs in most ECC-countries do not have any minimum and/or maximum value barriers for the complaints to be accepted for ADR procedure. In a quarter of the countries such barriers are established but in most cases they exist only for minimum or maximum values, not both together. In 3 countries (12 %) minimum and/or maximum limits exist in some ADRs but not all.

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## Do consumers pay a fee for the ADR procedure?

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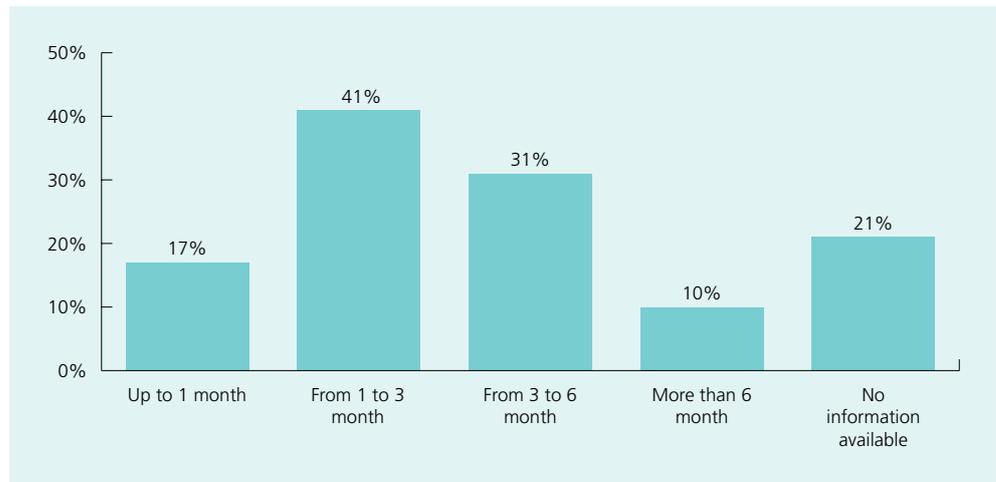
\*Information source – 26 countries (not included – Bulgaria, Malta, Slovenia)

ADRs where consumers have to pay a fee before their complaint is dealt with can be met in most countries. In a quarter of the countries all ADRs charge a fee for their procedures. In half of the countries both ADRs – those who charge a fee and those who do not exist. Only in a third of countries all ADRs provide their services free of charge.

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## Average case handling time at ADRs

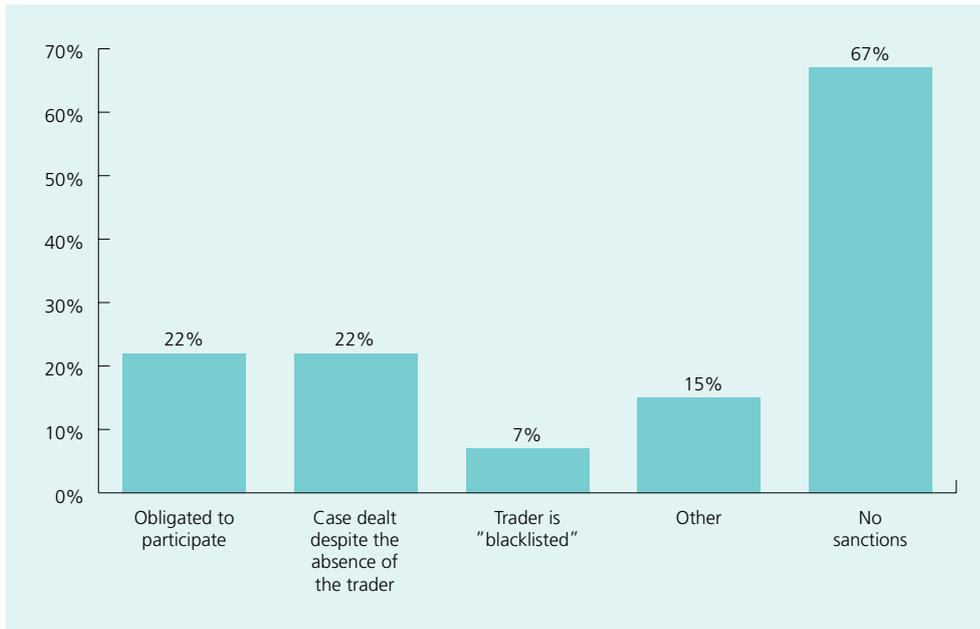
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\*Information source – 29 countries (more answers possible)

The average case handling time varies a lot between the ADRs. Taking that into account and after summarizing roughly all the answers for different ADRs in different countries it seems that more than half of the ADRs are able to deal with the cases in less than 6 months whereas it takes more than 6 months at only 10 % of the ADR-bodies.

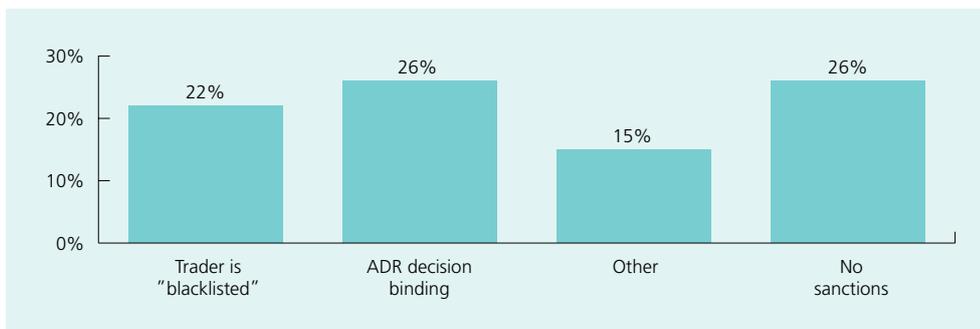
## Sanctions against traders not participating in ADR procedures



\*Information source – 27 countries (not included – Bulgaria, Slovenia) (more answers possible)

In most situations (2/3) ADRs do not have sanctions in place to “motivate” the trader to participate in ADR procedures. However, 22 % of the ECCs have answered that in some of their ADRs traders are obliged to participate in the proceedings and the same percentage of ECCs have answered that in some of their ADRs the complaint is dealt with no matter if the trader agrees to the proceedings or not. Some ADRs also blacklist traders who do not participate in the proceedings.

## Sanctions against traders not following ADR decisions

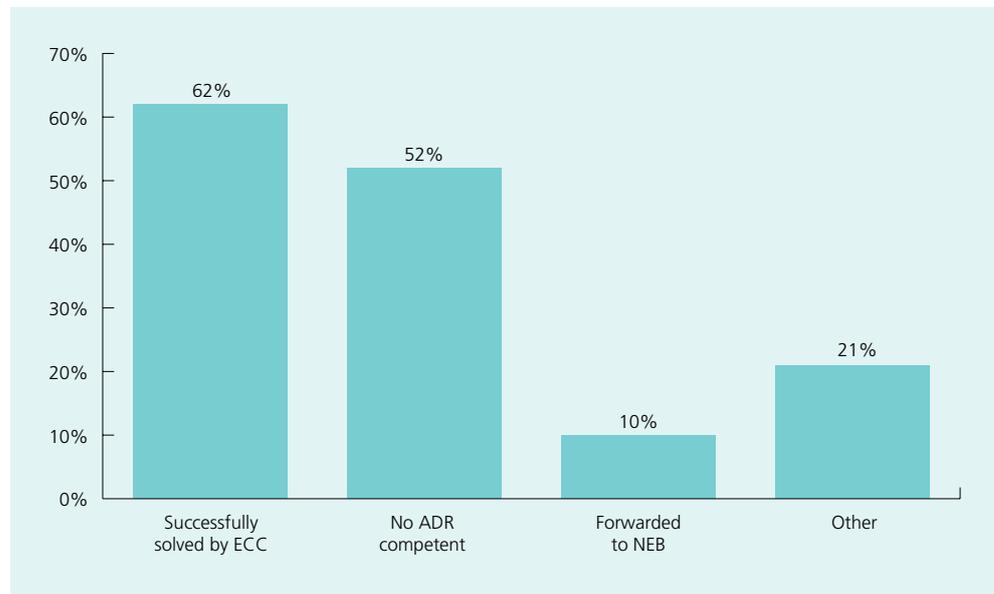


\*Information source – 27 countries (not included – Bulgaria, Slovenia) (more answers possible)

ECCs were also asked what kind of sanctions traders can expect if they refuse to follow the decisions of the ADR. 26 % of the countries have one or more ADRs where the decision of the ADR is binding and thus other sanctions are in principle not necessary. Other 26 % say that they have no sanctions if a trader does not follow an ADR decision. The most common sanction when a trader does not follow an ADR decision is blacklisting of the trader. 22 % of the ECCs that this sanction is used by some of their ADRs.

### 4.2.3. ECC-Net cooperation with ADRs and need for ADR development in EU, Iceland and Norway

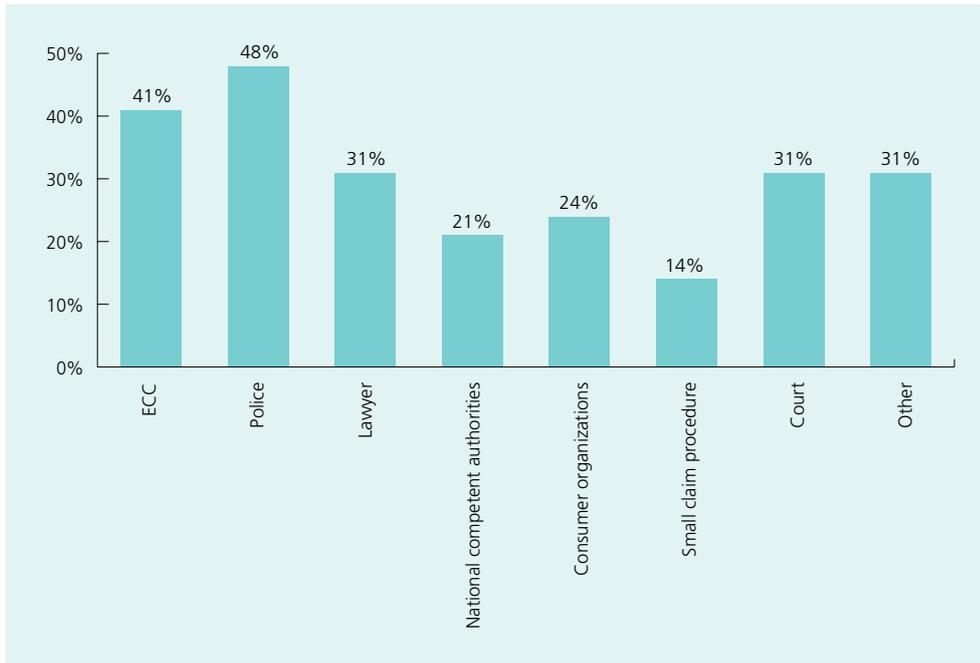
#### Reasons for not forwarding cases to ADRs



\*Information source – 29 countries (more answers possible)

Most of the ECCs consider that they have to try and solve the case as the 1st step, that is, when they receive a complaint from another ECC they try to solve the case on their own and thus many ECCs mention as a reason for not transferring cases to ADR that they are able to solve the cases on their own. But statistics also shows that approximately half of the cases received are not solved by the ECCs on their own and for these cases the main reason for not transferring cases to ADR is that a competent ADR do simply not exist. Half of the countries have highlighted this as being the reason. Under “other” reasons centres mentioned, for example a lack of willingness from businesses to participate in ADR procedures as well as consumers refusing to participate in ADR procedures because of the case handling fee collected by an appropriate ADR.

