Developing Effective Online Dispute Resolution in Latvia

Funded by the European Union

OECD

Developing Effective Online Dispute Resolution in Latvia

This document was produced with the financial assistance of the European Union. The views expressed herein can in no way be taken to reflect the official opinion of the European Union.

This document, as well as any data and map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

Please cite this publication as:
OECD (2024), *Developing Effective Online Dispute Resolution in Latvia*, OECD Publishing, Paris, https://doi.org/10.1787/75ef5c4c-en.

ISBN 978-92-64-82009-8 (print)
ISBN 978-92-64-58288-0 (PDF)
ISBN 978-92-64-79157-2 (HTML)
ISBN 978-92-64-88882-1 (epub)

Revised version, May 2024
Details of revisions available at:
https://www.oecd.org/about/publishing/Corrigendum_Developing_an_Effective_Online_Dispute_Resolution_Concept_in_Latvia.pdf

Photo credits: Cover © VectorHot/Shutterstock.com.

Corrigenda to OECD publications may be found on line at: www.oecd.org/about/publishing/corrigenda.htm.

© OECD 2024

The use of this work, whether digital or print, is governed by the Terms and Conditions to be found at https://www.oecd.org/termsandconditions.

Foreword

Latvia has embraced a comprehensive reform process of its justice system in recent years, investing in modernising and digitalising its procedures to fulfil its commitment to facilitating access to justice for all. The Latvian Sustainable Development Strategy until 2030 ("Latvia2030"), the National Policy Development Plan for 2021-2027, the Digital Transformation Guidelines for 2021-2027, and the Justice Strategy for 2022-2026 are some of the strategic documents that inform a vision aligned with the United Nations (UN) Sustainable Development Goal (SDG) 16.3, which calls for all member states to "promote the rule of law at the national and international levels, and ensure equal access to justice for all".

Latvia has achieved much, including the use of digital technologies and data for the random distribution of court cases, authentication mechanisms, electronic signature and a court information system ("Tiesu informatīvā sistēma" - TIS), the development of the e-case platform "e-lietas platforma" and the one-stop-shop "Latvija.lv" portal.

Building on these achievements, Latvia could develop a coherent approach to the implementation and seamless delivery of online dispute resolution (ODR). In addition, developing ODR in-court and out-of-court dispute settlement are among Latvia's commitments in its Justice Strategy for 2022-2026.

The approach to ODR that underpins this report uses a broad understanding that includes all types of dispute resolution mechanisms, such as conciliation, mediation, ombud proceedings, arbitration and court litigation.

This report was developed based on fact-finding interviews with Latvian stakeholders, a peer-to-peer session with other OECD countries to exchange good practices, meetings with specialists, a mapping of pathways to justice and alternative dispute resolution mechanisms, a business survey, focal group discussions, and an extensive literature review. It assesses Latvia's challenges and opportunities to accelerate its transition to an efficient, effective, fair and accessible justice system. It takes stock of the initiatives implemented so far; offers an overview of the country's legal, regulatory and policy frameworks; and maps the bottlenecks and synergies involved in implementing a broad, effective and equitable ODR. It makes policy recommendations to improve dispute resolution settings and methods and the use of digital technologies and data to transform dispute resolution. The report also presents recommendations to revamp the three types of claims assessed in this report – simplified procedures, warning procedures and consumer claims.

The report builds on the OECD Recommendations on Digital Government Strategies and on Access to Justice and People-Centred Justice Systems, the Framework and Good Practice Principles for People-Centred Justice, the OECD Criteria for People-Centred Legal and Justice Service Delivery, and the forthcoming OECD Online Dispute Resolution Framework ("OECD ODR Framework").

This report is the core output of the project "Developing an Effective Online Dispute Resolution (ODR) Concept in Latvia", supported by the European Commission under Regulation (EU) 2021/005 establishing a Technical Support Instrument ("TSI Regulation"). The action was funded by the European Union via the Technical Support Instrument, and implemented by the OECD, in co-operation with the Directorate-General for Structural Reform Support of the European Commission. This report applies the forthcoming

OECD ODR Framework to the Latvian context and specific types of cases, with a view to making pathways for resolving disputes more user-centred while ensuring the protection of fundamental rights in line with national priorities and international standards.

Acknowledgements

This report was prepared by the OECD Directorate for Public Governance (GOV) under the leadership of Elsa Pilichowski, Director for Public Governance, and overall supervision by Tatyana Teplova, Head of the Division for Policy Coherence for the SDGs and Senior Justice Counsellor, and Barbara-Chiara Ubaldi, Head of the Unit for Digital Government and Data.

