Basic information

2002/2144(COS) COS - Procedure on a strategy paper (historic)	Procedure completed
Civil and commercial law: access to justice, alternative dispute resolution ADRs. Green paper **Subject** 7.40.02 Judicial cooperation in civil and commercial matters	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs and Internal Market	WALLIS Diana (ELDR)	22/05/2002

Committee for opinion	Rapporteur for opinion	Appointed
LIBE Citizens' Freedoms and Rights, Justice and Home Affairs	MARINHO Luís (PSE)	02/10/2002
EMPL Employment and Social Affairs	The committee decided not to give an opinion.	
ENVI Environment, Public Health, Consumer Policy		

Council of the European Union

European Commission

Commission DG	Commissioner
Justice and Consumers	

Key events

Date	Event	Reference	Summary
19/04/2002	Non-legislative basic document published	COM(2002)0196	Summary
01/07/2002	Committee referral announced in Parliament		
20/02/2003	Vote in committee		Summary
20/02/2003	Committee report tabled for plenary	A5-0058/2003	
12/03/2003	Decision by Parliament	T5-0084/2003	Summary

12/03/2003	End of procedure in Parliament		
10/03/2004	Final act published in Official Journal		

Technical information	
Procedure reference	2002/2144(COS)
Procedure type	COS - Procedure on a strategy paper (historic)
Procedure subtype	Commission strategy paper
Legal basis	Rules of Procedure EP 148
Stage reached in procedure	Procedure completed
Committee dossier	JURI/5/16362

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, single reading		A5-0058/2003	20/02/2003	
Text adopted by Parliament, single reading		T5-0084/2003 OJ C 061 10.03.2004, p. 0150-0256 E	12/03/2003	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	COM(2002)0196	19/04/2002	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1349/2002 OJ C 085 08.04.2003, p. 0008-0012	11/12/2002	

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

2002/2144(COS) - 19/04/2002 - Non-legislative basic document

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.

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

2002/2144(COS) - 12/03/2003 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution drafted by Diana WALLIS (ELDR, UK) on ADR. (Please refer to the document dated 20/03/02.) To expand, Parliament stated that the Commission's follow-up Green Paper should consider a future Europe-wide model code encompassing at least the following minimum procedural guarantees: - the use of ADR in cross-border disputes should not prejudice access to justice in any way; - both parties, in particular where they come from different Member States, should recognise the dispute-settlement procedure; - the third party conciliator or mediator should be independent and impartial; it should be established that the neutral third party has a duty to assist the parties where necessary, while maintaining his or her impartiality; - there should be a duty of confidentiality in so far as matters disclosed by party A to the dispute to the mediator /conciliator should be disclosed to party B or a third party only with party A's consent; - the principles of natural justice must be sacrosanct; - ADR should be consensual and the parties should be fully informed of the scope of the ADR and of the enforceability of decisions. In certain cases, the parties should be guaranteed a minimum cooling-off or reflection period before agreeing to the results of mediation; expiry of a time limit for recourse to ADR should not result in a denial of access to the courts; - in general, consumers should always be able to go to court if they are dissatisfied with the result of - even mandatory - ADR, even if only to have the legality of the ADR clause reviewed; - formalities should be kept to a minimum and legal jargon eschewed; - records should be kept of ADR decisions and, in principle, published, provided that the parties agree and having due regard to the protection of personal data; - there should be no penalties in the form of costs orders for parties reasonably refusing to have recourse to ADR.