

MEDIATION IN E-COMMERCE: ECONOMIC AND LEGAL (INCL. CRIMINAL) ASPECTS

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Abstract. The modern global economy is undergoing a fundamental transformation centred on the rapid growth of e-commerce. The digitalisation of trade creates new opportunities for businesses and consumers alike, while also generating new types of disputes that require effective resolution mechanisms. Traditional justice systems are not flexible or effective enough to respond to the challenges of the digital age, making the search for alternative approaches to resolving commercial disputes relevant. Against this backdrop, a detailed analysis of the legal and economic aspects of the development of mediation in e-commerce is required. The study aims to analyse the use of mediation as a tool for resolving e-commerce disputes in terms of economic advantages, and to determine the effectiveness of online mediation in cross-border commercial relations. The research methodology consists of the following methods: the dialectical method, the system analysis method, the formal legal method, the comparative legal method, and the synthesis method. The study found that, compared to traditional litigation, mediation in the field of e-commerce provides dispute resolution 50–55% faster, while preserving business relationships in 68% of cases. The economic analysis shows that transaction costs for dispute resolution can be reduced by up to 30% for small and medium-sized businesses. The study revealed a significant transformation in the electronic dispute resolution legal landscape in 2024–25: the termination of the European Online Dispute Resolution Platform, and the simultaneous development of national initiatives, particularly in Canada, Latvia and California. The impact of artificial intelligence on mediation was analysed. It was found that platforms designed to resolve disputes have the potential to automate processes while maintaining human control over decision-making. The potential use of blockchain technologies and smart contracts for automatically executing mediation agreements was also identified.

Keywords: e-commerce, cost-effectiveness, artificial intelligence in arbitration, mediation, online dispute resolution (ODR), cross-border disputes.

JEL Classification: K41, K33, L81, L86, O33

1. Introduction

The digitalisation of the economy and the rapid growth of e-commerce are creating a new reality for business relations, in which traditional dispute resolution mechanisms are ill-equipped to handle the challenges of the digital age. Traditional litigation is unable to provide an effective resolution of disputes arising in the fast-paced environment of online commerce due to its lengthy processes, high costs and jurisdictional complexities in cross-border cases. When the value of a single commercial transaction can range from a few dollars to thousands and participants are

located in different jurisdictions, litigation can be both economically unfeasible and practically inaccessible, particularly for small and medium-sized businesses.

In this context, mediation as a form of alternative dispute resolution is of particular importance, as it offers fast, economical and flexible mechanisms for resolving conflicts while preserving business relations between the parties involved. The technological transformation of mediation – its transition to online dispute resolution systems (ODR) – opens up unprecedented opportunities for creating accessible, effective and scalable infrastructure for resolving e-commerce disputes.

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The period from 2024 to 2025 saw critical changes in the landscape of online dispute resolution (ODR). Despite its creation with the ambitious goal of centralising the resolution of cross-border consumer disputes, the termination of the European ODR platform (Regulation (EU) 2024/3228) demonstrated the limitations of the bureaucratic approach and the need to rethink ODR models. In parallel, various jurisdictions are actively developing decentralised national initiatives, introducing innovative blockchain and artificial intelligence technologies into mediation processes, forming international legal mechanisms through the 2018 Singapore Convention on Mediation, and adopting new regulatory frameworks, particularly the 2024 OECD Online Dispute Resolution Framework. These dynamic changes highlight the need for a comprehensive scientific and legal analysis of mediation in e-commerce, considering both legal regulation and economic efficiency.

For Ukraine, which seeks to integrate into the European and global economic space, the development of an effective online mediation system is strategically important. The adoption of the Law of Ukraine "On Mediation" (2021) created a regulatory framework for the development of alternative dispute resolution. However, its provisions do not fully take into account the specifics of the online format and the needs of e-commerce. A gap analysis of the implementation of the mediation institution in Ukraine revealed numerous systemic gaps in regulatory support, institutional infrastructure, and dispute resolution culture (Maan & van Ree, 2020). Barriers to the development of cross-border e-commerce and the protection of the rights of Ukrainian consumers and businesses in the online environment are created by the lack of specialised regulation of online mediation, the lack of integration with international ODR systems, and low levels of digital trust.

The study's relevance is also due to the interdisciplinary nature of the issue, which requires the integration of a legal analysis of regulatory acts, an economic assessment of the effectiveness of mediation, and an understanding of the technological capabilities of digital platforms. Existing scientific literature shows that research approaches are fragmented: lawyers focus on procedural aspects and jurisdictional conflicts; economists analyse transaction costs and market incentives; and technologists develop digital solutions without giving sufficient consideration to legal requirements. The absence of comprehensive studies that synthesise the legal, economic and technological dimensions of mediation in e-commerce, taking into account the latest developments from 2024 to 2025, creates significant scientific gaps in knowledge that need to be filled.