The report was co-ordinated and drafted by Mariane Piccinin Barbieri, OECD policy analyst, with contributions from Seong Ju Park, OECD policy analyst, Felix Steffek, Associate Professor at the University of Cambridge, and Aleksandrs Fillers, local consultant on justice and Assistant Professor at Riga Graduate School of Law. It includes written contributions and input from Cindy Boreillo and Renan Barbosa Fernandes. Melissa Sander and Julie Harris provided editorial assistance. The report also benefited from comments and inputs from Aitor Cubo Contreras, Director-General, Fabiola Solino Díaz, Head of Office, and Alejandro Fernández Muñoz, Liaison for International ICT Affairs, of the Ministry of the Presidency, Justice and Parliamentary Relations of Spain.

The OECD is deeply grateful to the Government of Latvia for its continued engagement and support in this unique project and to the Latvian institutions involved for their remarkable co-operation. In particular, the OECD would like to thank the following individuals:

- At the Court Administration: Andris Munda, Director; Anna Skrjabina, Deputy Director General, Development Department; Dace Kazāka, Deputy Director, Development Department; Andreta Balševica, Department Director; Agnija Karlsone Djomkina, Head of Project Management and International Cooperation Department; Inese Kalniņa, Deputy Director for Development and Legal Affairs; Inta Salinieka, Deputy Head, International Cooperation and Analytics Division; Jana Zemberga, Deputy Head, Information Systems Development Division, Information Systems and Technology Department; Maris Kumerdanks, Head of the Unit on Information Technology Development; Elīza Kārkliņa, Senior Officer of Information Systems, Development Division; Roberta Zariņa, Senior Officer of Information Systems, Development Division; Ilze Piševa, Coordinator and Court Information System Development Project; Līva Matuzele, Project Coordinator, Development Department; Elīna Šķipare, Project Coordinator, Development Department; Inese Ūdre, Project Coordinator, Development Department; Lauma Legzdina, ESF Project Coordinator.
- At the Ministry of Justice: Inita Ilgaža, Deputy State Secretary on Judicial Matters; Inguna Preisa, Judge, Advisor to the Minister of Justice; Agris Batalauskis, Director, Project Department; Eva Krjukova, Deputy Director, Judicial Policy Department; Dagnija Palčevska, Representative, Civil Procedure Law Working Group; Guna Žvīgure, Head, Administrative Law Department; Jolanta Laura, Head, Administrative Liability Policy Division, Department of State Law; Uldis Kārklevalks, Head, Project Planning and Implementation Division; Iveta Gedus, Head of International and Procedural Law Unit, Civil Law Department; Gunta Degle, Senior Officer, State Probation Service; Maija Laure, Lawyer, Civil Law Department; Megija Paula Bērziņa, Lawyer, Judicial System Policy Department; Vineta Reinika, Lawyer, Judicial Policy Department; and Jorens Liopa, Project Management and International Cooperation Division.
- At the Ministry of Economics: Didzis Brūklītis, Head of the Competition, Trade and Consumer Rights Division, Internal Market Department; Dana Vaivare, Deputy Head of the Competition, Trade and

Consumer Rights Division, Internal Market Department; and Arnis Latišenko, Senior Expert, Competition, Trade and Consumers.

- Members of the Judiciary: Aldis Laviņš, Judge, Constitutional Court; Adrija Kasakovska, President, Latvian Association of Judges and Judge, Zemgale Regional Court; Aigars Sniedzītis, Vice-President, Latvian Association of Judges and Judge, Zemgale Regional Court; Marianna Terjuhana, Vice-Chair, Zemgale Regional Court and Chair, Collegium of Civil Cases; Daiga Vilsone, Judge, President of Riga Regional Court; Lelde Grauda, Judge and Vice-President, Riga Regional Court; Ināra Zariņa, Deputy Chairman, Riga District Court; Kristīne Kalvāne, Judge, Riga Administrative District Court; Liga Ašmane, Judge and President, Zemgale District Court; Elga Guitāne, Judge, Kurzeme District Court; Anda Kraukle, Chairperson, Riga City Court; and Žanna Zujeva, Judge, Riga City Vidzeme Suburb Court.
- At the Finance Latvia Association: Aivars Graudiņš, Vice-President and Laima Letiņa, Advisor.
- At the European Consumer Information Center: Kristīna Proškoviča, Deputy Director.
- At the Consumer Rights Protection Center: Baiba Vītoliņa, Director and Edīte Drozda, Director of Department.
- At the Latvian Chamber of Commerce and Industry: Raimonds Āboliņš, Head, Legal Department.
- At the Latvian Foreign Investors Council: Linda Helmane, Executive Director; Baiba Strupiša, Co-Head, Tax Policy and Administration Work Group; Daiga Zivtiņa, Representative; and Roberts Alhimionoks, Policy Expert.
- At the Latvian Insurers Association: Jānis Abāšins, President and Kristina Pētersone, Law Specialist.
- At the Legal Aid Administration: Jeļena Bārbale, Head of the Legal Aid Provision Division of the Legal Aid Administration and Deputy Director; and Egita Lapa, Deputy Head of the Legal Aid Provision Division of the Legal Aid Administration.
- Members of the Latvian Council of Sworn Attorneys: Arta Snipe, Lawyer; Jānis Zuļķis, Lawyer, RIMI Baltic Group; and Kārlis Tračums, Attorney-at-law and Partner, ZAB Protectum.