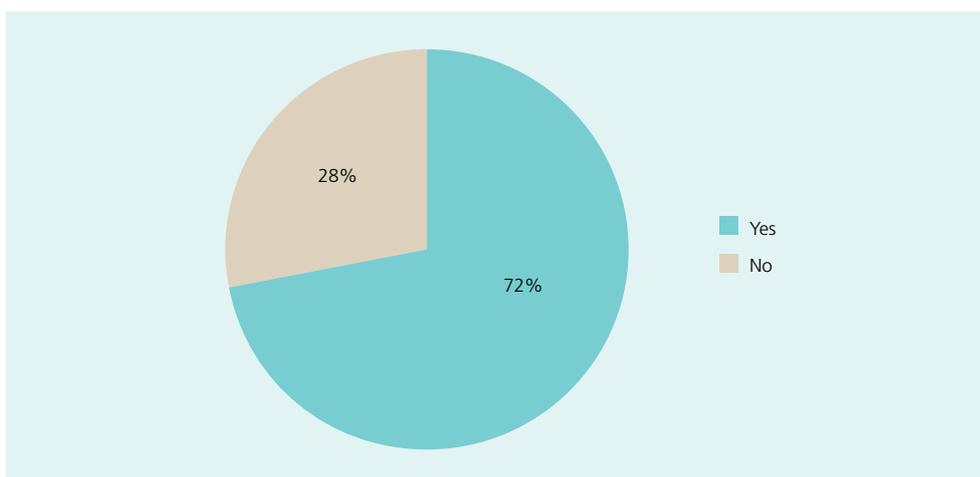
## Where complaints are forwarded if no ADR exists



\*Information source – 29 countries (more answers possible)

When it comes to the cases-handling where no ADRs exist, the most common thing what centres mention is that they try to deal with the complaint within the ECC-Network. Specifically concerning fraud cases ECCs mention that they refer the consumers to the police. One third of the ECCs mention forwarding to lawyers, courts and other institutions. Under “ssOther” centres mention *national enforcement bodies* (NEB) and other institutions dealing with consumer issues.

## Is there a need to promote ADR in your country?



\*Information source – 29 countries

Basically all ECCs agree that ADRs should be promoted both at national and cross-border levels. Most of them are already working and cooperating with national governments and ministries on this issue. However, in some countries a lot of work has already been carried out in this area through promotion campaigns and other activities which is the reason why some do not feel the need as present as the majority.

The reasons, explained by ECCs why ADRs should be promoted, can be divided into two groups:

1. The general advantages of ADR

- Low costs
- Shorter proceedings than judicial proceedings
- ADR procedures overcome and reduce the differences among procedures, languages and laws in cross-border cases
- ADR enhance the number of offered means of consumer redress
- ADR is an efficient mean of repairing economic damages sustained by consumers

2. Country-specific needs

- Where ADR is still a relatively new mechanism it still needs to be introduced more broadly and developed further
- The necessity of assisting the government in reaching higher participation of the traders in the ADR process
- Legislation needs to make it easier to refer cases to ADR
- Consumers and traders do not have enough knowledge about the existence and benefits of ADR
- Not notified ADRs meeting the requirements in the two recommendations need to know much more about the notification procedures in order to increase the mediation services' offer.
- Better knowledge of ADRs can help consumers to gain trust in cross-border shopping

## 5. Country Overview

As part of the project all ECCs have been asked to make a short presentation of the ADR system in their own country and a short description of how they deal with the cross-border consumer complaints they receive concerning traders in the country of the ECC in question.

As an introduction to each country's presentation a table with a top 5 of the complaints received in the country in question is shown to illustrate where the need for ADR is the biggest. In the same table the last column shows if a notified ADR do actually exist today. Summarizing this part of the tables it appears that notified ADRs exist in approximately half of the situations. At a first glance this may look as more than would be expected when looking at the very low number of cases the ECCs have transferred to ADR but it should be noted that even where the table shows that a notified ADR exist for a certain category this does not mean that all complaints in the category can be dealt with by ADR. It can be an ADR with only regional competence, an ADR which requires the consent of the trader to be able to handle the case or an ADR that only deals with cases concerning members of a certain organization just to mention a few of the main reasons why existing ADRs can not deal with all complaints within a certain product category.

The column showing the number of simple complaints in each of the top 5 categories has been added to illustrate the existing potential of cross-border complaints to the extent that these complaints have reached the European Consumer Centres. It should be noted that the columns "Amicable settlement", "Transferred to ADR", "Transferred to other org." and "No solution found" only refer to the column "Closed cases" and not the "Simple complaints".

Some of the tables will show that complaints have been forwarded to ADR even though the last column shows that there are no notified ADR in the area. This is due to the fact that the column "Transferred to ADR" also contains complaints transferred to ADRs that are not notified.

### 5.1. Austria

#### ECC Austria's top 5 of cross-border cases against Austrian traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Recreational and cultural services	2214	91	74	0	1	16	Yes
4	Audio-visual, photographic and information processing equipment	295	78	21	0	3	54	No
2	Transport services	72	47	19	0	3	25	No
3	Accommodation services: n.e.c.	41	26	11	2	2	11	No
5	Medical products, appliances and equipment	10	25	23	0	0	2	No

#### General description of ADR in Austria

In general, the European Consumer Centre Austria is the only national competence centre for cross-border consumer issues.

Consumers from all over Austria and all over Europe can contact ECC Austria directly or via other ECC-Net centres. Furthermore, other institutions dealing with consumer issues, like the Chamber of Labour or the Federal Ministry for Labour, Social Affairs and Consumer Protection regularly forward cross-border consumer complaints to the ECC Austria.

ECC Austria understands its work in dealing a complaint first by itself. This includes legal advice and legal representation of consumers during case-handling.

In general, first ECC Austria, when handling a cross-border consumer complaint, is sharing it within the ECC-Net or contacting the trader directly in writing in order to enforce a legal entitlement or to achieve an amicable settlement.

Only if this way of case-handling is not successful ECC Austria forwards the complaint to an ADR body (if available) as a 2<sup>nd</sup> step.

If ADR is not available and there cannot be found a solution with the help of ECC Austria consumers are advised to contact a lawyer or introduced to possibilities of a Small Claims Procedure. In a case of fraud consumers are advised to contact the police or the public prosecution authorities.

In ECC Austria's daily work the relationship to the Austrian ADR-bodies has only minor relevance. Due to the fact that most of the notified ADR-bodies have either only a national or local competence area they are not suitable for the majority of cross-border consumer issues.

So far there have not been set up any formal protocols or agreements between the Austrian ADRs and ECC Austria. Nevertheless, there are good relations to some of them (Internetombudsmann, RTR, etc.)

Due to the fact that most of the notified ADRs have no large case-load, they are rather an "ad hoc"-dispute resolution scheme than an ADR mechanism.

ECC Austria regularly receives the annual reports of the main ADRs in Austria (RTR, E-Control, Internetombudsmann) and therefore is updated about their progress and results.

## 5.2. Belgium

### ECC Belgium's top 5 of cross-border cases against Belgian traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Transport services	122	73	28	0	11	34	Yes (for train passengers)
2	Financial services n.e.c.	172	61	36	4	3	18	Yes
3	Furniture and furnishing, carpets and other floor covering	126	58	19	2	6	31	Yes (only members)
4	Mobile telephone services	71	36	16	9	2	9	Yes
5	Purchase of vehicles	100	34	5	0	4	25	Yes for second-hand motor cars (only members)

#### General description of ADR in Belgium

In Belgium, there is no formal way to handle consumer complaints. There is no consumer complaints board or ombudsman for general consumer problems like in the Scandinavian countries. When a consumer has a complaint, he can turn to a private consumer organization like Test-Achats, if he is a member. Or he can phone to the contact centre of the Public Administration, where they will inform him on his right. In some sectors privately organized ADR schemes exist (Package travel, telecom, railways, postal services, financial services, etc.). If it concerns a cross border complaint, he can ask for assistance from the ECC Belgium.

In general, first the ECC Belgium will try to find an amicable solution for the cross border consumer. If this fails, the case will be forwarded to a competent ADR body if there is one. If the ADR body is free of charge, the case will normally be forwarded and followed up by ECC Belgium. If the complaint is too specific and concerns a sector where an ombudsman can intervene, the case will be sent to the competent ADR which keeps ECC Belgium informed about the handling of the case. If the ADR procedure is not free of charge, the consumer will be informed on procedures and advantages of the ADR. If the consumer chooses to go to the ADR then he is informed about contact details and he has to contact the ADR himself because of the fee what he has to pay for the ADR procedure.

In a case no appropriate ADR exists then there are consumer organisations which handle the complaints of consumers/members. On the judicial level, in Belgium there is no specific procedure for the consumers. There is only the common civil procedure. The consumer can contact the ECC Belgium for a cross border complaint. If no consumer organisation is competent (e.g. because the consumer is not a member) and if no ADR exists, the consumer has to contact a lawyer or forget about his complaint.

There is no protocol of collaboration between ECC Belgium and ADRs and there is no formal update on the notifying procedures. However ECC Belgium has regular contacts with the representatives of the Federal authority for the latest updates in the ADR scene.

### 5.3. Bulgaria

#### ECC Bulgaria's top 5 of cross-border cases against Bulgarian traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Transport services	11	13	4	0	1	8	No
2	Accommodation services n.e.c.	5	2	0	0	0	2	No
3	Mobile telephone equipment	0	1	0	0	0	1	No
4	Furniture and furnishing, carpets and other floor covering	6	1	0	0	0	1	No
5	Medical products, appliances and equipment	0	1	0	0	0	1	No

#### General description of ADR in Bulgaria

ECC Bulgaria has started its activities only in 2008. In Bulgaria there is no notified cross-border ADR bodies, therefore no case can be transferred to any kind of ADR. Traditionally, whenever the case is received by ECC Bulgaria, it is dealt within ECC Bulgaria or forwarded to the National Enforcement Bodies or the Court.

### 5.4. Cyprus

#### ECC Cyprus's top 5 of cross-border cases against Cypriot traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Transport services	24	12	5	0	0	7	No
2	Accommodation services: timeshare and related/similar products	26	7	2	0	0	5	No
3	Recreational and cultural services	14	6	2	0	1	3	No
4	Accommodation services n.e.c.	7	3	1	0	0	2	No
5	Internet services	5	2	0	0	0	2	No

#### General description of ADR in Cyprus

In Cyprus there is no ADR scheme with general competence on consumer issues yet and only 1 with special competences exist. The draft law on "The out of court settlement of consumers' small claims", which has been prepared by the Competition and Consumer Protection Service of the Ministry of Commerce, Industry and Tourism, is pending before the House of Representatives since 2005. ECC Cyprus is making a lot of efforts within its powers to promote the voting of the draft law on ADR. In particular, the Director of ECC Cyprus participated in two of the meetings of the Parliamentary Committee on Legal Affairs of the House of Representatives in order to promote the voting of the draft law on ADR and inform the MPs of the implementation of ADR schemes in other member states.

