

NOTES

ONLINE DISPUTE RESOLUTION - FANTASY OR REALITY?

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I. Introduction

This article discusses the issues of online dispute resolution, which allows to expand the use of judicial remedies, innovations in traditional methods of dispute resolution, the application of technology. Online dispute resolution is one of the ways to resolve disputes using Internet technologies. Dispute resolution online is used to resolve problematic situations of any complexity. At the same time, it is characterized by high cost-effectiveness and a wide range of functions (data transfer, coordination of meeting schedules, e-mail delivery of agreed decisions, speed).

The Internet has served as a tool that has revolutionized many areas of life in the 21st century. It performs many functions and lays the foundation for many industries to operate as a common source of information, means of communication and global trading platform.

The internet also has an impact on legislation. Its rapid expansion has led to many positive developments, such as the digitization of certain areas of law. New methods of communication have improved many areas of law, including the modernization of out-of-court dispute resolution processes, such as the creation of online dispute resolution systems.

The emergence of online conflict resolution began in the United States. Disputes are still being considered online at the online dispute bureau at the Center for Information Technology and Conflict Resolution at the University of Massachusetts in the United States (Wahab, 2012).

The COVID-19 pandemic crisis has forced courts to take an innovative and creative approach in real time, including measures taken today to introduce modern information technology to courts or address shortcomings in them. Virtual court hearings, ODR and other digital litigations are examples.



The first appearance of online dispute resolution was done email. This method of dispute resolution is done online. Once the application was accepted for resolution, the other party responded to the application. If no agreement is reached, the parties are directed to the negotiation stage. This was done through an electronic means of communication - e-mail. Their relationship was mediated by a mediator or arbitrator.

The number of entities providing ODR services in the EU has been increasing in recent years. Examples include ombudsmen in Austria and Germany, and online mediation systems in Italy and the United Kingdom.

II. Literature review

According to the Dutch scholar and judge Dori Reiling, online dispute resolution means the use of information and communication technologies in resolving disputes between parties. The technology can also be used in mediation and arbitration courts. It can also be seen as an alternative form of conflict resolution. ODR can also bolster the improvement of traditional methods of conflict resolution through innovative online technologies. In the past, ODR was mainly used for e-commerce disputes, but today more online communication is being used as a form of ODR (Reiling, 2017).

According to the American scholar Amy Schmits, the ODR offers great opportunity for expanding access to court remedies or achieving justice. In the United States and abroad, ODR has developed mainly in e-commerce companies such as eBay and Alibaba, most state courts are still in the traditional process, providing practical services to increase the efficiency of the use of information technology in the courts and expand its capabilities (Schmitz).

According to Indian researcher Chitranjali Negi, online dispute resolution (ODR) is a form of conflict resolution that uses technology to facilitate the resolution of disputes between the parties.

Online dispute resolution may involve the resolution of disputes in each of the negotiation, mediation, or arbitration courts, or in three alternative disputes.

ODR includes the following legal traditions:

- 1) Legal confidence: the ability of the parties to choose an arbitrator or arbitrator.
- 2) Use of Justice: Everyone involved in a dispute has the right to use ODR.

ODR will also create a mechanism that provides timely solutions and rational means of efficiency.

ODR allows for a civilized (peaceful) resolution of disputes between citizens.

The ODR also allows the parties to apply to state courts¹.

¹ Chitranjali Negi. Concept online dispute resolution in India. Electronic copy available at: <http://ssrn.com/abstract=2596267>.



According to Mimoza Sadushi, resolving disputes online is, in simple terms, resolving disputes over the Internet. In Canada, the United States, and European countries, ODRs are organized in various forms and through the establishment of forums.

The term ODR means automated processes. Sometimes ODRs are fully automated and even if they are only conducted online, some also involve the human factor.

Online dispute resolution allows you to resolve disputes quickly and easily.

Automated negotiations in the ODR also include processes such as neutral assessment of disputes, mediation or conciliation.

Online dispute resolution will be an alternative form of mediation or arbitration courts (Sadushi, 2017).

It is clear from the opinion of the above scholars that ODR can be an alternative type of dispute resolution such as mediation, arbitration courts.

However, some scholars believe that it is possible to introduce procedures related to ODR processes in state courts, especially civil courts.

According to the American scholar Lise Embley, virtual trials and ODRs are opening up new opportunities in the courts, which not only ensure that courts operate during a pandemic, but also help settle many problems².

According to the Ergul Serpil, one of the key issues is to prevent an increase in the number of applications that need to be considered in court and to see the delayed trials as soon as the threat of the COVID-19 virus passes and people have the opportunity to gather in public. These issues can be resolved through ODR and virtual court hearings. Judges and court staff may also conduct ODR and virtual court hearings from the courthouse to continue adjourned proceedings. This allows the parties to participate in the trial remotely (Serpil, 2020).

III. Discussion and analysis

According to the above scholars and judges, disputes can also be resolved online in civil courts.

Hence, online dispute resolution can also be applied to civil litigation.