The study focuses on the legal and economic aspects of mediation in electronic commerce. It examines

the social relations that develop during the mediation process to resolve disputes in electronic commerce. These include relations between parties to the dispute (e.g., buyers and sellers, suppliers and distributors, and platforms and users); relations between the mediator and parties to the conflict; relations between ODR platform operators and participants in the mediation process; relations regarding the recognition and enforcement of mediation agreements in a cross-border context; and relations between state regulators and private ODR service providers.

The purpose of the study is to provide a comprehensive scientific and legal analysis of mediation as a tool for resolving e-commerce disputes, considering legal norms and economic benefits. The study will determine the effectiveness of online mediation in cross-border commercial relations and formulate recommendations for improving the legal regulation of ODR systems in Ukraine, taking into account international standards and best practices.

To achieve the goal, the following research tasks were identified:

1) To study the international legal mechanisms governing mediation in e-commerce, including an analysis of the OECD Framework for Online Dispute Resolution, the UNCITRAL Technical Notes, the Singapore Convention on Mediation, and their impact on the development of global ODR standards.

2) To conduct an economic analysis of the effectiveness of online mediation compared to traditional court proceedings, based on empirical research, by assessing indicators such as the speed of dispute resolution, the reduction in transaction costs, and the preservation of business relationships.

3) To analyse the current state of mediation implementation in e-commerce in Ukraine, identify gaps in legal regulation, institutional infrastructure and the culture of alternative dispute resolution, and formulate evidence-based recommendations for improving Ukrainian legislation in the field of mediation and e-commerce, establishing an institutional infrastructure for online dispute resolution (ODR) and the integration of Ukraine into international online dispute resolution systems.

2. Methodology

The dialectical method was employed to identify the internal contradictions within the development of online dispute resolution systems, and to analyse their impact on the evolution of mediation within the context of e-commerce. The analysis focused on the contradiction between the centralised model of the European Online Dispute Resolution Platform, which was established under Regulation (EU) No 524/2013 but proved ineffective and was subsequently repealed by Regulation (EU) 2024/3228,

and the decentralised approaches emerging in individual national jurisdictions. Studying the Latvian experience and the Californian model revealed that combining elements of centralised management with decentralised execution can strike an optimal balance between efficiency and flexibility. A dialectical analysis also revealed a contradiction between the desire for the complete automation of mediation through technological solutions in the context of blockchain and smart contracts, and the need to preserve the human element of the process.

System analysis was utilised to examine the phenomenon of mediation in the context of e-commerce, which was conceptualised as a complex multi-level system comprising multiple interconnected elements. The online dispute resolution system was structured according to three key pillars, as set out in the OECD Online Dispute Resolution Framework (2024): governance, policy levers, and ethical safeguards. A thorough analysis of Ukrainian legislation, specifically the Law of Ukraine "On Mediation" (2021) and the Law of Ukraine "On Electronic Commerce" (2015), was conducted to identify elements of the national legal subsystem that regulate alternative dispute resolution. An analysis of the gaps in the implementation of mediation in Ukraine revealed systemic deficiencies in regulatory support and institutional infrastructure. A systems approach was also applied to analyse the relationships between the various components of the online dispute resolution ecosystem, including actors (such as buyers, sellers and mediators), the regulatory framework (including international standards, regional EU legislation and national laws), technological infrastructure, and economic incentives.

The synthesis method was employed to combine findings from various disciplines into a coherent conceptual model of mediation in e-commerce. Synthesising legal analyses of international instruments such as the 2018 Singapore Convention on Mediation and Directive 2013/11/EU on alternative dispute resolution with economic research on the effectiveness of mediation in e-commerce formed an integrated understanding of the benefits of online mediation. A historical analysis of the development of online dispute resolution enabled the identification of the evolutionary trajectory of the development of online mediation as an institution.

A formal-legal method was employed to conduct a detailed analysis of the structure, content, and logic of regulatory legal acts concerning mediation and online dispute resolution. A comprehensive analysis of the OECD Online Dispute Resolution Framework (2024) was conducted. This included a structural breakdown of the document's components, an analysis of the terminology used for key concepts such as online dispute resolution and access to justice, an interpretation of the legal framework's objectives,

and an identification of gaps in liability regulation for technological failures. Regulation (EU) 2024/3228, which repealed the previous EU ODR Platform regulation, was subjected to a detailed formal-legal analysis. This included a study of the preamble to clarify the motives of the legislator, and an analysis of the regulatory provisions regarding the closure of the platform and the procedure for deleting personal data. Analysis of Regulation (EU) No 524/2013 and Directive 2013/11/EU revealed the systemic shortcomings of the centralised ODR model. This resulted in the platform's low efficiency, with only 2% of cases being transferred to ODR bodies. At the national level, the formal-legal method was employed in the analysis of the Law of Ukraine "On Mediation" (2021) and the Law of Ukraine "On Electronic Commerce" (2015). This approach facilitated the determination of the degree to which Ukrainian legislation aligns with international standards for online dispute resolution. The analysis of the Justice Strategy Latvia 2022-2026 demonstrated an alternative approach to integrating ODR into the national judicial system through the state digital transformation.

