

# **New European Legislation on Alternative Dispute Resolution (ADR) and Online Dispute Resolution (ODR)**

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## Inter-institutional Procedure – Timetable

|                    |   |
|--------------------|---|
| November 2011      | Commission adopts ADR/ODR proposals                 |
| December 2012      | “First-reading agreement”                           |
| March 2013         | European Parliament plenary vote                    |
| <i>April 2013</i>  | <i>Council vote</i>                                 |
| <i>June 2013</i>   | <i>ADR/ODR legislation enters into force</i>        |
| <i>Mid 2015</i>    | <i>Implementation period for ADR Directive ends</i> |
| <i>End of 2015</i> | <i>ODR platform will become operational</i>         |

# Directive on consumer ADR

## Scope (1)

(cp. Art. 2(1) ADR Directive)

### Procedures for the out-of-court resolution of

- disputes concerning contractual obligations stemming from sales or service contracts
- between a trader and a consumer, both established/resident in the Union
- through the intervention of an ADR entity which
  - proposes a solution;
  - imposes a solution; or
  - brings the parties together with the aim of facilitating an amicable solution

## Scope (2)

(cp. Art. 2(2) ADR Directive)

### **Not covered, in particular:**

- disputes submitted by traders against consumers (B2C disputes)
- disputes between traders (B2B disputes)
- settlement attempts made by a judge in the course of judicial proceedings
- "procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed or remunerated exclusively by the individual trader", unless MS decide to allow these procedures as ADR procedures under the Directive and specific additional requirements of independence and transparency are met
- disputes concerning health services
- disputes concerning public providers of further or higher education

## Core elements (1)

### A. Ensuring access to ADR entities and ADR procedures ("full coverage")

#### *"Article 5*

#### *Access to ADR entities and ADR procedures*

1. *Member States shall facilitate access by consumers to ADR procedures and shall ensure that disputes covered by this Directive and which involve a trader established on their respective territories can be submitted to an ADR entity which complies with the requirements set out in this Directive.*

*[...]."*

## **Core elements (2)**

### **B. Establishing binding quality requirements for ADR entities and ADR procedures**

- **Organisational requirements (Art. 5)**
- **Expertise, independence and impartiality (Art. 6)**
- **Transparency (Art. 7)**
- **Effectiveness (Art. 8)**
- **Fairness (Art. 9)**
- **Liberty (Art. 10)**
- **Legality (Art. 11)**
- **Effect on limitation and prescription periods (Art. 12)**

## Core elements (3)

### C. Control of compliance with quality requirements through national competent authorities

Member States designate competent authorities that perform the following tasks (Art. 20):

- **Assessing** whether dispute resolution entities intending to get listed as "ADR entities" comply with the quality requirements established by the Directive;
- **Listing/De-listing** of compliant/no longer compliant dispute resolution entities as "ADR entities";
- **Reporting** on development and functioning of ADR entities in respective MS

## Core elements (4)

### D. Consumer information by traders (Art. 13)

Traders who commit or are obliged to use ADR to inform consumers about ADR in a clear and comprehensible way

- on their websites (if they have one);
- in general terms and conditions (if applicable)

All traders to inform consumers about ADR when a complaint submitted to them directly by the consumer could not be settled bilaterally

# Regulation on consumer ODR

## Scope (1)

(cp. Art. 2(1) ODR Regulation)

### Out-of-court resolution of

- disputes concerning contractual obligations stemming from **online** sales or service contracts;
- between a trader and a consumer, both established/resident in the Union;
- through the intervention of an ADR entity listed in accordance with Article 20(2) ADR Directive; and
- involving the use of the ODR platform

## Scope (2)

(cp. Art. 2(1) and (2) ODR Regulation)

