



In this edition of our newsletter we will have a look at the means of redress available for consumers and what are the procedures involved to seek the best and most effective redress. We will also be highlighting the new Regulation on Geoblocking and what are the benefits that this will bring to European consumers. Read also about the New and Improved ECC-Net Travel App.

Consumer Means of Redress

European consumers are increasingly purchasing goods and services from traders based in other Member States both online and when visiting a particular country.

This certainly does not imply that things cannot go wrong with cross-border transactions as they do in the case of local purchases, where both consumer and trader are based in the same country. Common grievances include the non-delivery of products, faulty goods and unfair terms imposed by traders.

Obtaining redress through ordinary court procedures can be very costly and in many cases, higher than the compensation sought. Consumers should be aware of the alternative remedies available to them when it comes to cross-border disputes. Such options include Alternative Dispute Resolution and the European Small Claims Procedure.



What is Alternative Dispute Resolution?

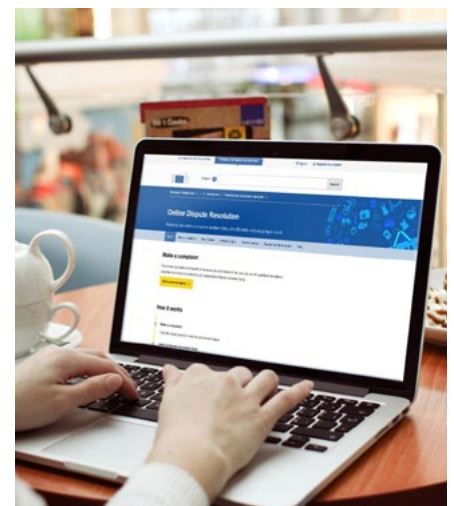
Alternative dispute resolution (ADR) is another way of addressing consumers or traders disputes in a quick and inexpensive manner and without the need to go to court.

There are many forms of ADR, these include mediation, conciliation and arbitration amongst the most common types of ADR. The directive 2013/11/EU on ADR ensures that EU consumers can submit their complaint to an alternative dispute resolution (ADR) entity. This directive also sets out binding quality requirements for ADR entities such as transparency, independence, fairness and effectiveness. If your dispute relates to an online purchase, the **online dispute resolution (ODR) platform** allows you to submit a complaint online to an ADR body in any language and in any EU country. In Malta we have three ADR entities which are registered on the ODR platform, The Complaints and Conciliation Directorate within the Office for Consumer Affairs MCCA, Office of the Arbitrator for Financial Services and the ADR Malta.

What is the Online Dispute Resolution (ODR) platform and how does it work?

The **ODR platform** is a web-based platform developed by the European Commission to help EU consumers and traders resolve their contractual disputes about online purchases. The ODR platform can be accessed online and is available in any of the 23 official languages of the European Union. With the use of this platform EU consumers can submit their complaint directly with the trader. **There is no need to register to submit a complaint on the platform.** Once the consumer clicks

on the platform to submit a complaint he/she will be prompted with an online form. In the online form consumers are required to enter their details together with the trader details especially the trader's email address. Providing the right email is very important since the trader will receive the notification that a consumer has submitted a complaint via this e-mail. If a consumer do not know the trader's email or cannot find it on the trader's website consumers can contact their National Contact Point.





What happens once a consumer submits a complaint?

Once the consumer lodges a complaint through the ODR platform, the system will send a notification by email to the trader that a consumer has lodged a complaint against him/her. If the trader agrees to take part in the process, the trader needs to propose an ADR body to handle the case. The consumer can either accept this ADR entity or propose another entity to the trader. It is very important for

consumers to check their inbox since this process has a time window of 30 days meaning that if no agreement on an ADR entity is reached within 30 days from submitting the claim, the case will be automatically closed. Once there is an agreement on the ADR entity the case will go directly to the ADR entity that will handle the case. Most cases will be dealt within 90 days depending on the complexity of the case. Some

ADRs are free to use, however there are other ADRs which have a minimum fee to be paid –

ALWAYS CHECK THE INFORMATION PROVIDED ON THE SPECIFIC ADR FOUND ON THE ODR PLATFORM IN ORDER TO FIND THE CHARGES THAT MAY APPLY.

Guidance for traders in relation with the EU ODR platform

Once a trader receives a complaint from a consumer the platform will send a notification e-mail to the trader. In order to reply to the complaint the trader must connect to the system by registering on the platform. Traders have 10 days to reply to the complaint. Once the organisation is created, the members of the organisation will be able to access it and see the complaints

received. The next step is to propose the ADR entity to the consumer. If the consumer accepts the proposed ADR entity the complaint will be sent and dealt by the ADR entity. This process will help both consumers and traders in solving their dispute in an efficient and cost effective way. It also facilitates the communication between the traders, their consumers and the dispute resolution body.

Traders can find useful information on the whole process by clicking this [link](#). Furthermore if a trader has any questions regarding the ODR/ADR he/she can contact the National Contact Point of their respective country.