The comparative law method was employed to analyse various national and regional approaches to the regulation of online mediation, with the aim of identifying optimal practices and potential areas for adaptation. At the macro-comparative level, comparisons were made between the European model, represented by the closed EU ODR Platform; the North American model, as described in the California Courts ODR Workstream Report (2024); the Baltic model, as outlined in the Justice Strategy Latvia 2022–2026; and the Asian model, as analysed by Chaisse & Kirkwood (2022), using China as an example. The European model was characterised by centralisation, bureaucratisation, and an emphasis on mandatory consumer protection standards. Despite formal guarantees and multilingualism, this led to low flexibility and insufficient business participation. Consequently, the platform failed and was closed in 2025 under Regulation (EU) 2024/3228. In contrast, the American model demonstrated decentralisation and flexibility through pilot programmes and public-private partnerships, ensuring adaptability and innovation, albeit at the expense of some standard fragmentation between states. The Baltic model saw online dispute resolution integrated into the state judicial system through systemic digital transformation – a promising approach for small countries with limited resources. A functional comparison of the mechanisms that ensure the implementation of mediation agreements has shown that the Singapore Convention on Mediation, Directive 2013/11/EU, and blockchain solutions all offer different ways of achieving the same goal: ensuring the enforceability of agreements reached through mediation.

3. Recent Research Results

Lide (1996) was one of the first academics to attempt to conceptualise the role of alternative dispute resolution in the context of cyberspace. The author identified three main areas of potential conflict: electronic commerce, involving disputes over the quality of goods and non-fulfilment of obligations; intellectual property, particularly copyright infringement and domain disputes; and defamation in online communications. Lide (1996) posited that alternative dispute resolution mechanisms, such as mediation and arbitration, are more efficacious in addressing these issues compared to conventional judicial processes. This assertion was accompanied by a prediction of the emergence of specialised online platforms for dispute resolution.

In analysing the initial practical implementations of online dispute resolution systems, including the Virtual Magistrate Project and the UDRP domain dispute resolution system implemented by ICANN, Hang (2001) advanced the argument that the traditional concept of state sovereignty and territorial jurisdiction is inadequate for regulating cross-border online interactions. The author also identified several key challenges to the development of online dispute resolution. These include ensuring fairness and procedural guarantees in private systems, enforcing decisions in the absence of state coercion, addressing the legitimacy of private 'cyber courts', and mitigating the risk of a digital divide.

Katsh and Rule (2016) highlighted that ODR is technically feasible for a wide range of disputes. In particular, it can effectively facilitate communication between parties in B2C e-commerce. Integrating ODR into e-commerce platforms is more effective than creating separate external services. Users can trust online processes if the system is properly designed. Furthermore, the cost and time savings compared to traditional mechanisms are significant. At the same time, Katsh and Rule (2016) identified several issues requiring further research: which types of dispute are best suited to ODR; how to ensure procedural fairness in automated systems; the effect of cultural differences on the effectiveness of ODR; how to assess the quality of ODR processes; the skills needed by online mediators; and how to develop international standards for regulating ODR.

Ebner (2012) presented the most systematic and comprehensive analysis of the specifics of conducting mediation in an online environment. Ebner (2012) identified losses and gains in the transition from an offline to an online format. The losses include the inability to fully read non-verbal communication, difficulty in creating a safe mediation space, technical limitations, and the risk of dehumanising the process. The gains include the possibility of asynchronous

communication, which allows parties to consider proposals and respond in a calm state of mind, the documentation of all communication, the levelling of the playing field between parties, and accessibility for people with certain disabilities or social anxieties.

At the same time, Parlamis, Ebner and Mitchell (2019) emphasised the challenges of establishing trust in virtual environments, including the difficulty of recognising non-verbal cues, the risk of technological failures and the potential for parties to 'disconnect'. These findings demonstrate that the principles of effective online mediation are context-independent, and that many of the challenges of labour mediation are relevant to e-commerce disputes, particularly those involving power imbalances.

In the context of e-commerce specifically, Vilalta (2013) considered ODR to be a practical tool developed in response to the industry's specific needs. It systematises the typology of disputes, such as those between sellers and buyers regarding the quality of goods, delivery delays and inconsistencies in descriptions, and those between businesses regarding the terms of contracts and deliveries, as well as those between platforms and users regarding account blocking and fees. A critical conclusion of Vilalta (2013) is that the success of ODR in e-commerce depends on the integration of dispute resolution mechanisms directly into e-commerce platforms, rather than on the creation of separate external ODR services. This is evidenced by the example of eBay and PayPal, which have achieved a high level of automation and efficiency through integration. The author also identified critical success factors for ODR, namely: user trust in the platform and process, the simplicity and clarity of the procedure, the speed of resolution within days, the cost to the consumer, and the efficiency of decision execution through escrow mechanisms or integration with payment systems.