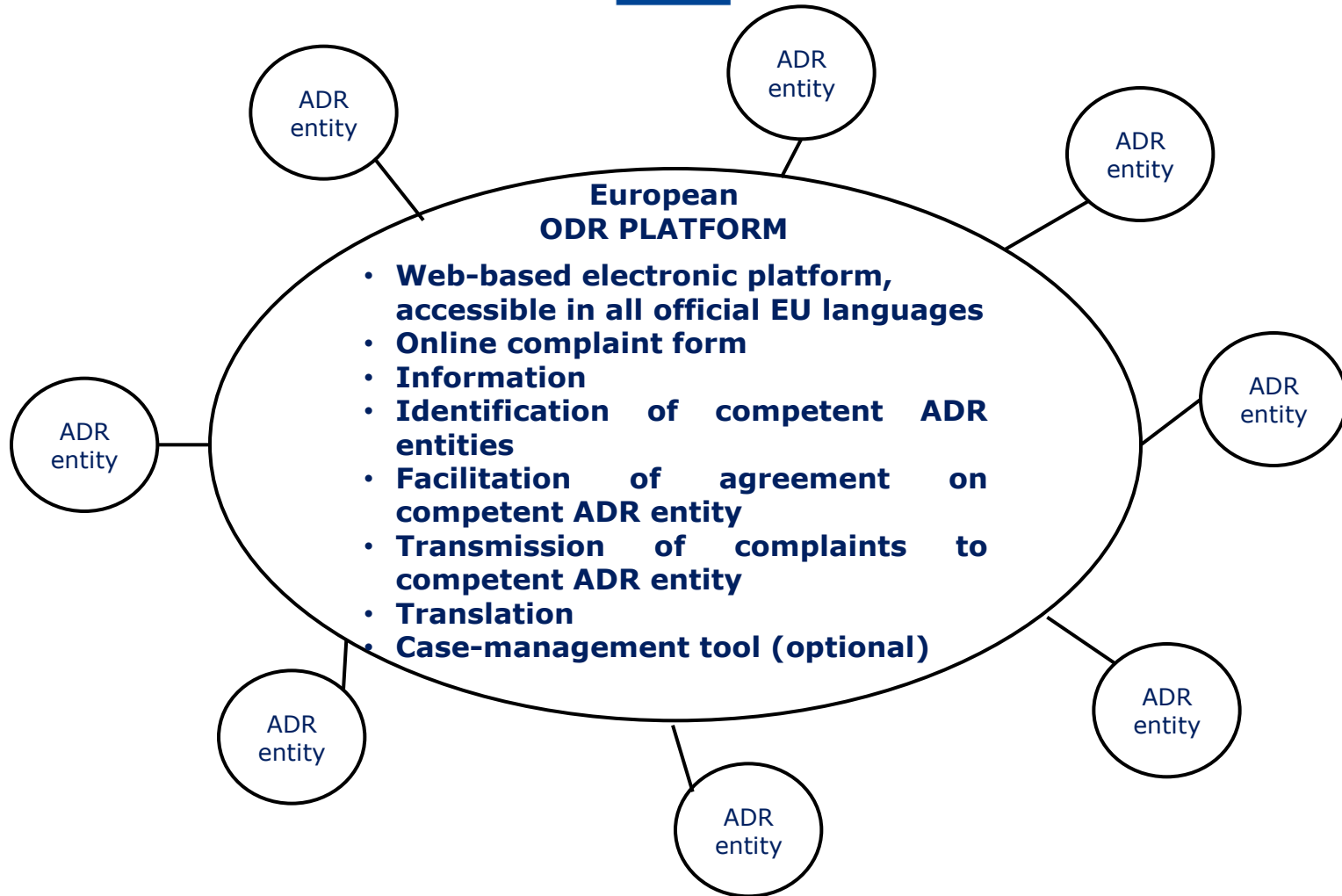
### **Not covered:**

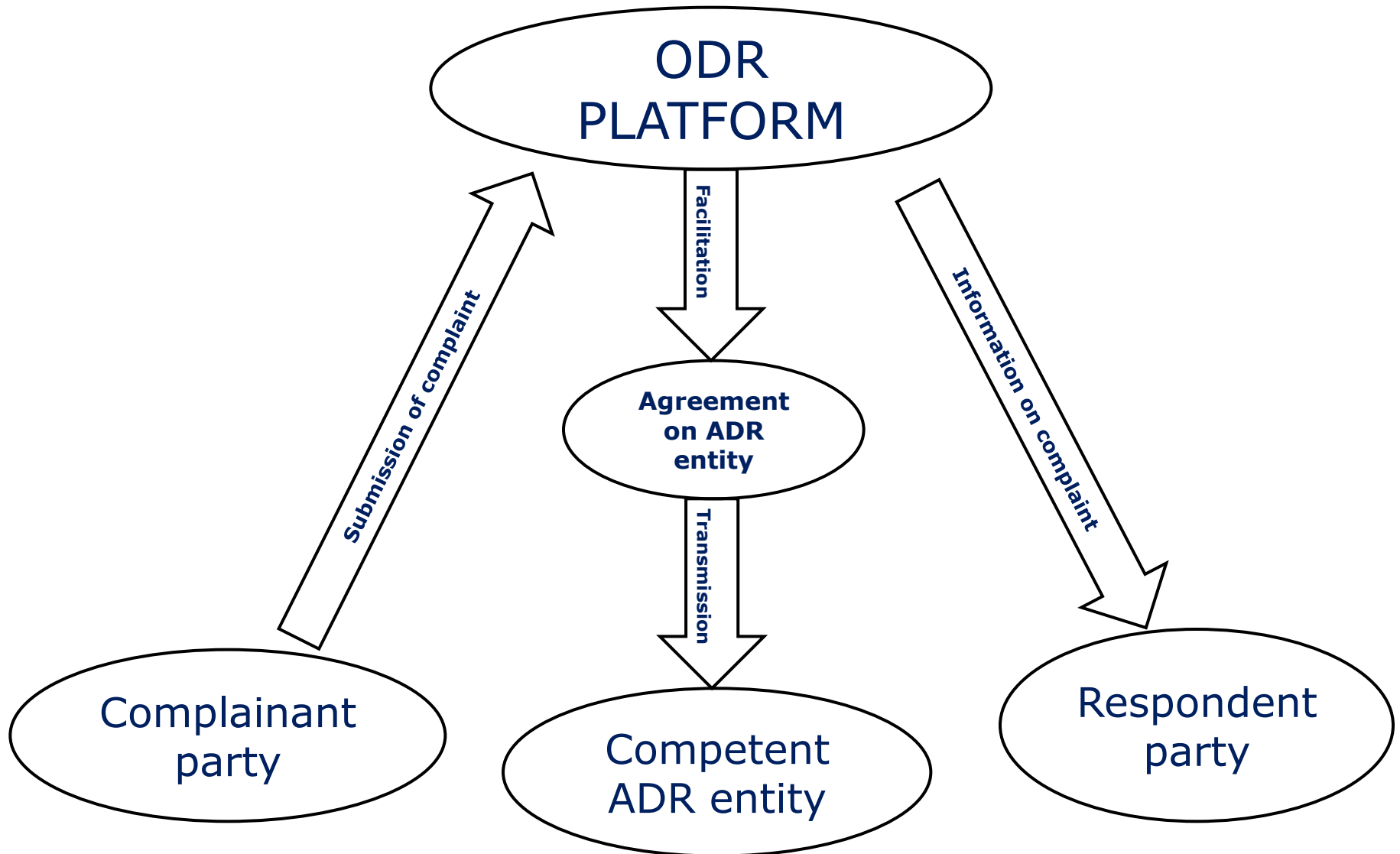
- Same exemptions as ADR Directive (=> reference to "*ADR entity listed in accordance with Article 20(2) [ADR Directive]*")
- But: B2C disputes covered if legislation of MS in which consumer is habitually resident allows for such disputes to be resolved through ADR (cf. Art. 2(2))

