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International Treaties and European Union Policies on Alternative Methods of Commercial Dispute Settlement: A Comparative Analysis

Betty Cohen-Tzedec*

**Bucharest University of Economic Studies, Romania*

***Corresponding Author**: **Betty Cohen-Tzedec,** Bucharest University of Economic Studies, Romania*

Abstract: *This article aims to comparatively analyze international treaties and European Union policies relating to alternative dispute resolution (ADR), emphasizing the importance of a harmonized framework to support the effectiveness of ADR. The study is based on a literature review, an analysis of existing legal rules - ranging from the New York Convention and other relevant international treaties to EU directives and regulations on ADR in consumer and other areas - and a comparative approach to their implementation in the EU Member States. By highlighting the challenges and opportunities arising from the diversity of rules at international and European level, the article underlines the need for legislative synergy to ensure uniformity in the application of ADR, thus contributing to reducing the burden on national judicial systems and facilitating access to justice for economic actors and civil society..*

Keywords: *International treaties; EU policies; alternative methods of commercial dispute resolution; arbitration; mediation; legislative harmonization; comparative analysis.*

JEL Classification: *K32; K33; F14; D22.*

1. Introduction

In the context of globalization and increasing economic interdependence, the resolution of commercial disputes has become an essential aspect of ensuring the security of international transactions. In recent years, alternative dispute resolution (ADR) methods - in particular arbitration and mediation - have experienced significant growth, offering the parties involved the possibility to resolve disputes in a quick, efficient and, in many cases, less costly way than traditional court proceedings (Nolan-Haley, 2020; Harahap, 2025).

In Europe, the diversity of national legal traditions and ADR regulatory systems has led to the emergence of rules which, although based on certain international standards - such as the 1958 New York Convention or the European Convention on International Commercial Arbitration - do not always succeed in creating a unitary and harmonized framework. Also, the policies adopted by the European Union in the field of alternative dispute resolution, such as the ADR (Alternative Dispute Resolution) Directive and the ODR (Online Dispute Resolution) Regulation, have been developed to increase access to justice, particularly in the context of consumer disputes (European Commission, 2013; European Commission, 2013a).

The main objective of this article is to critically examine both international treaties and EU policies in the field of ADR in order to identify synergies, contradictions and legislative gaps that prevent the achievement of a harmonized framework. In addition, it will analyze whether and how international regulation can be integrated with EU Member States' national legislation to ensure a uniform and effective implementation of ADR.

The article is structured in seven sections: after the introduction, the literature review is presented, followed by the research methodology used, the analysis of the results and related discussions, the conclusions of the study and finally the bibliography.

2. Scientific Literature Review

2.1. Foundations and Evolution of International Treaties in the Field of ADR

International treaties are the legal foundation on which global arbitration and mediation systems develop. The 1958 New York Convention is recognized as one of the most important legal instruments in the field due to its recognition and enforcement of foreign arbitral awards (Convention, 2024). Recent

scholarship highlights that while the main purpose of the Convention is to facilitate the recognition of arbitral awards, it also influences other aspects of ADR proceedings, such as exceptions of lack of jurisdiction and the interpretation of arbitration clauses (Kurochkina, 2023).

In addition to the New York Convention, other international treaties, such as the European Convention on International Commercial Arbitration (United Nations, 1961) and the Singapore Convention on International Settlement Agreements Resulting from Mediation (Uncitral, 2019), complement the global framework for ADR. Each of these legal instruments makes distinct contributions, from establishing principles of recognition and enforcement to promoting procedural uniformity and international cooperation in resolving commercial disputes (Clark and Sourdin, 2020).

2.2. European Union Policies on ADR

In terms of European policy, the adoption of ADR-specific Directives and Regulations has been a response to the need to reduce bottlenecks in national judicial systems and to ensure the protection of consumers and contracting parties in cross-border transactions (European Commission, 2013; European Commission, 2013a). Directive 2008/52/EC on mediation in civil and commercial matters, for example, set a minimum standard for the implementation of mediation in Member States, but also left sufficient room for adaptation to national particularities (Esplugues and Iglesias, 2016).

Another important aspect is the integrated approach to ADR in the context of e-commerce. The adoption of Regulation (EU) No 524/2013 on Online Dispute Resolution (ODR) has enabled the development of digital platforms that facilitate consumers' quick access to alternative dispute resolution mechanisms, thus contributing to the modernization of the European justice system (Bakhramova, 2022; Cortés, 2023).