ECC Cyprus advises EU consumers facing problems in their cross-border transactions and supports them in seeking redress through alternative means of dispute resolution. The Centre assists consumers in lodging complaints against companies in relation to cross border transactions and when necessary, it assists consumers with a complaint by contacting an EU company on their behalf through the Network's centres.

As no ADRs exist in Cyprus cross-border consumer complaints are mostly dealt with by ECC Cyprus and/or the ECC-Net. If no amicable solution is found, the consumer is either advised to seek legal advice on the matter or in some cases he/she is referred to the national competent authority. For example, in cases of air passengers' complaints, consumers are referred to the Department of Civil Aviation (NEB), in cases that involve fraud, consumers are referred to the competent police department, in cases that involve immovable property consumers are referred to the Council for the Registration and Control of Buildings and Civil Engineering Contractors and/or the Ministry of Interior and/or to the Relative Professional Registration Board.

ECC Cyprus has no cooperation protocol set up with the one notified ADR scheme that exists in Cyprus, the Commissioner of Electronic Communications and Post Offices.

## 5.5. Czech Republic

### ECC Czech Republic's top 5 of cross-border cases against Czech traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Transport services	72	54	22	4	3	25	Yes*
2	Other services n.e.c.	14	18	17	0	0	1	Yes*
3	Fix telephone and telefax services	4	14	14	0	0	0	Yes*
4	Clothing	4	8	4	0	0	4	Yes*
5	Mobile telephone services	12	7	7	0	0	0	Yes*

\*as a pilot project

#### General description of ADR in Czech Republic

Until recently there were no notified ADR-schemes in the Czech Republic but in April 2008 the Ministry of Industry and Trade (MIT) in cooperation with many other organisations prepared a pilot project which offered consumers and entrepreneurs an alternative procedure when resolving their disputes. This pilot project will be in operation until the end of March 2010. This is the reason why there is still very little experience with cooperation with notified ADRs and forwarding cases to ADRs.

In the pilot project when a consumer dispute arises the consumer or trader can proceed in the following manner:

He contacts the contact place with his suggestion and request for the out-of-court resolution of a dispute

The contact place gives qualified information about the matter and proposes possibilities of solution – mediation or arbitration proceedings. The person who submitted the suggestion, chooses the form

Then the other party is contacted – request for expression on suggestion and proposal for resolution of dispute through the selected out-of-court method

It may be assumed that after the provision of qualified information there will be settlement between the parties without the necessity of initiating out-of-court proceedings

If there is no settlement, and if the opposing side agrees – a mediator or arbitrator is chosen, and the contact place passes on all the paperwork to the appropriate place

If one of the parties does not agree with the proposed solution the dispute will not be resolved out of court, and the proceedings are terminated. From then on it will only be possible to resolve the dispute through the courts.

If both parties have agreed to the proceedings, the outputs of this out-of-court dispute resolution can either be a settlement or renunciation of suggestion after provision of qualified information, a binding agreement in the framework of mediation, or an enforceable arbitration award or ruling concerning the halting of arbitration.

Most of this is free of charge to the consumer. Only the arbitration method is subject to a fee of CZK 800 (32 €). The costs associated with the activity of the designated mediators and arbitrators are paid out of the budget of the MIT.

In the pilot project consumers from abroad can contact any ADR contact point directly with his/her complaint. When ECC Czech Republic receives dispute from other ECCs, which it was not possible to solve amicably with the traders, ECC Czech Republic looks into whether the trader is ready for out-of-court solution and if yes it recommends the consumer to which contact point to turn and give advice on how to proceed.

The Czech ECC cooperates with the Ministry of Industry and helps with the ADR system promotion. ECC Czech Republic published and paid the brochure ADR system in the Czech Republic – 130 000 pieces, even in English and German versions. ECC Czech Republic will also assist in the process of assessment of the pilot project of the ADR system. The Czech ECC is also a member of "ADR platform" by the MIT, which evaluates and auspices the project.

## 5.6. Denmark

### ECC Denmark's top 5 of cross-border cases against Danish traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Transport services	185	45	14	15	3	13	Yes
2	Accommodation services n.e.c.	39	17	5	6	1	5	Yes
3	Audio-visual, photographic and information processing equipment	51	16	5	6	1	4	Yes
4	Household appliances	10	8	1	2	0	5	Yes
5	Clothing	18	7	2	1	0	4	Yes

#### General description of ADR in Denmark

In Denmark there is a long tradition of using ADR to settle consumer complaints and besides the national consumer complaints board a number of private complaints boards exist and in total these complaints boards are able to deal with most of the consumer complaints arising in Denmark as well as cross-border complaints against Danish traders.

Because of this wide access to ADR the first thing ECC Denmark does when receiving a complaint from a consumer is to check if the case can be dealt with by a competent complaints board. Most of the cases we receive as trader ECC are transferred to an ADR or to the national enforcement body dealing with complaints concerning airline passengers' rights. Before transferring the case the consumer is always asked if he/she agrees to have the case sent to ADR. We are not informed about the case handling during the time the case are being dealt with, but we always ask to receive the decision in the end.

Where a competent ADR exist ECC Denmark as a general rule does not contact the traders before transferring the case to ADR. If no ADR is available ECC Denmark contacts the trader directly to find an amicable solution if the case is suitable for this. If there are no other possibilities the consumer can be referred to the national small claims procedure or the normal court procedures. Sometimes consumers are also referred to national enforcement bodies such as the Danish Consumer Ombudsman or the police.

All the notified ADRs in Denmark are established according to law and the conditions are approved by the Ministry of Economics and Business Affairs (The Consumer Agency, our host organisation). We have no formal cooperation agreements with the different ADRs but the cooperation in general is very good and we are often in contact with the boards by phone or e-mail to discuss legal matters.

## 5.7. Estonia

### ECC Estonia's top 5 of cross-border cases against Estonian traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred ADR	Transferred to other org.	No solution found	Notified ADR
1	Audio-visual, photographic and information processing equipment	7	34	18	4	0	12	Yes
2	Transport services	9	12	4	0	1	7	Yes
3	Accommodation services n.e.c.	3	7	1	0	3	3	Yes
4	Other services n.e.c. (Miscellaneous)	7	6	2	0	0	4	Yes
5	Recreational and cultural services	2	5	2	0	0	3	Yes

#### General description of ADR in Estonia

The main ADR for consumer disputes in Estonia is the Consumer Complaints Committee, which is an independent institution operating at the Estonian Consumer Protection Board (host of ECC Estonia) and settling disputes between consumers and traders, if the parties have not been able to settle the disputes amicably. The Committee consists of a chairman of the committee and members from business side (in the form of representatives appointed by business organisations, professional associations) and consumer side (from the Consumer Protection Board or the consumer associations).

The very exact complaint handling rules of ADR are set with the Estonian Consumer Protection Act. The regulation includes all the procedural steps, which should be taken by ECC Estonia before sending the dispute to the ADR. It includes the deadlines, rules for contacting the trader, transferring the trader's response to the consumer and the consumer's obligation to send a written complaint to the ADR with the request to take over

the dispute handling. ECC Estonia cooperates and forwards the cases to ADR only if the cases are justified and if ECC Estonia has not succeeded in finding an amicable settlement in a first step and if there is an appropriate ADR available. Then the dispute is transferred to the ADR, since ECC Estonia (as the unit who started the complaint handling) has to complete the dispute folder with all relevant documents and pass the folder to the ADR. ECC Estonia will also afterwards translate the ADR's decision into English and forward it to the consumer or consumer's ECC.

In areas there is no ADR-system available or the complaint is out of ADR competence (fraud or demand for moral compensation, etc) ECC Estonia will provide the consumer with the necessary contact details of the competent authority (court, police department) and close the proceeding of the case. European Small Claims procedure is available in Estonia through the county courts as a first instance courts.

There are no protocols involved in reference with cooperation between ADR and ECC, since law sets all the steps and procedural rules.

## 5.8. Finland

### ECC Finland's top 5 of cross-border cases against Finnish traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Transport services	71	49	5	14	15	15	Yes
2	Audio-visual, photographic and information processing equipment	6	6	2	0	0	4	Yes
3	Other recreational items and equipment, gardens and pets	3	6	1	1	1	3	Yes
4	Mobile telephone services	4	5	3	0	1	1	Yes
5	Personal effects n.e.c.	3	4	1	2	0	1	Yes

#### General description of ADR in Finland

There are three notified ADRs in Finland although only two are mentioned in the Commission's database. The third one, The Finnish Securities Complaint Board is notified under FIN-NET and fulfills the requirements of Recommendation 2001/310/EC.

Most ADR cases are handled by the Consumer Disputes Board. It (hereafter "the board") is a public independent body, which has a general competence to handle all kinds of cases. ECC Finland has an excellent relationship with the ADR since the establishment of the network in year 2000. There are meetings with the staff of the board once or twice a year and the ADR sends to ECC Finland all cross-border complaints in which they are not competent.

ECC Finland forwards most incoming trader ECC cases to the board unless the case is ill-founded. It is followed by exchange of information on a regular basis and in the end the board is asked to inform ECC Finland of the outcome.

If no ADR exists, then consumer's complaint is dealt with by ECC Finland or if it is an air passenger right violation complaint, then it is forwarded to the national enforcement body for these complaints.

## 5.9. France

### ECC France's top 5 of cross-border cases against French traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Audio-visual, photographic and information processing equipment	700	340	230	18	11	81	Yes, but only via ODR, see*
2	Transport services	585	247	79	30	18	120	Yes, for railway (only for the SNCF - French railway company)
3	Accommodation services: n.e.c.	152	99	33	0	5	61	Yes, but only via ODR, see*
4	Clothing	60	48	27	7	2	12	Yes, but only via ODR, see*
5	Other recreational items and equipment, gardens and pets	62	47	22	10	2	13	Yes, but only via ODR, see*

\*They have an ADR for disputes arising from the use of the internet (legal not technical problems)

#### General description of ADR in France

In France, there are few notified ADR-bodies. There are no ADRs which competence is general and most of the mediators are specialised for a certain field of competence (telecommunications, insurance, banks, ecommerce, etc.).

No formal work protocol has been set up between the ECC and the ADRs yet, because it doesn't seem necessary at the moment. Although, on a daily basis, ECC France organised its work with the ADRs (e.g. the ODR "Médiateur du Net" (internet/e-commerce ADR), SNCF ADR (French railway Company) and the Médiateur communications électroniques (telecom) etc.) to facilitate the transfer and the follow up of complaints but not with a formal protocol. E.g. one person is designated within the ECC and the ADR to communicate and follow up the complaints. This way, a close cooperation via an efficient workflow and regular update and exchange can be easily organised.

Regarding the ADR notification procedures, this is handled by the French ministry with the Commission and ECC France is traditionally informed about the new notifications. ECC France however can propose ADRs for notification and it informs the ministry about the needs in the ADR-field whenever it is appropriate and necessary.

ECC France deals directly with the trader if no competent ADR exists. With some of the ADRs it has been agreed, that ECC France makes a first attempt before transferring the case to the ADR. ECC France can as well advise the consumer to contact a lawyer or to make a judicial procedure if necessary. For foreign residents in France, especially if they are speaking French, they can be advised to contact a French consumer association.

