Civil and commercial law: access to justice, alternative dispute resolution ADRs. Green paper

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PURPOSE : Green Paper on Alternative Dispute Resolution (ADR). CONTENT : Growing interest is being shown in ADR in the EU for three main reasons: - there has been the increasing awareness of ADR as a means of improving general access to justice in everyday life; -ADR has received close attention from the Member States, many of which have passed legislation encouraging it. -ADR is a political priority. This was specifically asserted in the context of the information society, where the role of new on-line dispute resolution (ODR) services has been recognised as a form of web-based cross-border dispute resolution. This specific context explains the background to the political mandate for the preparation of the Green Paper. The Council asked the Commission to prepare the Paper taking stock of the current situation and launching broad consultations on the measures to be taken. The paper is an opportunity to familiarise the broadest possible public with ADR facilities and also to make the initiatives taken by Member States and the Community more highly visible. There are twenty-one questions to which people are asked to react by 15 October 2002. The questions put by the Paper are primarily legal and concern the salient features of ADR processes such as ADR clauses in contracts, limitation periods, confidentiality constraints, the validity of consent given, the effectiveness of agreements generated by ADR processes, the training of third parties, their accreditation and the rules governing their liability. The Green Paper also asks whether the initiatives to be taken should be confined to defining the principles applicable to one single field, such as commercial or family law) - field by field - and in this way discriminate between these different fields or whether they should extend to all fields governed by civil and commercial law. The Paper looks at initiatives already taken in the fields of consumer protection and family law and asks how they might be developed. Since ADRs are already a key component of dispute settlement in industrial relations, the Paper considers boosting the development of ADR in the labour relations area by setting up European mechanisms. Finally, the Commission asks whether Member States' legislation in regulated areas such as family law should be harmonised so that common questions may be laid down with regard to procedural gurantees.