2.3. Criticisms and Challenges in Implementing ADR

The literature also highlights numerous challenges related to the uniform implementation of ADR. One of the main criticisms is related to regulatory fragmentation: while international treaties provide a general framework, national legislation of Member States can bring significant variations in the application of the rules (Carle, 2015). This discrepancy is reflected in both arbitration and mediation, where the solutions adopted can differ significantly from one jurisdiction to another, thus affecting the efficiency and predictability of ADR proceedings (Zeller and Trakman, 2019).

There are also problems concerning the interaction between ADR and traditional judicial systems. For example, the exclusion of arbitration from some European regulations - such as the Brussels I bis Regulation - has been mentioned as a way to avoid conflicts of jurisdiction, but has also raised uncertainties about the applicability of rules on the recognition of arbitral awards (Voet et al., 2022).

The literature also discusses the effects that new technologies and digitization can have on ADR. The integration of digital solutions, such as online dispute resolution (ODR) platforms, can radically transform the way disputes are handled, but raises questions about data security, privacy and the applicability of traditional rules in a digital environment (Rule, 2020).

3. Research Methodology

The present study uses a qualitative methodology based on a comparative analysis of the international and European normative framework on ADR. The research methodology comprises the following steps:

- Literature review: academic works, scholarly articles and relevant legislative documents published in the last 15 years were analyzed, with a focus on works addressing the implementation of international treaties (e.g. New York Convention, Singapore Convention) and EU policies on ADR (ADR Directive, ODR Regulation).
- Comparative analysis of legal rules: international regulations were compared with national legislation of EU Member States to identify similarities, differences and possible conflicts. This involved analyzing specific articles in conventions and directives as well as studying relevant case law interpretations (Nolan-Haley, 2020).
- Case study: Several Member States (e.g. Germany, Italy, Czech Republic and France) were selected to assess how ADR rules are implemented at national level. The case study highlighted differences in the practical application of the rules and the impact on the efficiency of trade dispute settlement.

- Interviews and consultations with experts: in order to bring a practical and up-to-date perspective, semi-structured interviews were conducted with practitioners in the field of arbitration and mediation, as well as with representatives of EU regulatory institutions. These interviews helped to validate the findings from the literature review (Carle, 2015; Esplugues and Iglesias, 2016).
- Critical analysis of the results: based on the collected data, a critical synthesis was carried out, highlighting the advantages and disadvantages of each regulatory framework, as well as the challenges in achieving harmonization between international and national legislation.

This integrated methodological approach has made it possible to identify common trends, but also controversial issues that require a rethinking of current ADR policies.

4. Results And Discussions

4.1. Synergies and Gaps in the International Regulatory Framework

The comparative analysis of international treaties has shown that instruments such as the New York Convention have succeeded in creating a common basis for the recognition and enforcement of arbitral awards, strengthening investor confidence and facilitating international commercial transactions (Uncitral, 2019). However, the application of the principle of 'more favorable law' raises issues of territorial jurisdiction and the possibility of combining provisions of several treaties, which may lead to legal uncertainty in certain situations (Harahap, 2025).

Another important issue is the Singapore Convention, which, while promising a uniform framework for mediation, has not yet been ratified by most EU Member States. The lack of EU participation in this convention raises questions about the future development of mediation regulation at the international level, especially in the context of the development of digital solutions (Clark and Sourdin, 2020).

4.2. EU Policies and their Impact on ADR

Policies adopted by the EU, in particular through the ADR Directives and the ODR Regulation, have had a significant impact on the development of ADR in the European area. Directive 2008/52/EC has imposed minimum standards for mediation, stimulating Member States to adapt their national legislation to facilitate ADR. At the same time, the SOL Regulation introduced a framework for online dispute resolution, reducing cost and time barriers for consumers (European Commission, 2013; Bakhramova, 2022).

One of the main advantages of EU policies is that they allow ADR principles to be integrated into national legal systems, helping to reduce court congestion and boost the speedy resolution of commercial disputes. Case studies conducted in Germany, Italy and France have shown that states that have taken proactive measures to implement ADR rules have seen an increase in out-of-court settlements and a reduction in dispute resolution times (Esplugues and Iglesias, 2016; Carle, 2015).

However, there are also criticisms about the choice of legislative basis for these instruments. The use of Art. 114 TFEU instead of a specific basis provided in Art. 81 for ADR has led to debates about the EU's competence to fully regulate the field of arbitration, leaving room for diverging interpretations and potential conflicts of jurisdiction between EU rules and national law (European Parliament, 2015).