## 5.10. Germany

### ECC Germany's top 5 of cross-border cases against German traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Audio-visual, photographic and information processing equipment	868	438	206	3	20	209	Yes, in case of online-shopping
2	Purchase of vehicles	598	295	76	2	9	208	Yes, for second-hand cars
3	Transport services	663	283	107	8	20	148	No
4	Internet services	4658	201	131	1	4	65	Yes
5	Recreational and cultural services	1875	182	148	1	7	26	Yes, if it is a service provided via internet

#### General description of ADR in Germany

In Germany, there are quite a lot of notified ADR bodies, none with a general competence for consumer issues, but mediators specialised for a certain field of competence (telecommunications, insurance, banks, ecommerce, travel etc.).

In 2006, the 203 notified German ADR bodies were evaluated. The outcome of this evaluation was discussed at a meeting in Berlin on the 27th October 2007 with the head of department for conciliation in the Federal Ministry of Justice.

At this meeting it was decided that a completely new list with notified ADR bodies shall be created. It was furthermore decided that the new list has to be more concise and consumer friendly. Since the ADR system in Germany is very diverse and manifold (several thousand ADR bodies in total) a clear and consumer-friendly overlook can only be given by notifying only the central and most important ADR bodies. This new approach was already implemented by notifying new central ADR bodies in the banking and insurance sector. It was continued in 2007 and 2008 by notifying new central bodies in different economic sectors.

Regarding the ADR notification procedures, ECC Germany is promoting the idea of ADR and evaluates interested bodies. The pre-chosen files are transferred to the Federal Ministry of Justice. After a second evaluation, the Ministry transfers the chosen ADR bodies to the European Commission. We are informed about the transfer as well as about the new notifications. ECC Germany regularly informs the ministry about lacks and needs in the German ADR system. However, no work protocol has been set up between ECC Germany and the mediators.

Since most of the cases cannot be transferred to appropriate ADR because of a lack of competent ADR bodies or trader's refusal to participate in the ADR system, most cases are dealt with by ECC Germany directly contacting the trader to try and reach an amicable solution. If ECC Germany is not able to help the consumer is advised to contact a lawyer or to make a judicial procedure if necessary.

## 5.11. Greece

### ECC Greece's top 5 of cross-border cases against Greek traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Accommodation services: timeshare and related/ similar products	205	150	101	0	1	48	Yes
2	Transport services	74	66	19	1	4	42	No
3	Accommodation services: n.e.c.	21	12	7	1	0	7	Yes
4	Package holidays	11	10	4	0	0	6	No
5	Audio-visual, photographic and information processing equipment	6	6	1	2	0	3	Yes

#### General description of ADR in Greece

In Greece there are 54 Amicable Settlement Committees in the Prefectures of the country, coming under the Consumer Ombudsman. As the number is so high, it makes it very difficult to track their action. Mostly because of that, there is no daily co-operation between ECC Greece and ADR schemes and no feedback is given to ECC Greece in order to be aware of their work.

In general, whenever ECC Greece receives a complaint, it tries to deal it on its own as there often are no suitable ADR schemes available to forward the case to. If ECC Greece cannot help the consumer there are many consumer organisations, where the consumer may address themselves to have their problem solved. These organisations try to push the wrong-doer trader to rectify the problem caused by their commercial practice. Often these organisations file collective legal actions.

## 5.12. Hungary

### ECC Hungary's top 5 of cross-border cases against Hungarian traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Transport services	196	101	64	3	6	28	No
2	Recreational and cultural services	86	13	5	0	1	7	No
3	Outpatient services	14	9	2	1	2	4	No
2	Other major durables for recreation and culture	44	6	1	0	0	5	No
5	Accommodation services: n.e.c.	4	3	0	0	0	3	No

#### General description of ADR in Hungary

In Hungary the first 20 ADRs were notified only in September 2009.

In general, ADR proceedings are free of charge. In course of the proceedings there is held at least one hearing where the appearance is not compulsory - in this case the ADR body comes to a decision on the basis of the documents made available.

In practice, ECC Hungary tries to solve the case on its own because of several practical barriers, such as the fact that the ADR proceedings are in Hungarian language, parties have to participate in the hearing (although not obligatory) to discuss a compromise and no legal possibility for proceedings in writing. Only if it is impossible for ECC Hungary to settle the dispute with the trader the case is forwarded to the relevant ADR body.

ECC Hungary has recommended to the legislative authorities at several conferences as well as in the course of the present review of the Act on consumer protection to alter the regulation of the ADR-bodies' operation in order to make legal remedies easier/more simply available for foreign citizens.

### 5.13. Iceland

#### ECC Iceland's top 5 of cross-border cases against Icelandic traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Transport services	38	11	3	1	0	7	Yes
2	Accommodation services: n.e.c	1	3	0	0	0	3	No
3	Audio-visual, photographic and information processing equipment	3	2	1	0	0	1	No
4	Furniture and furnishing, carpets and other floor covering	0	1	1	0	0	0	No
	Household appliances	0	1	1	0	0	0	No

#### General description of ADR in Iceland

In Iceland there are several ADRs, although some of them are not notified. They deal with disputes between Icelandic traders and consumers and it does not matter whether the consumer is Icelandic or not. Also there is no minimum value rule – consumers can submit a case to an ADR even if it concerns a small amount of money. However in some ADRs there is a small fee for submitting a complaint to the ADR procedure. It is a general rule that ECC Iceland, as well as its host structure, first contacts the trader and tries to come to an agreement with the trader before submitting a case to the ADR. In many cases there has been a simple mistake or a misunderstanding, therefore contacting the trader first saves a lot of time and trouble for the consumer. There is also possible for consumers to contact and submit the complaint directly to the ADR without contacting ECC Iceland or its host organization first.

There are no specific protocols between ECC Iceland and the ADR, but the host structure of ECC Iceland is a part of most of the ADRs and has much contact with them and has a representative in most of ADRs.

If ECC Iceland has not succeeded in solving a case and the complaints regards a substantial amount of money, but no appropriate ADR is available, then the most cases are referred to a lawyer or transferred to the consumer agency or another government agency. However, in most cases an ADR does exist.

## 5.14. Ireland

### ECC Ireland's top 5 of cross-border cases against Irish traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Transport services	1171	512	179	19	67	247	No
2	Audio-visual, photographic and information processing equipment	92	36	17	1	4	14	No
3	Accommodation services: n.e.c.	33	18	3	1	2	12	No
4	Personal effects n.e.c.	9	7	5	0	0	2	No
5	Financial services n.e.c	15	5	1	0	0	4	Yes

#### General description of ADR in Ireland

Due to the lack of available ADR schemes in Ireland, all cross-border consumer complaints received are handled by ECC Ireland directly. ECC Ireland will contact the trader on behalf of a consumer where there has been a communication breakdown, or the business needs to be reminded of their obligations under consumer protection legislation. If a trader fails to respond, referral of the complaint to an ADR Body will be considered. At this stage the Dispute Resolution Adviser will try to find a competent notified/non-notified ADR body to handle the dispute. Once it is established that there is a competent body available, the consumer's ECC will be provided with general information on the procedure and any costs involved and asked for the consent of the consumer to forward the file on to ADR.

Each ADR Body has their own set of protocols for the referral of cases to their service. All require that the documentation sent to them is presented in English, and the general rule is to send the file by email, post or fax. In all cases the consumer must have made an attempt to resolve the dispute before it is forwarded onto them.

Daily co-operation with notified ADR bodies does not exist, although the Dispute Resolution Adviser will contact ADR bodies from time to time to ensure that they are happy with the way cases are referred to them, and that they still wish to have their service listed on the EU ADR database, and to see if they have any other outstanding issues.

If ECC Ireland finds that there is no appropriate ADR Body to handle the dispute or a business is unwilling to participate in the ADR procedures, consumers are provided with information on the European Small Claims Procedure. If a complaint relates to fraud, ECC Ireland will contact the police and make them aware of the company. Likewise if there is an apparent breach of Consumer Legislation the complaint will be referred to the National Consumer Agency for investigation. Finally in the case of air passenger rights violation the file will be referred to the national enforcement body for air passenger complaints.

## 5.15. Italy

### ECC Italy's top 5 of cross-border cases against Italian traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Transport services	600	350	104	51	56	139	Yes
2	Accommodation services n.e.c.	85	67	16	21	0	30	Yes
3	Audio-visual, photographic and information processing equipment	67	29	12	4	2	11	Yes
4	Clothing	49	23	17	3	0	3	Yes
5	Furniture and furnishing, carpets and other floor covering	41	19	4	6	0	9	Yes

#### General description of ADR in Italy

In Italy ADR possibilities exist for almost all kinds of disputes. Some ADR services are being promoted all over the country with the initiative of Ministry of Economic Development and of Chambers of Commerce. ECC Italy itself has become a point of reference for cross-border complaints, especially with regards to air transport and e-commerce. There has been established and undersigned a convention about the cooperation between ECC Italy and one of the four Italian notified ADR bodies - the Chamber of Arbitration of Milan, which provides an On-line mediation service (Risolvionline). The cooperation consists in suggesting and promoting the access to the related procedures among consumers whose cases have not been positively closed. Moreover, representatives of ECC Italy participate in meetings of the Chamber of Arbitration of Milan in order to spread out the knowledge of both structures and provided services and vice versa.

ECC Italy is currently making and developing further contacts with notified and also not notified (when acting in accordance with the two EC Recommendations) ADR bodies in order to better spread out the knowledge of the cross-border cooperation among institutions, associations and bodies to solve consumers' matters.

Regarding case handling process of cross-border complaints, the main problems are - the difficulty to reach the trader in the proper way as well as the difficulty to get an answer or to make the intervention be effective and carried out in the right time, or to make the trader recognize the consumer's rights. Also on this side, it is deemed that a wide activity of sensitization towards the companies about consumers' rights and policies is the best course of action to strengthen consumer protection.

Traditionally, whenever ECC Italy receives a case, first it is trying to deal it on its own. In a case of fraud and/or other crimes ECC Italy addresses the consumer to the police.

## 5.16. Latvia

### ECC Latvia's top 5 of cross-border cases against Latvian traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Transport services	59	87	22	21	8	36	Yes
2	Package holidays	1	3	1	0	2	0	Yes
3	Newspapers, books and stationery	2	2	0	0	0	2	Yes
4	Footwear	3	2	0	0	0	2	Yes
5	Clothing	1	1	1	0	0	0	Yes

#### General description of ADR in Latvia

With the initiative of ECC Latvia, in the end of 2006 the Consumer Rights Protection Centre of Latvia (hereafter – CRPC) was notified under Commissions Recommendations 98/257/EC and 2001/310/EC as an official ADR body in Latvia. Besides this there are 3 other ADR bodies in Latvia (Public Utilities Commission, Ombudsman of the Association of Commercial Banks of Latvia and Ombudsman of the Association of Insurance of Latvia), but unfortunately they are not notified under Commissions Recommendations so far.

CRPC has a general competence and it treats almost any kind of disputes, except those which are under the competence of the other 3 ADRs. ECC Latvia's cooperation with CRPC is very close as ECC Latvia is working as a department under CRPC and CRPC is its host organization

When ECC Latvia receives a complaint from another ECC or in exceptional cases directly from a foreign consumer, it tries as a first step to handle the case on its own. If it is not able to solve the case or if already in the beginning the case is considered as a difficult one and could be a possible dispute under the competence of CRPC, ECC Latvia forwards the case to CRPC for further case handling and it is required to enclose all case documentation.