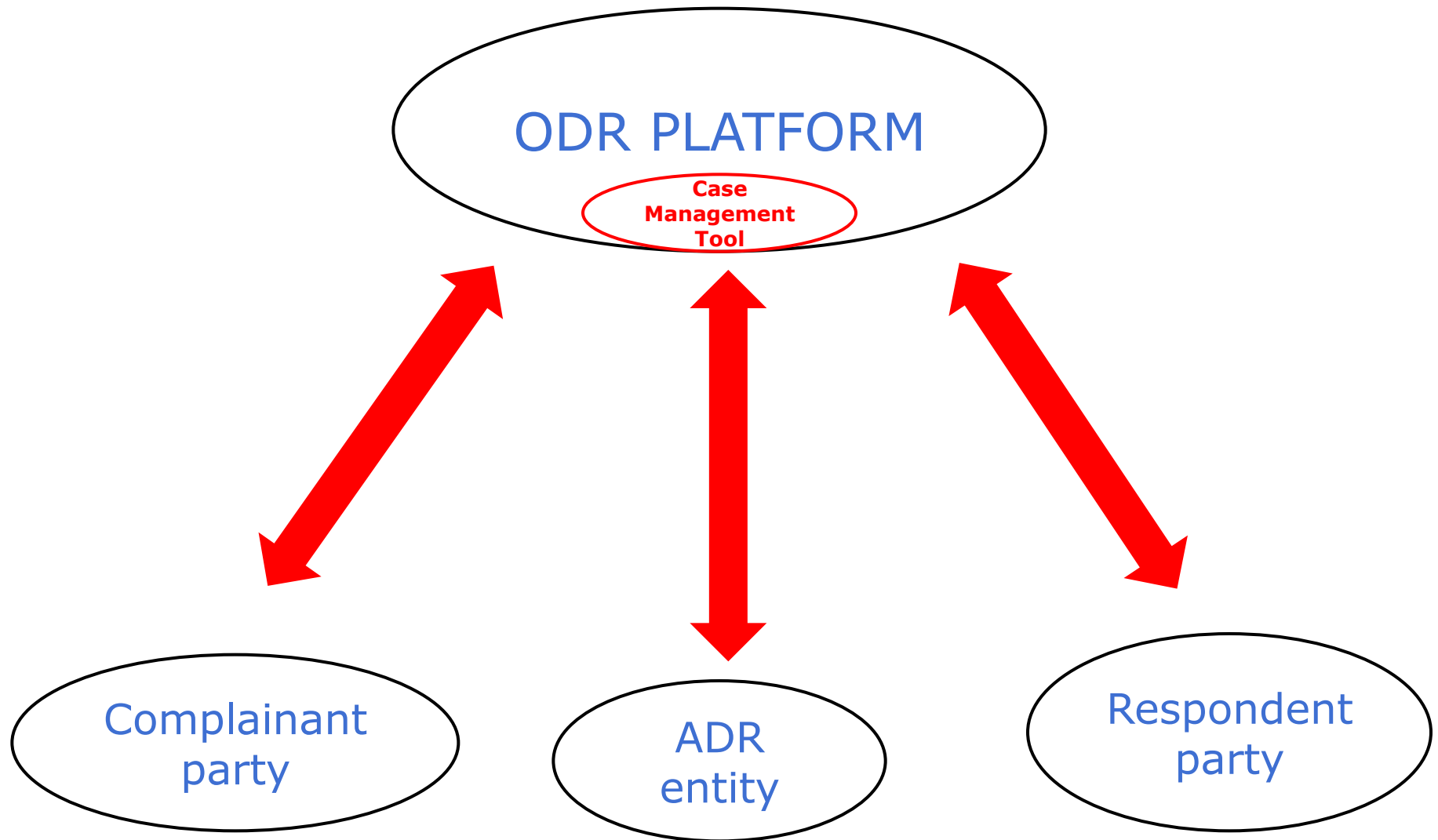
## Core elements (1)

# The ODR platform

*(simplified schema)*







## **Core elements (2)**

# **The ODR contact points**

### **Designation**

- Appointed by Member States
- Minimum 2 ODR advisors per contact point
- Functions may be restricted to cross-border cases

### **Tasks**

- Assisting with the complaint submission
- Providing information on consumer rights
- Providing information about the ODR platform
- Explaining the rules of procedure of the ADR entities
- Informing about other means of redress
- Reporting to the Commission every 2 years

## Core elements (3)

### Consumer Information

- Online traders and online marketplaces established in the EU to inform consumers about the ODR platform by providing an easily accessible link to it on their websites
- Online traders that are obliged or committed to use ADR to inform consumers about the possibility to use ODR platform on their websites, in e-mails and (*where applicable*) in general terms and conditions

# Q&A



***Grazie per l'attenzione!***