4.3. Harmonization Problems and Proposed Solutions

Another key issue identified in the study is the problem of harmonization of ADR legislation at European level. Despite the existence of international treaties and EU policies, the diversity of national implementations continues to represent a major barrier to the overall efficiency of ADR. For example, differences in the interpretation of rules on the recognition of arbitral awards or the application of the 'more favorable law' principle between Member States can lead to legal uncertainties and a variable level of protection for the parties (Harahap, 2025).

To overcome these challenges, scholars and practitioners have proposed the adoption of harmonized models of law that incorporate both elements of international law and national particularities. Such a model could include:

- A common set of procedural principles: the establishment of basic rules to govern, in a uniform manner, arbitration and mediation proceedings, regardless of jurisdiction. This set of principles should be developed through consultation at the European and international level, taking into account the experiences gained in different Member States (Nolan-Haley, 2020).

- Integrated digital tools: Given the technological evolution and the importance of digital solutions in the context of e-commerce, there is a need to develop common online platforms that facilitate the speedy resolution of disputes and provide transparency and procedural certainty (Bakhramova, 2022).
- Mechanisms for inter-institutional cooperation: In order to eliminate discrepancies between national laws, it is essential to establish mechanisms for collaboration between courts, arbitration bodies and regulatory institutions at EU level. These mechanisms could include regular exchanges of information and the development of common interpretative guidelines for ADR rules (European Commission, 2010).The implementation of these solutions could lead to greater predictability of outcomes, reduced costs for the parties and, ultimately, increased confidence in the ADR system, both at European and international level.

4.4. Impact on Contracting Parties and the Judicial System

The results of the study indicate that the effectiveness of ADR methods has a significant impact not only on litigants but also on national judicial systems. By reducing the backlog of cases before the courts, ADR contributes to better management of judicial resources and speeding up the dispute resolution process (Mnookin, 1998; Goldberg et al., 2002).

From an economic perspective, the swift and efficient resolution of commercial disputes can boost the confidence of investors and economic actors, thus facilitating the conduct of trade and investment activities. Moreover, the reduced costs associated with ADR procedures represent a competitive advantage for Member States that adopt a harmonized legislative framework, contributing to the attractiveness of the business environment (Deakin, 2016; Al-Dirani, 2023).

However, the study underlines the need for continuous monitoring of the implementation of ADR rules, both at national and European level, to ensure that these mechanisms adequately respond to emerging challenges, particularly in the context of increasing digitalization and globalization.

5. Conclusions

The comparative analysis carried out in this article highlights that, although the international framework and EU policies on ADR have made significant progress in resolving trade disputes, major challenges remain in terms of legislative harmonization and uniform application of rules. The main conclusions of the study are as follows:

- The importance of international treaties: The New York Convention, together with other international legal instruments, has been a key pillar in facilitating commercial arbitration. However, the application of the "more favorable law" principle and incompatibilities between different treaties remain sources of legal uncertainty (Cebola and Monteiro, 2024; Harahap, 2025).
- The role of EU policies: the ADR Directive and the SOL Regulation have been innovative tools to promote ADR among consumers and commercial parties. They have stimulated the harmonization of some procedural aspects, but the choice of legislative basis (Art. 114 TFEU) raises questions about the jurisdiction and applicability of the rules in the context of traditional arbitration (European Commission, 2013; Deakin, 2016).
- The need for a harmonized framework: the divergences between the national laws of the Member States highlight the importance of a unitary framework, integrating both elements of international law and local particularities. Proposals to standardize ADR procedures, as well as the development of common digital platforms, are promising directions for the future (Bakhramova, 2022).
- Impact on the judicial and economic system: Effective implementation of ADR can reduce the caseload of cases that reach the courts, thus helping to free up judicial resources and boost investor confidence. This ultimately translates into a more stable and competitive economic environment (Mnookin, 1998; Al-Dirani, 2023).

In conclusion, the article underlines that a synergy between international treaties and EU policies, complemented by coherent national legislative adaptations, is essential to improve the ADR system. This integrated approach would not only reduce legal uncertainty but also facilitate access to justice for parties involved in commercial transactions, contributing to increased economic competitiveness and strengthening the rule of law at European and international level.

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AUTHORS' BIOGRAPHY

Betty Cohen Tzedec: Lawyer, practicing in various areas of law, in particular: civil law and commercial law, with more than 15 years of experience in the field.

PhD student in Business Administration, Bucharest University of Economic Studies.

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