When CRPC has made its decision, they inform ECC Latvia about it and ECC Latvia forwards the information to the Consumer ECC.

If no ADR is available ECC Latvia tries to find a solution between the consumer and the trader on its own. If that is not possible the consumer is advised to turn to court. If the matter concerns fraud the consumer is referred to the police.

## 5.17. Lithuania

### ECC Lithuania's top 5 of cross-border cases against Lithuanian traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Newspapers, books and stationery	6	17	17	0	0	0	Yes
2	Transport services	13	5	1	0	0	4	Yes
3	Household appliances	13	2	2	0	0	0	Yes
4	Recreational and cultural services	0	2	2	0	0	0	Yes
5	Maintenance and repair of the dwelling	3	2	0	0	1	1	Yes

#### General description of ADR in Lithuania

The Law on Consumer Protection which came into force on 1st March 2007, finally established the institutional framework of the ADR bodies in Lithuania. Lithuania has only one notified ADR body - State Consumer Rights Protection Authority. Under the above mentioned Law, there are other ADR bodies, which handle complaints in the areas of electronic communications, postal and courier services; insurance; energy; non-food products; food and veterinary services and other.

ECC Lithuania has a close cooperation with the ADR bodies in Lithuania. ECC Lithuania regularly arranges meetings with representatives of ADR bodies to discuss common problems and to get the latest news about their activities. Besides that, ECC Lithuania invites the representatives of ADR bodies to different conferences and seminars and employees of ECC Lithuania attend the events organized by ADR bodies.

When receiving a case from a consumer ECC Lithuania tries to handle the case on its own with the consultative assistance of the appropriate ADR body. Only if the complaint cannot be resolved by ECC Lithuania and if it is available it is forwarded to the appropriate ADR body.

Where no ADR possibilities exist, ECC Lithuania refers consumer complaints to the law enforcement institutions, and informs consumers of the possibility to turn to court.

## 5.18. Luxembourg

### ECC Luxembourg's top 5 of cross-border cases against Luxembourgian traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Audio-visual, photographic and information processing equipment	199	69	37	0	6	26	No
2	Other services n.e.c.	55	42	35	0	1	6	No
3	Financial services n.e.c	97	39	17	2	1	19	Yes
4	Recreational and cultural services	46	30	26	0	0	4	No
5	Purchase of vehicles	52	28	9	0	4	15	Yes for second-hand car repairs

#### General description of ADR in Luxembourg

There are five notified ADR bodies in Luxembourg, operating in the field of financial services (CSSF), travel (CLLV), insurance (ACA), car repair (Fegarlux), and for general matters (CMBL).

ECC Luxembourg generally handles cross-border consumer complaints by using the ECC-Net. As the trader ECC, it sends a letter to the trader. If there is no answer or an unsatisfied answer, a second letter is sent (sometimes registered). If there is no (satisfying) result, the case is transferred to appropriate ADR. After that some of the notified ADRs inform directly ECC Luxembourg about the progress and the results of the procedure, other ADRs with information turn directly to the consumers.

If no ADR possibilities exist or if a case cannot be solved amicably because the trader is not a member of a founder trade association of the relevant ADR body, and by consequence, the trader has no pressure to accept the competence of the ADR body, the case is referred to lawyer. In other matters the case can be transferred to any other relevant body such as enforcement body (NEB, CPC Network) or in case of fraud to the police.

However, there is a very good daily cooperation between ECC Luxembourg and notified ADRs even without any protocols.

## 5.19. Malta

### ECC Malta's top 5 of cross-border cases against Maltese traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Accommodation services: timeshare and related/ similar products	64	38	7	0	3	28	No
2	Transport services	19	19	5	0	3	11	No
3	Recreational and cultural services	27	11	0	0	6	5	No
4	Accommodation services: n.e.c.	9	5	0	0	0	5	No
5	Maintenance and repair of the dwelling	0	2	1	0	0	1	No

#### General description of ADR in Malta

In Malta there are at present no notified ADRs. Nonetheless, efforts are being made with the objective of achieving the setting up of the first notified ADR in Malta. There are three bodies that have agreed to be notified as ADR bodies and for two of them the notice for notification is being processed in that the ECC has submitted an assessment in line with the Commission recommendations to the notification point in Malta.

Besides this notification of the Euro-label complaints board which can hear disputes between consumers and online traders bearing the *Euro-label* trust mark has been discussed and it has been concluded that this ADR can be notified to the European Commission as well. An assessment of the scheme will be submitted to the notification point in Malta shortly.

As no ADR has existed so far the complaints have been referred to sector-specific regulators and to the Consumer Claims Tribunal through the national consumer authority (The Consumer and Competition Division within the Ministry of Finance, the Economy and Investment) or a consumer organisation (when the contract was made in Malta and when the claimant (the consumer) is willing to come to Malta for the hearing).

## 5.20. Norway

### ECC Norway's top 5 of cross-border cases against Norwegian traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Transport services	87	40	8	20	1	11	Yes for air and sea transport
2	Recreational and cultural services	27	23	14	0	0	9	No
3	Medical products, appliances and equipment	61	9	4	3	0	2	Yes
4	Operation of personal transport equipment	7	6	2	1	0	3	Yes
5	Audio-visual, photographic and information processing equipment	21	5	2	3	0	0	Yes

#### General description of ADR in Norway

There is no daily cooperation nor any protocols set up with the notified ADRs as ECC Norway is mainly a consumer ECC. However, there was a seminar where Norwegian ADRs were invited and introduced to the ECC Network and possible types of future transferred cases from ECC Norway. So far ADRs have accepted cases received from ECC Norway and kept ECC Norway updated on the progress and result of the procedure.

Traditionally, when receiving a complaint from another ECC, ECC Norway will check if the case can be handled by an ADR. If the case can be handled by one of Norwegian ADRs the consumer will be asked for the consent to be transferred. Only after receiving acceptance from the consumer, the case will be forwarded to the ADR. The ADR will give a feedback to ECC Norway on the progress of the case and reached decision.

As the ADR procedure is often a lengthy process, ECC Norway chooses to contact the trader directly in cases where it is obvious that a solution can be found by ECC Norway.

If there is no ADR that can handle the case, ECC Norway will try mediating with the trader directly. This is done mostly by letter or e-mail, but occasionally by phone. If the trader does not respond after two attempts from ECC Norway, the case will be closed as unresolved. In case of scams and frauds, ECC Norway will refer a case to the police. Or in matters, where a Norwegian consumer has used his/her credit card or Visa abroad, complaints will be referred to his/her credit card provider.

## 5.21. Poland

### ECC Poland's top 5 of cross-border cases against Polish traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR?
1	Transport services	100	54	11	3	20	20	Yes, but see*
2	Recreational and cultural services	20	11	4	1	1	5	Yes, but see*
3	Operation of personal transport equipment	12	10	4	1	1	4	Yes, but see*
4	Furniture and furnishing, carpets and other floor covering	10	8	2	3	0	3	Yes, but see*
5	Accommodation services n.e.c.	8	6	1	0	1	4	Yes, but see*

\*ADRs have general competence and regional coverage and they are not sector-oriented

#### General description of ADR in Poland

Since the establishing of ECC Poland in 2005, three schemes have been already notified to the EU Commission's ADR Database.

Especially important was the notification of the mediation run by Trade Inspection Authority (TI) in 2007. According to ECC Poland's cooperation experience, TI procedures are well adapted to the cross-border dimension and after certain adapting improvement could be a good tool for consumer dispute resolution. As another advantage of TI could be mentioned that its procedures are free of charge, both for the consumer and the entrepreneur and there are no financial limits fixed. However, costs of an expert opinion regarding the quality of a product or service, if necessary, conducted on the consumer's or entrepreneur's demand can incur costs to the ordering party. Mediation run by trade inspectorates on the regional and sub-regional level covers all areas of the market except sectors specified by legal regulations. At the same time trade inspectorates are specialized in some specific fields such as clothing cases, vehicles, transport services etc.

Regarding two other notified bodies as well as some ADR bodies not notified, there has been insignificant cooperation in few cases mostly in the level of consultations.

Traditionally, when ECC Poland receives a complaint, it first looks for the possibility of an amicable solution in a way of its own action directed to the trader. If an amicable settlement is not to be reached in that way, ECC Poland is looking for other efficient possibilities. In most of the cases, ECC Poland then refers complaints to mediation run by inspectorates or sometimes other relevant bodies.

In cases where ADRs do not exist, ECC Poland tries to deal with them on its own or forwards them to administration bodies/authorities if they are competent in case handling of individual complaints.

## 5.22. Portugal

### ECC Portugal's top 5 of cross-border cases against Portuguese traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Transport services	146	85	9	25	12	39	Yes, but regional coverage
2	Accommodation services: timeshare and related/ similar products	70	47	5	20	2	20	Yes, but regional coverage
3	Accommodation services: n.e.c.	37	30	4	3	2	21	Yes, but regional coverage
4	Furniture and furnishing, carpets and other floor covering	6	13	2	2	0	9	Yes, but regional coverage
5	Audio-visual, photographic and information processing equipment	10	8	2	1	0	5	Yes, but regional coverage

#### General description of ADR in Portugal

In Portugal most of existing ADRs has the regional competence, that is, ADRs doesn't cover the entire country but they deal with different sectors in their region. Only ADR for car sector and car insurance have national scope. Portugal is also member of Fin-Net for financial services with two entities, one for banks and insurance services and the other for securities market. Efforts were developed to create a broad national ADR to deal with cases out of the regional or sector available coverage and this new ADR is now starting to be organized.

In general after ECC Portugal receives a case, the problem and possibilities to find a solution through competent ADR are analyzed. If appropriate ADR exists then ECC Portugal will ask consumer for consent to forward the case to the ADR and after receiving it, the case will be referred to appropriate ADR. After reception by the ADR, the contacts with the consumer are made directly by the ADR. The ADR legal service instructs the process for the mediation of the conflict and if an agreement is reached by mediation process and signed by the parties it can be homologated by the judge-arbitrator. In this case the agreement will have the same executive force of an arbitral decision.

If mediation fails, the parties are invited to submit the conflict to arbitration. Arbitration is a voluntary mean and depends on the express acceptance of the parties. In which concerns the trader, his acceptance can be for one specific conflict or following a previous full adhesion acceptance to submit eventual conflicts to the ADR in question. In case both parties agree to submit the conflict to the Arbitration Court, the Centre normally carries out conciliation attempt. If the attempt fails, a judgment will follow. The judgment respects the principle of contradictory and the trader is notified to contest. All the evidences are allowed.

In a case no appropriate ADR exists then ECC will try to contact the trader and reach a solution on its own. In cases of air passenger right violation, cases will be forwarded to NEB.

## 5.23. Romania

### ECC Romania's top 5 of cross-border cases against Romanian traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Transport services	13	14	5	1	1	7	No
2	Accommodation services n.e.c.	0	2	0	0	0	2	No
3	Financial services n.e.c.	2	2	0	0	0	2	No
4	Mobile telephone services	1	1	0	0	0	1	No
5	Other services n.e.c.	0	1	0	0	1	0	-

#### General description of ADR in Romania

ECC Romania started its activity on 1st of January 2008. So far there is only one notified ADR in Romania which is dealing with the services of the information society and postal services, due to ECC Romania's efforts in 2008. At the moment there are no any other ADR bodies fulfilling the requirements in order to be notified.