Online Dispute Resolution (ODR) is an online dispute resolution that uses alternative dispute resolution methods. Dispute resolution online involves disputes that have been partially or fully resolved over the Internet.

Online dispute resolution is done using existing platforms that allow access to the Internet. Like other alternative ways of resolving disputes is to reach an agreement between the parties.

Online dispute resolution is an alternative form of dispute resolution that allows the use of the Internet. Like other alternative methods of resolving disputes online, the parties

² Lise Embley. Judicial Perspectives on ODR and Other Virtual Court Processes. JTC Quick Response Bulletin: 4.



are required to have a third party (mediator, arbitrator) in the process of reaching an agreement.

The state pays great attention to the use of digital technology and new technologies in the management and resolution of large-scale complex litigation in civil courts. The new technology provides the opportunity to conduct court proceedings cheap and short time, as well as to resolve civil cases, including the admission of parties, consideration of claims, payment of state duties, court hearings and the announcement of decisions.

Reforming the civil justice system is a crucial way to improve the system and ensure that the public meets the expected results. The process of increasing the application of digital technologies in all spheres of life is underway. Digital technologies play an important role in achieving justice in civil litigation, improving efficiency and results, and reducing costs.

Dispute resolution online is done on a dedicated digital platform and covers the process from the initiation of the claim to the resolution of the dispute. An online conflict resolution platform can work based on human input data or artificial intelligence algorithms.

From traditional dispute resolution with online dispute resolution:

- 1) not to enter into face-to-face negotiations with the parties;
- 2) automatic recording of negotiations and storage of information about all disputes;
- 3) the intelligence of the machine can increase efficiency.

The effectiveness of the judiciary can be achieved by seeing disputes less important and smaller in size by ODR.

Alternative methods of dispute resolution, including the relationship of the opposing parties in their online form, play a key role. The voluntary nature of online dispute resolution also makes it easier for the supporting parties or the person (arbitrator) to decide on the disputed issues. ODR is very important for parties that are separated by a very long distance.

The ODR encourages the use of modern technology in defending their rights in the community and reduces legal barriers.

The ODR can allow the parties to resolve disputes early, which frees the court from resolving complex issues such as filing a lawsuit, participation. The ODR can simplify litigation and expand the ways in which it participates.

Dispute resolution online can be a way for lawyers to familiarize their clients with civil disputes without leaving the office or home.

It would be advisable to resolve disputes online or virtually in our civil courts.

In foreign countries, court proceedings can be conducted by videoconferencing on special platforms or public platforms. These proceedings are done by Zoom in SAR, Uganda, Microsoft teams in New Zealand and through a special court platform in China. The platforms used by the above countries can also be used by the public and the parties are very comfortable.



It would be advisable for civil courts to use platforms that are accessible to all when video proceedings are conducted by videoconference.

It would have prevented citizens from spending money and time going to court to participate in court hearings via videoconferencing.

Beijing, Guangzhou and Huangzhou Internet Courts established today in the PRC³, e-Estonia platform in Estonia, online courts through India's platform⁴, Virtual court hearings are held in countries such as the Netherlands.

The preamble to the Beijing Internet Court's Special Instruction on Conducting Internet Trials on the Tianping Chain Platform states that Beijing Internet Court hearings will be held on the Tianping Chain platform, which is based on blockchain technology.

IV. Conclusion

The statement of claim submitted and the documents attached to it if the procedural legislation does not meet the requirements, a notice of correction of the statement of claim shall be sent in due time and the time of receipt of the statement of claim shall be recalculated from the day following the day of In our country, many sites operate under the domain name Uz. Under these domains we can create special sites for ODRs.

If the parties and other participants in the litigation use the court platform, they will be verified by biometric identification.

In Beijing, Guangzhou and Huangzhou Internet courts set up in the PRC, the parties are verified by biometric identification.

India's platform⁵ number can be accessed by dialing the number.

We propose to include in our civil procedure legislation the rules for the procedure for receiving claims:

The online court will accept the statement of claim and the documents attached to it by the plaintiff online, and within 10 days after the receipt of the statement of claim, the online court will take the following actions: those who meet the requirements of procedural law register the claims and send a notice receipt of the statement of claim. If the plaintiff does not make corrections to the statement of claim in accordance with the requirements of procedural law within the prescribed period, the court shall issue a ruling on the return of the statement of claim.

In the online court system, claims are completed on an electronic platform. Therefore, the number of rulings by the courts on the return of claims is reduced.

The inclusion of the above proposals in the civil procedure legislation would pave the way for the stable operation of civil courts in the event of a pandemic and the protection of the rights and interests of our citizens.

³ Beijing Internet Court <http://tpl.bjinternetcourt.gov.cn>.

⁴ <http://vcourts.gov.in>.

⁵ <http://vcourts.gov.in>.



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How to cite this note

Pirmatov, Otabek (2022). Online dispute resolution - fantasy or reality?. In Janus.net, e-journal of international relations. Vol. 13, N^o 1, May-October 2022. Consulted [online] in date pf last visit, <https://doi.org/10.26619/1647-7251.13.1.03>