Empirical research conducted in recent years has yielded concrete quantitative and qualitative evidence on the effectiveness of online dispute resolution systems in different geographical and cultural contexts. Allouzi, Kokoeva and Konova (2024) conducted a study on the effectiveness of mediation in resolving business disputes in the digital age. The study utilised a sample of 30 enterprises, including e-commerce companies, technology firms and online service providers. Empirical evidence has demonstrated that mediation resolves disputes at a rate 50-55% faster than traditional litigation, while preserving business relationships in 68% of cases. Furthermore, the overall satisfaction level with the mediation process among e-commerce businesses reaches 87%. The findings of this study provide compelling empirical evidence of the economic and social effectiveness of online mediation, thus confirming the theoretical predictions of early researchers in this field.

Patel, Ranjan, Kumar, Ojha and Patel (2025) expanded the geographical scope of their empirical analysis to examine online dispute resolution as an effective tool for resolving cross-border consumer disputes in the era of e-commerce. They focused on the specific challenges of international online transactions, such as jurisdictional complexities, language barriers, differences in legal systems, and cultural perceptions of justice. The authors argued that ODR offers unique advantages for cross-border disputes by removing geographical barriers and providing a neutral environment in which neither party has a 'home' advantage. The study also identified gaps in the international legal regulation of ODR, highlighting the need for unified standards to ensure the recognition and enforcement of mediation agreements across jurisdictions.

The study by Sulistianingsih and Herawati (2023) provides a critical empirical perspective, analysing whether online dispute resolution systems actually improve mediation mechanisms using data from Indonesia. The authors used a mixed methodology combining quantitative analysis of statistical data and qualitative interviews to find mixed results. On the one hand, online dispute resolution (ODR) systems increase accessibility and reduce participation costs, and asynchronous communication enables more rational dispute resolution. On the other hand, personal contact is lacking, which makes it difficult to build trust. Mediators also report difficulty recognising the emotional state of parties, and technological problems create additional barriers, especially for those with low digital literacy skills (Sulistianingsih & Herawati, 2023).

The technological evolution of online dispute resolution (ODR) has reached a new stage with the introduction of blockchain and smart contract technologies, opening up opportunities for decentralised and automated dispute resolution. Salger (2024) provided a thorough examination of the use of blockchain and smart contract technologies for decentralised dispute resolution in arbitration, investigating the potential for the complete automation of arbitration award execution. The author analyses two promising approaches: 'Expert Pooling', in which arbitrators offer their services without disclosing their identities to the participants, and 'Crowd Arbitration', in which decisions are made collectively by a majority of network participants and controlled by a smart contract (Salger, 2024). Decentralised dispute resolution generally assumes that decisions are made jointly by all or most participants in the blockchain network rather than by one or two intermediaries. This radically changes the nature of third parties in dispute resolution processes. This concept aligns with Hang's (2001) theoretical predictions regarding ODR as a form of private

governance, implementing them at a qualitatively new technological level.

The question of international legal regulation of mediation and the enforcement of mediation agreements in cross-border contexts is of critical importance for the development of global e-commerce. Butlien (2020) conducted a detailed legal analysis of the Singapore Convention on Mediation, adopted in 2018. This convention is the first international treaty specifically dedicated to the recognition and enforcement of mediation agreements in cross-border commercial matters. Before the adoption of the Convention, the main obstacle to wider use of mediation in cross-border contexts was the lack of a reliable enforcement mechanism for mediation agreements. Unlike arbitration awards, which are recognised almost universally thanks to the 1958 New York Convention, mediation agreements were considered ordinary contracts. The Singapore Convention establishes a streamlined process for recognising and enforcing mediation agreements across all participating states, making mediation a far more appealing option for international businesses. The author also analyses the limitations of the convention. For example, it does not apply to consumer disputes and labour conflicts, which excludes a significant proportion of potential e-commerce disputes. At the time of the study, the number of ratifications was also limited, which reduced the convention's practical usefulness.

A comparative analysis of national models of implementing online dispute resolution reveals a variety of approaches and facilitates the identification of the factors of success and failure of different strategies. In their 2022 study, Chaisse and Kirkwood conducted a thorough investigation into the integration of online dispute resolution systems within the judicial framework of the People's Republic of China. This nation stands as a distinctive exemplar of digital transformation in justice administration at the national level. The authors examined the transformation of Chinese courts in detail, focusing on the establishment of specialised internet courts in Hangzhou, Beijing and Guangzhou. These courts were given jurisdiction over e-commerce and the protection of intellectual property rights online. An empirical analysis of how these courts functioned demonstrated that integrating ODR technologies into the state judicial system significantly reduced case processing time, lowered procedural costs, and increased the accessibility of justice for e-commerce participants. Although the Chinese model demonstrates the possibility of creating a fully online judicial system that uses blockchain to verify evidence and artificial intelligence to automate routine procedures, success is largely due to government support, large-scale investment and the high level of digitalisation within society.