The explanation for the lack of ADR bodies can be found in the relative recentness of the ADR system in Romania. The Law on mediation was only adopted in 2006 and it became fully applicable in 2008. Also, even if ADR bodies have started to function, the interest for the consumer protection field is quite low. Still, efforts are being made in this direction, especially for the implementation of a financial ADR body in 2010-2011.

Since almost in all cases received by ECC Romania, no competent ADR exists, ECC Romania mostly tries to deal with the cases on its own. Otherwise, if no solution can be found (the trader doesn't respond or doesn't agree with the consumer's claim), depending of the type of the case, they are forwarded mostly to the National Authority for Consumer Protection (governmental body), or to consumer protection associations, the police etc. If no other body is competent, the consumers are advised to go in court.

## 5.24. Slovakia

### ECC Slovakia's top 5 of cross-border cases against Slovakian traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Transport services	86	126	45	3	11	67	No
2	Audio-visual, photographic and information processing equipment	6	5	2	0	0	3	No
3	Accommodation services n.e.c.	3	3	1	0	1	1	No
4	Recreational and cultural services	14	3	3	0	0	0	No
5	Medical products, appliances and equipment	1	3	2	0	0	1	No

#### General description of ADR in Slovakia

No ADR system exists in Slovakia. Therefore ECC Slovakia is handling cases as Trader ECC itself. If there is a need for intervention of more powerful institutions ECC Slovakia can turn to the Slovak Trade Inspection to investigate the case. This could be in cases where the trader is not responding or not willing to accept the solution proposed to solve the consumer's complaint. Then the Slovak Trade Inspection can access the file of the trader to see how the complaint is being processed. There is also the possibility to refer the consumer with his/her complaint to court.

## 5.25. Slovenia

### ECC Slovenia's top 5 of cross-border cases against Slovenian traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Transport services	11	5	3	0	1	1	No
2	Accommodation services n.e.c.	4	2	1	0	0	1	No
3	Audio-visual, photographic and information processing equipment	3	1	0	0	0	1	No
4	Outpatient services	1	1	0	0	0	1	No
5	Financial services n.e.c.	0	1	1	0	0	0	No

#### General description of ADR in Slovenia

No notified ADRs exist in Slovenia and no ADRs meet the requirements of the European Commission, so no notification process can be expected in the nearest future. Therefore no cooperation has been possible between ECC Slovenia and ADRs so far. However, there is a hope that Slovenia will get ADR legislation soon as a draft law on ADR has already been in public consultation.

So far ECC Slovenia has handled only a few cases as trader ECC and it has tried to deal with them on its own. In some cases, complaints have been forwarded to the police, to the Market inspectorate, to national enforcement body or to the courts.

## 5.26. Spain

### ECC Spain's top 5 of cross-border cases against Spanish traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Accommodation services: timeshare and related/similar products	1991	679	92	0	17	570	No
2	Transport services	1404	651	217	15	77	342	No
3	Audio-visual, photographic and information processing equipment	194	109	24	0	6	79	No
4	Accommodation services: n.e.c	146	88	25	0	5	58	No
5	Recreational and cultural services	639	46	7	1	10	28	No

#### General description of ADR in Spain

The Spanish Voluntary Alternative Dispute Resolution procedure, where the resolution of a dispute is entrusted to a Group of Arbitrators, with the same power and validity of a Judicial Sentence, contains all the principles and characteristics contained in EC Recommendations: rapidity, power, voluntary, enforcement and free.

The Spanish ADR has been regionally organized. There are ADR in every Autonomous Community, in some provinces and big metropolitan areas. There are not sectorial ADR although ECC Spain takes initiative in trying to develop some sectorial ADRs, especially for cross-border complaints, but keeping always the territorial Spanish system that works quite well at a national level. So far ECC Spain has presented different proposal to the National Institute for Consumption for enlarging the sectorial ADR.

The purpose of the Spanish ADR System is to reach compulsory resolutions in order to solve the problems between consumers and professionals, according to the consumer's rights, apart from the protection offered by the Judges.

The main contact between ECC Spain and an ADR body has been with Aviación Civil. There have been several meetings recently in order to find solutions against all the problems provoked in the scope of Regulation 261 on air passengers' rights. The protocol has been established regarding complaints concerning Regulation 261/2004. It indicates that all cases regarding this Regulation should be forwarded to Aviación Civil. As this cooperation has been reached recently, there is no data yet of the progress in the procedure.

There is also cooperation with other ADRs when the situation requires it and good relations with the Banco de España, where ECC Spain forwards the cases about financial services.

Where no ADR exists, ECC Spain refers the cases to the local consumer protection and the autonomic consumer protection.

## 5.27. Sweden

### ECC Sweden's top 5 of cross-border cases against Swedish traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Transport services	153	64	13	21	2	28	Yes
2	Personal effects n.e.c.	25	14	7	4	0	3	Yes
3	Audio-visual, photographic and information processing equipment	50	11	4	2	0	5	Yes
4	Purchase of vehicles	38	10	1	6	0	3	Yes
5	Mobile telephone equipment	10	9	3	1	1	4	Yes

#### General description of ADR in Sweden

The cooperation between ECC Sweden and the National Board for Consumer Complaints is rather informal, but nonetheless well functioning. Although there are no regular meetings or formal framework for cooperation, there is a mutual recognition and awareness about one another. ECC Sweden provides information about the ADR procedure and directs the relevant cases to be handled by the board. The National Board for Consumer Complaints likewise provides information about the ECC and directs consumer with cross-border complaints to ECC Sweden.

Traditionally, after receiving complaint, ECC Sweden learns if there is a possibility to solve a case amicably. If it is considered that there is a chance that the parties might agree, ECC Sweden tries to promote this option by sending a letter to the trader. The ECC has successfully solved a number of cases in this way. If no amicable solution can be reached, a case is transferred to the notified ADR. As ECC Sweden has access to the ADR-database of the National board it is able to follow the progress of an ongoing case and to receive the final decision from the board when the case is closed.

The only notified ADR in Sweden handles almost all conceivable consumer disputes. The exceptions are medical services, legal services, purchase of property, tenant disputes, antiques (in part) and cases submitted to other court proceedings (*litis pendens*). Some of the exceptions listed above are not even considered as consumer disputes. In these cases there is often a simplified court procedure available (such as the tenancy tribunal) or other ways to have the case tried such as a national complaint system for regulated professions (eg. lawyers, doctors, dentists, real estate agents).

## 5.28. The Netherlands

### ECC Netherland's top 5 of cross-border cases against Dutch traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Transport services	291	130	59	6	8	57	Yes
2	Audio-visual, photographic and information processing equipment	172	118	64	0	4	50	Yes, in some cases
3	Mobile telephone services	92	45	16	13	0	16	Yes
4	Other recreational items and equipment, gardens and pets	73	40	22	0	4	14	Yes
5	Recreational and cultural services	170	39	13	0	4	22	Yes, in some cases

#### General description of ADR in the Netherlands

In The Netherlands there is the Dutch Disputes Committee Foundation (De Geschillencommissie) which includes 44 separate “disputes committees” for different industries. All of these comply with European standards, are supervised by the Dutch authorities, and operate independently and impartially. Two other bodies offering extrajudicial dispute resolution are the Financial Services Complaints Institute (“Kifid”) and the Advertising Code Committee (“RCC”), which makes a total of 46 ADR bodies in the Netherlands.

Each EU complaint is going through the ECC Netherlands as ADRs in the Netherlands accept complaints only in Dutch. After ECC Netherlands receive a complaint, it examines if the consumer’s complaint can be sent to one of the just mentioned ADR bodies. If this is the case, ECC Netherlands translates all relevant documents and asks the consumer to fill out a specific questionnaire of the Disputes Committee. The questionnaire has to be fulfilled within a specific period of time and it has to bare the original signature of the consumer. If the deadline is already passed and a complaint cannot be sent to the ADR body anymore, ECC Netherlands handles the complaint itself. If the complaint has been submitted to the ADR on time the Disputes Committee informs ECC Netherlands about the decision when the committee has made its ruling. If no ADR exists ECC Netherlands handles the case itself.

ECC Netherlands has an extensive protocol with the Disputes Committee Foundation which indicates the procedure of cooperation thereby making it more understandable for the (foreign) complainants. At the moment there are no protocols established between ECC Netherlands and the Financial Services Complaints Institute and the Advertising Code Committee since ECC Netherlands has not received many complaints for these bodies.

## 5.29. United Kingdom

### ECC United Kingdom's top 5 of cross-border cases against English traders in 2007 and 2008

No.	Nature of complaint	Simple complaints	Closed cases	Amicable settlement	Transferred to ADR	Transferred to other org.	No solution found	Notified ADR
1	Transport services	1352	428	118	13	44	253	Yes
2	Audio-visual, photographic and information processing equipment	591	195	61	2	16	116	Yes
3	Accommodation services: n.e.c.	145	84	20	4	4	56	No
4	Recreational and cultural services	469	67	27	0	6	34	No
5	Other recreational items and equipment, gardens and pets	152	64	24	1	4	35	No

#### General description of ADR in United Kingdom

There is a large variety of methods for and providers of alternative dispute resolution services in the UK. For example many Trade Associations offer ADR services, Ombudsman schemes exist for some sectors including financial services, estate agents and legal services. ADR schemes are also offered as part of the Small Claims service run by courts.

Since the launch of ECC United Kingdom in November 2007, there has been formed a new working relationship with the list of notified bodies provided by the EU Commission website. In the past few months there has been some meetings with a number of the ADR providers and ECC United Kingdom has started using the schemes in the resolution of cross border disputes. When the ECC deals with a case as Trader ECC, ECC United Kingdom writes to the business in order to solve the dispute. If an amicable solution cannot be found and after exhausting all avenues with the Trading Standards departments, which provide the trader local enforcement of consumer law and are wide spread throughout the country, only then a suitable ADR scheme will be contacted.

Currently there are no protocols established to give guidance for how to seek the assistance of the ADR providers, or how to obtain progress updates. There are a number of forms available on the ADR websites which set out a procedure to follow when submitting a case and once the case has been submitted ECC United Kingdom monitor updates on the progress of the case on a regular basis.

Where there are no ADR bodies available, cases are forwarded to the agencies or organisations outlined above. If nothing further can be done for the resolution of consumer disputes, because for example the complaint is against a company that is not possible to investigate, the case will be addressed to the police. This will not give the consumer redress, only maybe preventing other victims fall into the same traps. Under the Consumer Credit Act, the consumer can take the case against their credit card providers in case of breach of contract or mis-representation, but this cannot be seen as an ADR, only as another way for the consumer to find redress.

# Conclusions and recommendations

In 2007 and 2008 the ECC-Network received a total of around 11,500 cross-border complaints from consumers. ECCs were able to solve approximately half of these on an amicable basis which shows that ECCs are making a very good job, having in mind that ECCs do not have any enforcement powers.

However, the fact that ECCs could solve half of the complaints on their own also means that another half of the complaints could not be solved since the forwarding of complaints to other organizations other than ADR normally means that the complaint will in fact not be solved. This shows that there is a big potential for ADRs in dealing with cross-border complaints. Often ADR is the last hope for a consumer to have a complaint resolved since going to court is not a practical approach for the normal consumer.