The National contact point for Malta is the ECC Net Malta and can be contacted either via the ODR platform or by e-mail: odrmalta@mccaa.org.mt and also by phone on 21221901.

Traders' Obligations in relation to the ODR/ADR EU laws

The ODR Regulation requires that all traders established in the EU, who engage in online sales or services contracts are to provide an electronic link to the ODR platform. This link has to be visible and easily accessible on the website together with the trader's e-mail address. Providing only an interactive contact form is not sufficient. These obligations apply to all online traders whether they intend to use the ODR platform or not.



The European Small Claims Procedure (ESCP)

The ESCP applies to business and consumer claims of up to €5000. It applies in all EU Member States, except Denmark. Non-monetary claims can also be made under the procedure.

The aim of this procedure is to simplify cross-border claims litigation while reducing the costs. When making use of this procedure, one will be benefitting from the fact that he does not need to hire a lawyer and the claim is solved more quickly than when going to Court. Whilst the procedure is a

written one and it will be conducted mainly through correspondence the Court may request an oral hearing if it deems necessary. The judgement given in a Member State through this procedure is then recognized and enforced in the other Member State. However the enforcement procedure is regulated by the procedural laws of the Member State where enforcement is sought. To this affect at the request of one of the parties the Court which gave the judgment under the ESCP will issue a certificate concerning a judgment in the European Small Claims Procedure

A claim can be made by filling in the claim form online and sending it to the court which will then have the jurisdiction over the claim. The claimant is to give the relevant details and the grounds for his claim, attaching any documents and other evidence available. A copy of the claim is sent to the trader within 14 days. The trader is to submit his reply within 30 days of service of the claim. Documents are sent by post. Subsequently, the court issues a decision within 30 days and a copy of the judgment is sent to both parties by post.

An end to Geoblocking and other geographically-based restrictions

Geo-blocking makes it difficult for online consumers to buy from a website situated in another EU country. Online sellers use different practices to create barriers.

For instance access to a website may be granted, but the consumer from abroad will be prevented from placing an order to the particular product or service or may be rerouted to other websites offering different prices or conditions or the product may not even be available. Another practice often used by online sellers is that where the consumer will not be able to continue with the payment because the trader's website asks for credit cards issued from a certain country only.

The Regulation on Geoblocking which started to apply as from the 3rd of December 2018, will set an end to unjustified discrimination based on consumers nationality or place of residence. Whilst the Regulation defines the specific situations where there can be no justified reasons for geoblocking it does not require that traders actually offer the delivery of the goods to consumers living in another country from that which the trader operates in. However, the consumer will still be entitled to order the product and organise the delivery himself to his home country.



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Additionally, the Regulation also bans blocking of access to websites and the use of automatic re-routing if the customer has not given prior consent. Furthermore, when it comes to payment, while traders remain free to accept whatever payment means they want, they cannot apply different payment conditions on the basis of the

consumer's residence or on the basis of the consumer having a credit card issued in another EU country.

It is important to note that the Regulation excludes certain goods or services from within its scope, such as transport services, retail financial services and healthcare services.

Further information about this Regulation can be found through the following link: <https://eur-lex.europa.eu/content/news/geo-blocking-regulation-enters-into-force.html>

The New and Improved ECC-Net: Travel App

Helps consumers overcome difficult holiday situations – in 25 different languages and 30 European countries!



Unexpected holiday experiences can quickly turn the mood. The pre-booked rental car is no longer available? The hotel room is suddenly more expensive than the agreed price? An accident leads to an emergency visit to the doctor's? If all this happens while abroad, language problems can further complicate the situation. What's more, many consumers are unaware of their rights while traveling.

The European Consumer Centres Network's (ECC-Net) updated travel app not only provides legal information,

but also helps consumers to assert claims in stressful situations by presenting some of the most important sentences in the language of the holiday country. In addition, useful addresses and telephone numbers are available for emergencies. The app is available in 25 European languages and in all 28 EU countries as well as Iceland and Norway.

The app works offline and is available free of charge under the name "ECC-Net: Travel" in Google Play and iTunes Store.

European Consumer Centre Malta

This newsletter is brought to you by the European Consumer Centre Malta

This newsletter is part of the action 785600 – ECC-Net MT FPA which has received funding under a grant for an ECC action from the European Union's Consumer Programme (2014–2020). The content of this publication represents the views of the author only and it is his/her sole responsibility; it cannot be considered to reflect the views of the European Commission and/or the Consumers, Health, Agriculture and Food Executive Agency or any other body of the European Union. The European Commission and the Agency do not accept any responsibility for use that may be made of the information it contains. **Disclaimer:** Whilst every effort is made to ensure accuracy, the European Consumer Centre Malta cannot be held responsible for matters arising from any errors or omissions contained in this publication. The information provided is intended as a guide only and not as a legal interpretation.