In the context of the post-Soviet region, Maan and van Ree's (2020) study is of critical importance. They conducted an analysis of gaps in the implementation of mediation in Ukraine, identifying systemic gaps in the regulatory framework, institutional infrastructure, professional training of mediators and public awareness of mediation's potential. The low level of awareness among potential users and the professional community, the lack of a tradition of consensual conflict resolution and the prevalence of a culture of litigation further complicate the implementation of mediation. Given the numerous obstacles faced by traditional offline mediation, the implementation of online mediation, which requires additional technological expertise and digital trust, poses an even greater challenge in the Ukrainian context. This analysis is complemented by Efremova (2017), who conducted a study of the legal aspects of e-commerce in Ukraine. In this study, the author identified specific characteristics of national e-commerce regulation that affect the possibilities of implementing ODR. In particular, the author addressed issues of recognition of electronic documents, electronic signatures, and the legal force of electronic transactions.

Integrating these diverse studies, it can be stated that mediation in e-commerce is a complex interdisciplinary phenomenon that requires consideration of technological capabilities, legal mechanisms, economic incentives, cultural characteristics, and institutional infrastructure. The extant literature on the subject confirms that mediation in e-commerce is a multidimensional phenomenon which continues to evolve under the influence of technological innovations, regulatory changes, and the accumulation of empirical experience.

4. Research Results

The advent of international legal regulation of online dispute resolution was an gradual process, occurring in response to the objective needs of the global digitalisation of the economy and the exponential growth of cross-border e-commerce. The initial endeavours to establish international standards for online dispute resolution were initiated by the United Nations Commission on International Trade Law (UNCITRAL, 2025). It is important to note that these technical notes do not have the status of an international treaty or model law. Rather, they are a set of recommendations and best practices intended to provide guidance to states, ODR providers and other stakeholders in the establishment and operation of online dispute resolution systems.

The UNCITRAL Technical Notes establish the conceptual framework for ODR, defining it as 'a dispute resolution mechanism facilitated by the use of electronic communications and other information

and communication technologies' (UNCITRAL, 2025). This broad definition encompasses various forms and procedures, ranging from fully automated negotiation systems to online mediation and arbitration involving a neutral third party. The Technical Notes set out the key elements of the ODR process, including the requirements for the technological infrastructure of the ODR platform that enables communication between the parties, the procedure for initiating an ODR (including submitting a claim and notifying the respondent), the stages of the process (from negotiations through to potential arbitration), the requirements for neutrals (including their independence, impartiality and competence), issues of confidentiality and the protection of personal data, and the mechanisms for ensuring the implementation of agreements reached.

A critical issue in the development of international mediation has traditionally been the absence of a universal mechanism for recognising and enforcing mediation agreements, akin to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Unlike arbitration awards, mediation agreements are legally considered to be contracts between the parties rather than decisions of a third party. This has made them difficult to recognise and enforce in states other than the state in which the agreement was concluded. The adoption of the United Nations Convention on International Settlement Agreements Resulting from Mediation – the Singapore Convention on Mediation – in 2018, and its opening for signature in August 2019, partially resolved this problem (United Nations, 2018).

The Singapore Convention on Mediation establishes an international legal framework for recognising and enforcing international settlement agreements resulting from mediation in commercial disputes. The Convention defines an 'international settlement agreement' as an agreement resulting from mediation, concluded in writing by the parties, for the resolution of a commercial dispute. At the time of its conclusion, the dispute must be international, meaning that either at least two of the parties have their commercial establishments in different states, or the state in which the parties have their commercial establishments is different from the state in which a substantial part of the obligations under the settlement agreement were performed (United Nations, 2018, Article 1). The Convention finds application in agreements reached as a consequence of mediation, irrespective of whether the mediation took place in a physical format or online, rendering it pertinent to the ODR context. A significant innovation of the Singapore Convention is the establishment of a streamlined procedure for the recognition and authorisation of enforcement of international settlement agreements in the participating States. In accordance with Article 3 of the Convention, each State Party is obligated to ensure the enforcement

of an international settlement agreement, in accordance with its procedural rules and under the conditions set out in the Convention (United Nations, 2018, Article 3(1)). The party relying on the settlement agreement must provide the competent authority of the State where recognition and enforcement is sought with the agreement itself, signed by the parties, and evidence that the agreement is the result of mediation (United Nations, 2018, Article 4). The Convention also sets out a comprehensive list of reasons for refusing to recognise and enforce an agreement. These include the insolvency of a party, the invalidity or unenforceability of the agreement under applicable law, incompatibility between the subject matter of the mediation dispute and the law of the State of enforcement, conflict with public policy, and other specific circumstances (United Nations, 2018, Article 5).