In this light it is very disappointing that the data has shown that only 500 out of the 11,500 cases were transferred to alternative dispute resolution mechanisms. And in the first 9 months of 2009 ECCs have received 6,130 cases from which only 212 have been forwarded to appropriate ADR. In other words the number of received cases is increasing every year, whereas the number of forwarded cases to ADR relatively stays the same.

The main reasons for this is the reasons stated by ECCs that in the vast majority of cases where ADR could be relevant the ADR possibility does not exist and if it does exist there are so many limitations in the competences of many ADR-systems such as the ADR dealing only with cases concerning members of a certain organization, only dealing with cases if the trader agrees or only having regional competences that the ADR-way is not a possible approach in practice.

The most obvious conclusion based on this is that ADR is not working at a cross-border level today and the need and importance of ADR development is clearly indicated and thus an obvious recommendation would be to have a wider ADR-coverage when it comes to cross-border complaints.

One of the aims of this report has been to focus the ADR-work on the areas where it is needed the most and at the same time making the existing differences in the access to redress more visible. A good place to start is to create ADRs where the number of cross-border complaints is the highest. These areas have been highlighted in this report both at a European level with the top 10 of complaint areas and the national top 5 areas of complaints making it easier to focus national initiatives in the area.

Another conclusion which is maybe a bit more surprising is that the answers to the distributed questionnaire showed that not notified ADRs exist in many countries even though they meet the criteria for being notified. It is recommendable that these ADRs are notified so that they appear on the European Commission's list and so that complaints can be forwarded to them through the ECCs.

Regarding the European Commission's list of notified ADRs it would be recommendable if the Commission could facilitate an improvement. Today the list only consists of the names of the notified ADRs together with their contact details. A list giving an overview of the actual competences of a country's ADR bodies would provide a better overview of the real ADR-coverage in each country since the number of ADRs does not say much about the coverage. A list like this could also help establishing real ADR coverage in some countries.

In many countries traders have to agree to the ADR proceedings for an ADR to be able to deal with a complaint whereas in other countries the complaints are dealt with by the

ADRs even though the trader does not want to participate. A question that could be raised based on these differences is if it is fair in today's Europe that traders can force consumers to go to court simply by denying to deal with a complaint, knowing that it almost never happens in real life that the consumer can find the resources to go to court and especially in a cross-border situation. Maybe it would be fairer if all traders were obliged to take consumer complaints serious and to participate in ADR proceedings where they exist.

Other conclusions and recommendations of this joint project:

- The complaints analysed and the answers to the questionnaire in this report show the importance of the cooperation between the ECC-Net and ADR and the significance of ADR operation in substantial areas where the number of consumer cross-border complaints is the highest.
- The quality of supply of ADR services has been far from even across the EU and in that context it is necessary to improve the process in case handling procedure between ECCs and ADRs. Currently it takes a long time and the results are not always positive.
- Since at present most cases handled by the ECCs are not resolved through ADR, the European Commission and member states may wish to look at the extent to which the mandate of the ECCs to deal with cross-border complaints on their own should be widened or at least provide clarifications as to what the ECCs offer to consumers and what they should not offer.
- Information to the consumers at all levels is a necessity. Particular in cross-border disputes it is necessary to inform about the possibility of filing a complaint and to help the consumer identify the relevant ADR scheme.
- An evaluation could be made analyzing whether some types of ADR are better suited for cross-border complaints than others and looking further into some of the barriers in ADR handling such as appearing before the ADR in person, language issues etc.
- ECCs have to always remember that one of their key tasks is to gather detailed information on national ADR schemes and facilitate co-operation with these schemes, to notify the European Commission about changes in the contact details of notified ADRs and to assist national authorities in the promotion and the development of new ADR schemes
- Increased focus should be placed on transnational learning and a “good practice/lessons learnt” guide with the “Do’s and Don’ts” of ADR system building could be created. One example of a good practice in this area is the yearly Baltic Sea Countries seminars on ADR continued since the beginning of ECC-Network in 2005.
- The possibilities within the relatively new European small claims procedure which have not been touched upon in this report could be explored more by all parties involved in solving cross-border consumer complaints, among these also the ECC-Network.

# Appendix 1

## Questionnaire - Joint Project – ADR across borders in practice

### General description of ADR in your country

As an introduction to the project we would like each country to make a short presentation (maximum ½ page) of how cross border consumer complaints are dealt with in general in your country and how your ECC cooperate with the notified ADRs in your country. Please include the following points:

- a presentation of the daily cooperation between your ECC and the notified ADRs
- if you have any protocols set up between your ECC and existing notified ADR schemes
- How your ECC is updated on the progress and the result of notified ADR procedure

Furthermore we would like each ECC to give one or two examples of cross border complaints/disputes describing a typical problem in solving a consumer complaint/dispute.

### Specific questions:

1. Can you confirm the number of notified ADRs in your country in the attachment “List of notified ADRs”? If not, what is the correct number?
2. To your knowledge do you have any ADRs meeting the requirements of Commission recommendations 98/257/EC and 2001/310/EC that are not notified. If yes, how many and why are they not notified?
3. In the attachment named with your country initials you see a top 10 list of product/service-specific areas where you as trader-ECC received and closed the most cross-border complaints in 2007 according to it-tool statistics. Please identify which ADR-possibilities (meeting the requirements mentioned in the two recommendations mentioned above) already exist today in your country in these 10 areas
4. If there is a difference between the number of cases in each of the top 10 categories and the number of cases forwarded to ADR where ADR exist what are the reasons for this?
  - Successfully solved by the ECC?
  - Successfully solved in other ways (i.e. trade associations, trust mark schemes - please mention these other ways)
  - other reasons?
5. In some countries there is a big difference in the top 10 list depending on if you look at all cases received and closed in 2007 as trader ECC or if you just look at all cases received. Please compare the top 10 list on the last page in the attachment named with your country initials with the top 10 list on the first pages. If there is a big difference between the two top 10 lists please try to give the reason for this
6. How does your country deal with consumer complaints where no ADR-possibilities exist today (e.g. the ECC-network and other consumer organisations, referrals to police, referrals to lawyers, referrals to small claims court etc. No explanations of procedures please, just specific categories as the examples mentioned)
7. For each of the ADRs identified in your answer to question 3 are there any legal or practical barriers in the consumers’ access to these ADRs, i.e.
  - Depending on if the consumer is national or foreign?
  - Are there any national territorial or similar barriers for consumers?
  - Do the ADR insist on national language only?
  - Do the ADR require the complainant to appear in front of the ADR?
  - Are there any minimum and/or maximum values concerning the product or service for the ADR to be competent?
  - Are there any fees for handling cases by the ADR in question?
  - Other relevant obstacles?

8. What is the average handling time of the relevant ADRs mentioned in your answer to question 3?
9. Do you have any sanctions in place to force the trader to participate in ADR (i.e. legislation) or sanctions if the trader does not participate?
10. Is the ADR decision mandatory for the trader or do you have any sanctions in place to force the trader to follow the decision of the ADR?
11. Do any of the notified ADRs in the top ten operate as ODRs (Online Dispute Resolution)? If yes, which ones?
12. In your opinion is there a need to promote ADR across borders in your country and to assist the state in ADR development?
13. Can you give an estimate of the number of notified ADR procedures globally (both national and cross border) carried out in you country in 2007 (or 2006)?

## Appendix 2

ECC	Number of ADRs in the country	Not notified ADRs which are meeting the requirements of Commission recommendations 98/257/EC and 2001/310/EC	Any notified ADR operating as ODRs (Online Dispute Resolution)	Average handling time for ADR procedures	Sanctions for traders to participate in ADR procedures	Character of the decision made by the ADR/ Sanctions to force the trader to follow the ADR decision
<b>Austria</b>	14	None	Austrian Internet-Ombudsman (AI)	<ul style="list-style-type: none"> <li>AI – 4 weeks;</li> <li>Austrian Regulatory Authority for Broadcasting and Telecommunications (RTR) – 3 month</li> </ul>	<ul style="list-style-type: none"> <li>AI - traders not participating in AI procedures are published on a “black list”.</li> <li>RTR - trader is obligated by law to participate in RTR procedures. The legal sanction when refusing to participate is a penalty due to public administrative law.</li> </ul>	<p>Both ADRs give recommendatory decisions.</p> <p>If trader (relevant only to Online Companies) not complying with the decision then published in the “black list” at the AI homepage.</p>
<b>Belgium</b>	25?	None	None	Several months	<p>Depending on the type of ADR, in some ADR procedures the trader is obligated to participate if consumer has started the procedure.</p> <p>In other ADRs the procedure can be started only when the both parties have agreed to it, otherwise if the trader refuses to participate, case can not be started.</p>	<ul style="list-style-type: none"> <li>ADRs working as dispute commissions take binding decisions.</li> <li>If trader refuses to follow the decision, consumer can ask a document from the court in order to make the decision of ADR equivalent to the judgment of a court.</li> <li>Other ADRs give recommendatory character decisions which generally are accepted by traders.</li> </ul>
<b>Bulgaria</b>	None	None	None	Not applicable	Not applicable	Not applicable
<b>Cyprus</b>	1	None	None	No information available	No legal sanctions	ADR take binding decisions which can be enforced in the same manner as Court decisions orders of the same nature by the Courts’ competent authorities.
<b>Czech Republic</b>	1 (pilot project)	None	1	If there is a lack of consent from the trader - 15 days, otherwise - up to several months	No sanctions	<p>ADRs give mostly recommendatory decisions.</p> <p>The Czech ADR has 3 stages:</p> <ol style="list-style-type: none"> <li>1) Qualified advice (the ADR contacts trader and tries to solve the complaint)</li> <li>2) Mediation (ADR cooperates with the mediators, who are able to find consensual solution of the dispute)</li> <li>3) Arbitration (Arbitration is so far very rare; it is very similar like a court decision and the decisions are binding)</li> </ol>

<b>Denmark</b>	18	None	None	The Consumer Complaints Board - 6 months	The case is dealt with no matter if the trader wants to participate or not. If the trader loses the case he has to pay a case handling fee which is enforceable	ADRs give recommendatory decisions. If the trader does not object to the decision it becomes binding after 6 weeks. At the private boards traders are often committed through membership of a trader organisation
<b>Estonia</b>	2	1	None	One month	No sanctions. However the case will be dealt on the basis of the consumer's complaint even though trader refuses to participate in ADR procedure.	ADRs give recommendatory decisions. If trader is not complying with the decision then published in the "black list" at the Consumer Protection Board's homepage.
<b>Finland</b>	3	None	None	From few months up to 15 months	No sanctions. However the case will be dealt on the basis of the consumer's complaint even though trader refuses to participate in ADR procedure.	ADRs give recommendatory decisions. If trader is not complying with the decision then published in the "black list" by the Consumer organization.
<b>France</b>	20	2 (in the process of checking)	The "Médiateur du Net" (ADR for internet / ecommerce)	Mostly – 2 months	No sanctions	ADRs give recommendatory decisions (except for the bank ADR, where banks are obliged to follow the decision). No sanctions.
<b>Germany</b>	209	10 (in the process of notification)	Online-Schlichter Baden-Württemberg, "Reiseschlichtsstelle"	No information available	No sanctions	Depends on the ADR system of the different sectors. There is no legal obligation.
<b>Greece</b>	3	None	None	No information available	No sanctions	No sanctions.
<b>Hungary</b>	20	None	None	From 60 up to 90 days (Regulated by law)	Traders not participating in ADR procedures are published on a "black list". The case will be dealt on the basis of the consumer's complaint even though trader refuses to participate in ADR procedure.	ADRs give recommendatory decisions if the trader does not accept the decision of the ADR. ADRs give binding decisions if the trader accepts the decision of the ADR. If the trader is not complying with the decision then the competent consumer agency shall be entitled to publish the name of the trader.

