

Questionnaire for legal practitioners

Please send your replies to dcarneiro@estg.ipp.pt

INTRODUCTION

Online Dispute Resolution mechanisms (ODR) are more and more diffused in several online platforms in order to deal with the conflicts occurring between users or between the users and the platform itself. One of the first examples is the eBay conflict resolution system. ODR models are also becoming a reality in several Member States as online courts, where citizens can present their claims in specific areas or topics.

However, the structures and organization of these mechanisms are still challenging as each provider of ODR may adopt technical choices that may not ensure the fairness of the procedure or may reduce the opportunities of users/citizens to present a claim due to limited knowledge or technical expertise.

The goal of the E-Justice ODR Scheme project is to develop a semi-specification to set the ground for prototype ODR tools which will enhance a simple and fair procedure for any dispute they will be used in (E-justice ODR Scheme). Moreover, **the E-justice ODR Scheme will be the basis for further research, design and development of open, flexible blocks and their editor. All these technical elements** will be as close as possible to tools for developing low code/no code e-justice ODR platforms and applications for accessing them. Such platforms and apps should be able to communicate among themselves and share mostly anonymized data for the purposes of new data-driven services under new governance to ensure ethics and improved access to justice for all.

Scheme includes three inter-related components:

- E-justice ODR processes;
- Access processes; and
- New data services based on data sharing.

We are currently working on the e-Justice ODR process with the following aims:

- Prepare a structure for describing an e-justice ODR system (focused on civil claims)
- Develop this structure into a semi-specification from which it will be possible to design and develop blocks and an editor for designers and developers of e-justice ODR platforms.

The initial document addressing the tasks is the Draft standard ODR processes for civil claims (Standard Processes). The document will be subject to further amendments, revisions and extensions. We hope that the testing process you have been invited to participate in will result in important suggestions that will serve as the basis for such amendments, revisions and extensions.

The goal of this document is to enable the description of the main features of the existing and potential ODR systems, with particular focus on the processes they are designed to

support or represent. In particular, these systems should encompass the main procedural steps in civil cases resolved by courts or ADR bodies.

We are interested to analyze this list of features from the point of view of solutions adopted in or being designed or planned in several EU countries, including Poland, Italy, the Netherlands, Portugal and Czech Republic.

It is important to stress that the aim of this document is not to provide an exhaustive list of procedural steps in resolving civil disputes, but rather to put together an initial group of such steps which are essential, standard, main, principal. At the same time, the documents show that any ODR tool should ensure great flexibility, the ability to add additional procedures, as well as to modify the mentioned procedure etc.

The main purpose of this questionnaire is to understand whether the current structure, reflected in the Standard Processes fulfills the assigned task to facilitate users in setting up an ODR structure able to adapt to the different types of judicial procedures that are already existing (as an alternative to be provided online) as well as providing sufficient alternatives for new ODR mechanisms.

Please note that the Standard Processes document is prepared as a questionnaire itself. Therefore, in this questionnaire we in particular ask you to evaluate the questionnaire presented in the Standard Processes document.

It is relevant for the development of the subsequent steps in the project that the elements included in the process are at least covering all the different essential, standard, main, principal procedural phases in the existing judicial (and alternative) procedures. To this end, the questionnaire is focused on finding the missing elements (if any) and improving the already available structure.

Please note that the questions in the Standard Processes document are grouped into four categories:

- A. General Set-Up
- B. Standard Processes
- C. Negotiation
- D. Escalation to the 3rd Party ODR.

Therefore, if this questionnaire asks you to indicate any question from the Standard Processes document, the appropriate number should be used. For instance, the number B.5 would denote the fifth question from group B.

Please read the Standard Processes document and reply to the following questions using a number between 1 and 6, according to the following scale:

1	2	3	4	5	6
Strongly disagree	Disagree	Slightly disagree	Slightly agree	Agree	Strongly agree

Draft standard ODR processes

1. The questions are clearly stated.

⇒ [1..6]: ____

⇒ Which are the questions that are not clear (provide exact reference):

2. The questions in the overall document describe in sufficient detail the preliminary background for the creation of an ODR mechanism.

⇒ [1..6]: ____

⇒ Which are the additional aspects that are missing:

3. The questions provided in part A (General set-up) describe in sufficient detail the main elements needed to setup an ODR mechanism.

⇒ [1..6]: ____

⇒ Which are the additional aspects that are missing:

4. The questions provided in part B (Standard ODR process) describe in sufficient detail the features an ODR mechanism should have.

⇒ [1..6]: ____

⇒ Which are the additional aspects that are missing:

5. The questions addressing the set-up of the appeal panel (questions B.5-7) describe the essential, standard, main, principal alternatives that may be used in a judicial proceeding.

⇒ [1..6]: ____

⇒ Which are the additional aspects that are missing:

6. The questions addressing paper filing (questions B.19-20) describe the essential, standard, main, principal alternatives that may be used in a judicial proceeding.

⇒ [1..6]: ____

⇒ Which are the additional aspects that are missing:

7. The questions provided in part C (Negotiation) describe in sufficient detail the steps required to solve a conflict within an ODR mechanism.

⇒ [1..6]: ____

⇒ Which are the additional aspects that are missing:

8. The questions addressing the initial steps of the negotiation (questions C.1-6) describe the essential, standard, main, principal alternatives that may be used in a judicial proceeding.

⇒ [1..6]: ____

⇒ Which are the additional aspects that are missing:

9. The questions addressing the outcome of the negotiation/mediation (questions C.7-10) describe the essential, standard, main, principal alternatives that may be used in a judicial proceeding.

⇒ [1..6]: ____

⇒ Which are the additional aspects that are missing:

10. The questions provided in part D (Elevation to 3rd party ODR) describe in sufficient detail the possibility to elevate to a 3rd party ODR.

⇒ [1..6]: ____

⇒ Which are the additional aspects that are missing:

11. The questions addressing the appointment and challenges of judicial officers (JO) (questions D.5-12) describe the essential, standard, main, principal alternatives that may be used in a judicial proceeding.

⇒ [1..6]: ____

⇒Which are the additional aspects that are missing:

12. The questions addressing the costs of the proceedings (questions D.16-18) describe the essential, standard, main, principal alternatives that may be used in a judicial proceeding.

⇒ [1..6]: ____

⇒Which are the additional aspects that are missing:

13. The questions addressing the available remedies (questions D.20-21) describe the essential, standard, main, principal alternatives that may be used in a judicial proceeding.

⇒ [1..6]: ____

⇒Which are the additional aspects that are missing:

14. The questions addressing the hearings (questions D.22-24) describe the essential, standard, main, principal alternatives that may be used in a judicial proceeding.

⇒ [1..6]: ____

⇒Which are the additional aspects that are missing:

15. Would you like to provide any additional comment or suggestion to the draft document?

Please do so here:

16. Would you like to be kept informed about our project and participate in our online discussions, e.g. on online ethics and the use of AI techniques in judicial proceedings?

- Yes. Please add your interests : _____
- no