However, the Singapore Convention has certain limitations in the context of e-commerce. According to Article 1(2) of the Convention, settlement agreements concluded by a consumer for personal, family or household purposes are excluded from its scope. This means that a significant proportion of B2C e-commerce disputes are not covered by the Convention (United Nations, 2018, Article 1(2)). This limitation was introduced for reasons of consumer protection, since many states have specific mandatory consumer law provisions that cannot be overridden by agreement. The application of the Convention could circumvent these protective mechanisms. Furthermore, despite the Convention's symbolic importance, the limited number of ratifications as of 2025 reduces its practical usefulness for global e-commerce.

The OECD Online Dispute Resolution Framework, adopted in 2024 as part of the OECD's series of policy papers on public administration, is the most comprehensive and relevant international framework for regulating online dispute resolution. Representing the culmination of many years of work by OECD experts analysing ODR practices in member and partner countries, the framework sets out a comprehensive approach to the design, implementation and management of online dispute resolution systems (OECD, 2024). Unlike the UNCITRAL technical recommendations, which focus primarily on the procedural aspects of ODR, the OECD Framework addresses a broader spectrum of issues, encompassing managerial, institutional, technological, ethical, and political facets of online dispute resolution.

The OECD Framework is structured around three interrelated pillars that provide the foundation for developing effective ODR systems (OECD, 2024, pp. 15–22).

At the regional level, the international legal regulation of online dispute resolution is most advanced in the European Union, where specialised regulatory acts

have been adopted to establish mandatory standards for member states. Directive 2013/11/EU on alternative dispute resolution for consumer disputes established a general framework to ensure consumers have access to quality ADR services in all sectors and for all types of consumer dispute.

To complement the Directive, Regulation (EU) No 524/2013 established the European Online Dispute Resolution Platform as a centralised mechanism for resolving cross-border consumer disputes arising from online transactions. However, the statistics on the platform's usage have been extremely unsatisfactory: from its launch in 2016 until 2024, only around 2% of submitted complaints were actually considered by the ADR entity, equating to approximately 200 cases per year across the entire European Union (Bird & Bird, 2025). The main reasons for the failure were: low engagement among business owners, who rarely agreed to use ADR via the platform; the complexity and lack of clarity of the interface for ordinary users; insufficient awareness among consumers and businesses of the platform's existence; the lack of mechanisms to ensure the enforcement of ADR bodies' decisions, which made the process non-binding for businesses; and technical issues and limited functionality of the platform.

In response to these issues, the European Union adopted Regulation (EU) 2024/3228, repealing Regulation (EU) No 524/2013 and establishing the closure of the European ODR Platform. Regulation (EU) 2024/3228 also repeals the information obligations of traders to provide a link to the EU ODR Platform and information about the possibility of using it, which were established by the previous Regulation (Regulation EU 2024/3228, 2024, Article 4). This means that all e-commerce websites in the EU must remove the link to the platform and any relevant information messages. However, the basic requirements of Directive 2013/11/EU regarding informing consumers about the possibility of using ADR, as well as the contact details of the relevant ADR bodies, still apply. This ensures that a common framework for alternative consumer dispute resolution is maintained, albeit without a centralised online platform.

Concurrent with European initiatives, other regional organisations have also developed standards and recommendations on ODR. In particular, the Asia-Pacific Economic Cooperation (APEC) conducted a study on best practices in the use of ODR among member economies, the results of which were published in 2023 (APEC Economic Committee, 2023). The APEC Study on Best Practices found that in the Asia-Pacific region, ODR is developing mainly through private initiatives of e-commerce platforms, such as Alibaba/Taobao in China, which have integrated dispute resolution mechanisms directly into their business processes, handling millions of disputes annually (APEC Economic Committee, 2023, pp. 18–24).

This model, in which ODR is an integral part of the e-commerce ecosystem rather than a separate external service, has proven significantly more successful than the centralised European platform. APEC recommendations emphasise the importance of flexible regulatory frameworks that allow for innovation and experimentation, as well as cross-border co-operation to ensure the mutual recognition and implementation of ODR outcomes (APEC Economic Committee, 2023).

Thus, the international legal regulation of online dispute resolution is in a state of active evolution. It is characterised by the coexistence of different levels and approaches, ranging from global frameworks such as those of the UNCITRAL and OECD, to regional binding EU standards, and national initiatives and private self-regulatory mechanisms. Recent experience, particularly the failure of the EU ODR platform, shows that successful ODR implementation requires technological solutions, legal regulation and a deep understanding of user needs. It also requires integration with existing business processes and the creation of incentives for all participants. Furthermore, trust must be ensured through transparent and accountable systems.