<b>Iceland</b>	3	Several (in the process of notification)	None	2 months	<p>If a trader is a member of a trader's association, he is obligated to participate in ADR procedures.</p> <p>No sanctions known, but it is up to traders associations.</p>	<p>When an ADR – as it usually is – is based on an agreement between two associations – then members of the traders association agree to follow the rulings of the ADR.</p> <p>In some cases the trader can choose not to do so, but then he must notify it within a certain time limit – but there are no measures of forcing parties to follow the rulings – it is, however usually done.</p> <p>One ADR - The Complaints Committee of consumer goods and services is not based on such an agreement and give recommendatory decisions which generally are accepted by approx. 50% of traders according to the numbers for 2008.</p>
<b>Ireland</b>	4	10	None	90 working days	No sanctions	<p>Advertising Standards Authority of Ireland take binding decisions for members of the Advertisement community.</p> <p>Scheme for Tour Operators, Chartered Institute of Arbitrator take binding decisions for members of Irish Tour Agents Association.</p> <p>The Financial Services Ombudsman's Bureau take binding decisions for all financial services operators in both the banking and insurance sector.</p> <p>The Office of the Pensions Ombudsman takes binding decisions for members selling private pensions in Ireland.</p>

<b>Italy</b>	4	Several	2	2 month	<ul style="list-style-type: none"> <li>▪ There is no obligation for the trader to participate in ADR, with some exceptions (e.g. telecommunications operators, in front of the Regional Committees - Corecoms).</li> <li>▪ The Banking Ombudsman is a particular kind of ADR, having competence on bank and financial services, since no acceptance of the procedure is asked to the trader: the arbitration judgement is started upon request of the consumer and the Ombudsman's decision is mandatory for the trader.</li> </ul>	<p>The agreement, what is reached and signed in mediation procedure is legally binding for the parties (like a contract).</p> <p>If the trader is not complying with it, then consumer can to apply the ordinary court and ask for the forced implementation.</p> <p>Arbitration decisions are always binding and equivalent to a court decision.</p>
<b>Latvia</b>	1	3	None	<ul style="list-style-type: none"> <li>▪ Consumer Rights Protection Centre (CRPC) and Public Utilities Commission (PUC) – from 1 up to 4 months;</li> <li>▪ Ombudsman of Commercial Banks Association (OCBA) and Ombudsman of Insurance Association (OIA) - from 2 months up to 1 year</li> </ul> <p>(Regulated by law)</p>	<ul style="list-style-type: none"> <li>▪ There is a legal obligation for the trader to participate in CRPC and PUC procedures. The legal sanction when refusing to participate is a penalty due to public administrative law.</li> <li>▪ No sanctions by not participating in OCBA and OIA procedures. However the case will be dealt on the basis of the consumer's complaint even though trader refuses to participate in ADR procedure.</li> </ul>	<p>CRPC and PUC's decisions are binding. For not following the decision - penalty due to public administrative law.</p> <p>OCBA and OIA give recommendatory decisions. No sanctions.</p>
<b>Lithuania</b>	1	No information available	None	<ul style="list-style-type: none"> <li>▪ The State Consumer Rights Protection Authority – 20 working days;</li> <li>▪ Other ADR bodies – up to 2 month</li> </ul> <p>(Regulated by law)</p>	No sanctions	<p>ADRs give recommendatory decisions.</p> <p>If the trader is not complying with the decision in specified time limit then the State Consumer Rights Protection Authority (SCRPA) provides the relevant information on their official website.</p> <p>However, such procedure is not applied in all ADR bodies; some of these bodies may force traders to follow their decisions once traders fail to implement them.</p>

<b>Luxemburg</b>	5	None	None	Between 2 to 3 months	No legal sanctions	Most of the ADRs which are using conciliation as method of resolution give recommendatory decisions. Only the Fegarlux Arbitration takes binding decisions. No sanctions.
<b>Malta</b>	None	6	1	No information available	No information available	Depends on the ADR. In a case of Euro-label Procedure, if the trader is not fulfilling his liabilities, then the Euro-label trust mark can be deprived from him.
<b>Norway</b>	18	None	None	6 months	Some ADRs have a legal basis where the trader is obliged to participate in the ADR procedure. If the trader refuses to participate in ADR procedure the case will be dealt on the basis of the consumer's complaint despite the absence of the trader.	The Consumer Disputes Commission take binding decisions. The private ADRs give recommendatory decisions. If trader is not complying with the decision then published in the "black list" at the Consumer Council's homepage, although it has been done only once.
<b>Poland</b>	88	36	None	90 days	No legal sanctions	Depends on the ADR scheme, e.g., Banking Consumer Arbitration issue binding decisions while mediation ran by the Trade inspectorates issue recommendatory decisions.
<b>Portugal</b>	13 (1 with national scope)	1	None	90 days	No sanctions	ADRs take binding decisions which have the same effect of decisions made by a Court of First Instance.
<b>Romania</b>	1	None	None	Up to 30 days	No sanctions	The ADR gives recommendatory decisions. No sanctions.
<b>Slovakia</b>	None	2	None	Between 2 to 3 months	If trader undertook in a contract to use mediation before initiating a lawsuit he will have to bear the consequences for the case of rejection of mediation before commencing a lawsuit. On the other hand, arbitrary decisions are valid and binding such as judicial decisions and must be obeyed. Sanctions may arise in conclusion with non-fulfilment.	The available ADR is mediation. Decision issued by a mediator is binding for the parties in mediation who then have the possibility to propose judicial execution in case this agreement/ decision is committed in form of notary deed or approved as judicial conciliation.
<b>Slovenia</b>	None	None	None	Not applicable	Not applicable	Not applicable
<b>Spain</b>	74	None	None	From 6 up to 12 months	No sanctions	ADRs take binding decisions. The execution of decisions is according to Spanish Civil Procedure Rules.

<b>Sweden</b>	1	None	None	Between 4 to 6 months	No legal sanctions. However the case will be dealt on the basis of the consumer's complaint even though trader refuses to participate in ADR procedure.	ADR gives recommendatory decisions. If trader is not complying with the decision then published in the "black list" at the national consumer magazine.
<b>The Netherlands</b>	46	None	The Foundation for Consumer Complaints Boards	5 months	If a trader is a member of a branch association he is obligated to participate in ADR procedures.	ADRs take binding decisions. If the trader refuses - the trade association will comply to the decision of the ADR and the trader is no longer a member of the trade association.
<b>United Kingdom</b>	22	Several	ODR scheme on trial between UK and Ireland covering "On- Line purchases"	Between 3 to 6 months	No legal sanctions. However certain sanctions possible within a trader association where the trader is participating on a voluntary basis.	ADRs take binding decisions if particular type of out-of court settlement is used such as Arbitration or Adjudication. In other circumstance ADRs give recommendatory decisions.

## Appendix 3

Are there any legal or practical barriers in the consumers' access to ADRs?	Depending on if consumer is national or foreign	Any national territorial competence or similar	Complaints accepted only in national language	Complainant have to appear in front of the board	Complaint's minimum/ maximum values	Fee for ADR procedure	Other obstacles
<b>Austria</b>	No	No	No	No	No, except at RTR - 20€ minimum	No	No
<b>Belgium</b>	No	No	Dutch, French and German	Most procedures are written	Depends on the board	Depends on the board	Trader needs to be a member for some ADRs
<b>Bulgaria</b>	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>Cyprus</b>	No	No	No	Sometimes, depends on the arbitrator	Maximum values for consumer claim is 5,125 €	Complaint fee (5-17 €) and Arbitrator's fee (86-170 €)	The case can only be transferred if mutual consent
<b>Czech Republic</b>	No	No	No, also Slovak and English	No	No	Only in a case of arbitration (3% of principle, at least 32 €)	No
<b>Denmark</b>	No	No	Scandinavian and English	No	Yes, in most boards	Yes, all boards, between 20 and 70 €	No
<b>Estonia</b>	No	No	Yes, if part of a hearing	No, it is not necessary	Yes, minimum 300 EEK (19 €)	No, but maybe cost for experts opinion	No
<b>Finland</b>	No	Only one, Åland, which has it own ADR (not notified)	Yes, except in cases falling under EC Regulation 261/2004 (English)	No	No	No	Language
<b>France</b>	No	Sometimes, but rarely	Yes (except a few of them who can treat complaint in English but will answer in French)	No	No	No	Preliminary steps before consumer being entitled to contact the ADR (eg: banking sector)
<b>Germany</b>	No	No	Yes	No	No	No	No
<b>Greece</b>	No	No	No	Yes, at the certain point where the case is tried	No	No	No
<b>Hungary</b>	No	No	Yes, but now one of the notified ADR body plans to have hearings/ procedures in English, German and French	Normally yes, but the lack of appearance does not interfere decision making	No	No	No
<b>Iceland</b>	No	No	No	No	No	Yes, in most boards (5-33 €)	No

<b>Ireland</b>	No	No	Yes, as both Irish and English are the national languages	No	No	Only, one the Chartered Institute of Arbitrators Irish Branch (380€)	Lack of willingness to participate (trader)
<b>Italy</b>	No	No	No, also English	Not in case of ODRs (Chambers of Arbitration of Rome and Milan)	No	No	No
<b>Latvia</b>	No	No	No	No	No	Only for ombudsman approx. 21€	No
<b>Lithuania</b>	No	No	No	No	No	Mostly no	No
<b>Luxembourg</b>	No	No	No	Mostly no, but for use of mediation as method of resolution it is essential.	No	Mostly no, only in one	If the trader has to be a member
<b>Malta</b>	NIA	NIA	NIA	NIA	NIA	NIA	NIA
<b>The Netherlands</b>	No	No	Yes, but not at all the ADR's and not such a strict condition.	No	No	Yes, between 25 and 125 €	The trader will have to be a member.
<b>Norway</b>	No	No	Scandinavian and English	No	No	No	No
<b>Poland</b>	No	Yes, regionally decentralized structure in case of several ADRs	No, also English	No	Yes, in some	Yes, in some. In others could be only costs for expert's opinion.	No
<b>Portugal</b>	No	No	No, also English	No, the consumer may be represented by a consumer association	Mostly no but some have maximum limits 5000/30.000 €)	Only for two ADRs (car sector and car insurance). Cost to specialized experts can occur.	No
<b>Romania</b>	No	No	No, also English	No	No	No	No
<b>Slovakia</b>	Yes, national	No	Yes	No	No	Yes, depends on the ADR	No
<b>Slovenia</b>	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>Spain</b>	No	No	Also English and French	No	No	No	No
<b>Sweden</b>	No	No	Yes, but exemptions can be made. English, Danish and Norwegian are generally accepted	No	Yes (500/1000/2000 SEK depending on the product service)	No	No
<b>United Kingdom</b>	No	No	Not known yet, but English	Mostly not, but depends on the ADR	Yes	Mostly not, but it depends on the ADR	The absence of uniform regulations and the imbalance in the distribution of ADRs across sectors.

N/A – Not applicable

NIA – No information available

# Appendix 4

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