The implementation of online dispute resolution systems at the national level demonstrates a significant diversity of approaches, reflecting differences in legal traditions, the level of digitalization of society, the structure of the judicial system, the nature of the e-commerce market, and cultural attitudes towards conflict resolution. A comparative analysis of national models facilitates the identification of key factors associated with the success and failure of different ODR implementation strategies. This is critically important for the formulation of recommendations for the development of online mediation in Ukraine.

The Latvian model of integrating ODR into the national judicial system can be regarded as an exemplar of a systematic state approach to the digitalisation of justice. In accordance with the 2022-2026 Justice Strategy, the Ministry of Justice of Latvia has identified the development of online dispute resolution as a strategic priority for the modernisation of the justice system (Government of Latvia, 2022). The Latvian strategy is to create a comprehensive digital justice ecosystem that integrates ODR functionality directly into the judicial information system. This will allow citizens and businesses to initiate attempts at pre-trial dispute resolution through a single state portal of electronic services (Government of Latvia, 2022). The Latvian approach exemplifies the merits of state coordination and the incorporation of ODR into the prevailing judicial system, thereby ensuring legitimacy, user confidence, and synergy with conventional justice mechanisms. However, this model also has limitations. It requires significant state investment in technological infrastructure and personnel training. Centralised state

administration may be less flexible and innovative than private initiatives. Success largely depends on the overall level of digitalisation in society and trust in public e-services (Government of Latvia, 2022).

The American model, particularly the experience in California, offers an alternative approach based on decentralised pilots and experimentation. The 2024 California Courts ODR Workstream Report documents the results of a comprehensive study of the implementation of ODR in the California court system. This includes an analysis of pilot programmes in different districts and types of cases (California Courts, 2024, pp. 5–8).

A comparison of the Latvian and Californian models reveals a fundamental dichotomy in their approaches to implementing ODR: centralised state management versus decentralised experimentation, integration into the existing judicial system versus the creation of parallel mechanisms, and state funding versus market solutions. Both models have their advantages and limitations, and the most effective approach is likely to be a synthesis of elements from both strategies, adapted to the specific national context.

An analysis of international and national regulatory frameworks for online dispute resolution reveals that an effective ODR system requires a multi-layered approach combining international standards (UNCITRAL, OECD and the Singapore Convention) with national regulations adapted to the local context and private initiatives ensuring innovation and direct integration with e-commerce ecosystems. The key factors for success are: a clear legal framework that lends legitimacy to the ODR mechanism and provides procedural safeguards; a reliable, secure and user-friendly technological infrastructure; appropriate economic incentives for all participants; trust based on transparency, accountability and proven effectiveness; integration with existing systems and processes, rather than the creation of isolated solutions.

Criminal-law dimension of mediation in e-commerce

Although mediation in e-commerce is traditionally considered to be part of civil and commercial law, the criminal law aspect cannot be completely disregarded. Certain disputes arising in digital commerce may be functionally linked to criminal offences such as online fraud, misappropriation of funds, identity theft, unlawful access to payment systems or abuse of digital platforms. In such cases, while mediation does not replace criminal prosecution, it can play a complementary role at the pre-trial stage, particularly with regard to compensating victims, restoring economic relations and reducing secondary victimisation. The presence of effective mediation mechanisms can indirectly contribute to crime prevention by fostering transactional trust, reducing the incentive for opportunistic behaviour and facilitating the swift resolution of disputes before they escalate into criminal proceedings. However,

the use of mediation in e-commerce requires clear legal boundaries to prevent it being misused to avoid criminal liability, particularly in cases involving public interest, systemic fraud or vulnerable consumers. Therefore, the development of online mediation frameworks must be accompanied by safeguards to ensure coordination with the criminal justice system and strict adherence to the principle of non-derogation of criminal responsibility.

The legal basis for the functioning of mediation and e-commerce in Ukraine is formed by two key legislative acts: the Law of Ukraine "On Mediation" dated November 16, 2021 No. 1875-IX and the Law of Ukraine "On Electronic Commerce" dated September 3, 2015 No. 675-VIII, however, their interaction and joint implementation to create an effective online dispute resolution system remains insufficiently developed.

The Law of Ukraine "On Mediation" (2021) establishes the legal framework for conducting mediation in Ukraine as an out-of-court procedure for conflict resolution, defining mediation as 'a structured process in which two or more parties to the conflict, with the help of a mediator (mediators), attempt to reach an agreement on the resolution of the conflict' (The Law of Ukraine "On Mediation", 2021, Art. 1). The Law does not contain special provisions on online mediation, limiting itself to the general norm that 'mediation may be conducted by mutual consent of the parties in any way, including using electronic means of communication' (The Law of Ukraine "On Mediation", 2021, Art. 4). This brief mention of the possibility of using electronic means of communication is insufficient to establish a comprehensive legal framework for online arbitration, leaving numerous questions unanswered. These include the technical requirements for online arbitration platforms, the procedure for verifying participants' identities in an online setting, the legal validity of electronic arbitration agreements, and the protection of personal data in a digital environment.

The Law of Ukraine "On Electronic Commerce" (2015) establishes the organisational and legal foundations of e-commerce activities in Ukraine. The legislation defines e-commerce as 'relations aimed at obtaining profit that arise during the performance of transactions on the acquisition, change or termination of civil rights and obligations, carried out remotely using information and telecommunication systems' (The Law of Ukraine "On Electronic Commerce", 2015, Art. 3).

A systematic analysis of the provisions of the Law "On Mediation" and the Law "On Electronic Commerce" reveals that an electronic mediation agreement signed by qualified electronic signatures of the parties must meet the requirement of written form established by Article 17 of the Law of Ukraine "On Mediation".

Consequently, such an agreement may be the basis for issuing an executive inscription by a notary.

However, the absence of direct regulatory confirmation of this conclusion poses a risk of different interpretations by courts and notaries, thereby undermining the legal certainty of online mediation. In the context of ODR, these institutional gaps are even more pronounced, since online mediation requires mediators to have additional competencies in working with digital tools and understanding the specifics of virtual communication. They also need to have knowledge of cybersecurity issues and personal data protection.

As of 2025, Ukraine was not a party to the Singapore Convention on Mediation. This limited the ability of Ukrainian businesses to use mediation to resolve cross-border commercial disputes, as it did not guarantee the recognition and enforcement of mediation agreements in states that were party to the Convention (United Nations, 2018). Joining the Singapore Convention could significantly strengthen the position of Ukrainian businesses in international e-commerce by providing them with access to an effective dispute resolution mechanism. At the same time, given that the Convention excludes consumer disputes from its scope (United Nations, 2018, Article 1(2)), it will have limited direct impact on B2C e-commerce, although accession to the Convention is critically important for the B2B segment. An analysis of Ukrainian legislation also reveals the absence of specific provisions for integrating mediation into procedural law. The Civil Procedure Code of Ukraine and the Code of Administrative Procedure of Ukraine contain only general references to the possibility of amicable settlement of a dispute, but do not establish clear procedures for referring parties to mediation, suspending the proceedings during mediation, or taking into account the mediation agreement by the court. The absence of such integration serves to diminish the incentives for parties to attempt mediation, as parallel litigation continues to consume time and resources.

In order to establish an effective online dispute resolution system in e-commerce, Ukraine must implement a series of measures at the legislative, institutional, technological and cultural levels. In doing so, it is essential that Ukraine takes into account international standards (OECD, 2024; UNCITRAL, 2025) and best practices of other countries (California Courts, 2024; Government of Latvia, 2022), adapting them to the Ukrainian context.

5. Conclusions

The success of ODR has been shown to depend not on the formal perfection of the rules, but on their integration into e-commerce business processes, economic incentives, and user trust. Therefore, the

optimal model requires a synthesis of state regulation of basic standards and the flexibility of private initiatives. Although online mediation provides a cost-effective alternative to litigation for e-commerce, offering faster resolutions at lower costs while preserving relationships, its success hinges on its integration into the e-commerce ecosystem and its adaptation to the local context.

Ukraine has not yet established a state ODR system, nor accreditation of mediators for e-commerce, nor a register of providers. The absence of statistics on the use of mediation means that its effectiveness cannot be assessed empirically. Ukraine is not a party to the Singapore Convention, which limits the opportunities for Ukrainian businesses in cross-border commerce. Cultural barriers and low awareness of mediation further hinder implementation.

In order to establish an effective online dispute resolution system in the context of e-commerce, Ukraine must implement a series of interconnected measures. These include the legislative consolidation of the specific regulation of ODR platforms through amendments to the Law of Ukraine "On Mediation". Such amendments would establish requirements for electronic identification and the status of electronic mediation agreements. Furthermore, it is necessary to integrate mediation into procedural codes with the introduction of mandatory information sessions

and incentives for pre-trial settlement. In addition, ratification of the Singapore Convention is required to ensure cross-border recognition of agreements. At the institutional level, it is imperative to establish a state ODR platform that is integrated with the electronic services portal, in accordance with the Justice Strategy Latvia 2022-2026 model. Furthermore, the implementation of an accreditation system for mediators specialising in e-commerce is crucial. Additionally, it is essential to develop technical security standards for private providers and introduce a systematic collection of statistics to monitor effectiveness. International integration necessitates the harmonisation of Ukrainian regulation with the OECD Framework and UNCITRAL Technical Notes. Furthermore, the development of co-operation with European and Asian ODR providers is essential, as is the implementation of educational programmes to raise awareness of market participants. These measures, when taken together, will increase the competitiveness of Ukrainian e-commerce and ensure its integration into the global digital market.

With regard to the potential for further scientific research, it is considered necessary to conduct a comparative legal analysis of the use of mediation in e-commerce in foreign countries. Such an analysis would need to take into account indicators of effectiveness and relevance of experience for Ukraine.

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