The OECD also wishes to sincerely thank Christof Berlin, Head of the Conciliation Board, Söp, Arbitration Board for Public Passenger Transport (Germany); Colin Rule, President and CEO of Mediate.com (United States); Dejan Savatic, President, Company Court of Walloon Brabant (Belgium); Evija Klave, National Expert, European Social Policy Network (ESPN); Graham Ross, Accredited business mediator, Civil Mediation Council (United Kingdom); Ilona Bois-Drivet, Partner, Cyberjustice Laboratory (Canada); Julia Kreidel and Pauline Stabenow, Legal Advisors, European ODR platform, European Consumer Centre (Germany); Valentin Callipel, Head of Mission, Cyberjustice Laboratory (Canada); Yves Delacollette, Consular Judge, Company Court of Walloon Brabant and mediator accredited by the Federal Mediation Commission (Belgium); and Jakob Thevis, Head of Contact Point, Centre for European Consumer Protection (Latvia) for acting as peer reviewers and experts who lent their time to exchange practices from their countries through a peer-learning session and participation in fact-finding interviews with Latvian stakeholders.

The OECD is also grateful for collaboration with business representatives Dace Cīrule, Head of Business Development, Idea Port Riga AS; Edgars Pastars, Specialist Counsel, ACAMS Certified Anti-Money Laundering Specialist (CAMS) and Certified Global Sanctions Specialist (CGSS), Head of AML, COBALT Latvia.

In addition, the OECD expresses its gratitude to Emilia Pech, Mediator and Legal Counsel with the Department of Justice (Canada); Nicolas Vermeys, Director of the Research Center in Public Law, Associate Director of the Cyberjustice Laboratory and Professor in the Law School of the University of Montreal (Canada), experts in ODR mechanisms who helped finetune the scope of the project and tailor questions in preparation for the fact-finding meetings.

The OECD also extends its sincerest thanks to the European Union for its financial contribution to the project through the Technical Support Instrument.

Table of contents

Foreword 3

Acknowledgements 5

Executive summary 10

1 Developing online dispute resolution in Latvia: Assessment and recommendations 12
- 1.1. Introduction 13
- 1.2. Continue advancing towards a people-centred justice approach 13
- 1.3. Leveraging digital technologies and data to transform dispute resolution 14
- 1.4. Revamping the simplified procedure in Latvia 15
- 1.5. Revamping the warning procedure in Latvia 15
- 1.6. Revamping consumer claims in Latvia 16
- References 17

2 Transforming dispute resolution in Latvia: Towards a people-centred justice approach 18
- 2.1. Framing online dispute resolution for access to justice 19
- 2.2. Transforming dispute resolution in Latvia 20
- 2.3. Applying the OECD Online Dispute Resolution Framework to Latvia 20
- 2.4. Applying the OECD ODR Framework to Latvia 22
- References 51
- Notes 55

3 Unlocking ODR potential for effective dispute resolution in Latvia 56
- 3.1. Recent efforts to advance the digital transformation of Latvia's justice system 57
- 3.2. Applying ODR to dispute prevention and resolution 63
- 3.3. Automating diagnosis and dispute triage 67
- 3.4. Pathways and the seamless transfer of information and cases 70
- 3.5. Enforcement of decisions 74
- References 78

4 Applying ODR to specific types of claims in Latvia: Simplified procedures, warning procedures and consumer claims 81
- 4.1. Introduction 82
- 4.2. Simplified procedure 82
- 4.3. Warning procedure 87
- 4.4. Consumer claims 95

References 109
Notes 111

Annex A. Service mapping methodology 113
Areas of focus 113
Lens 113

Tables

Table 2.1. Co-ordination mechanisms within the Latvian government to steer the implementation of the strategic approach on digital transformation in justice 26

Table A A.1. Mapping methodology at a glance 114

Figures

Figure 2.1. The OECD Framework on Data Governance in the Public Sector 43
Figure 2.2. An agile approach to policy making, service delivery and ongoing operations 45
Figure 3.1. Automating diagnosis and dispute triage in a case's early stages 68
Figure 3.2. Improving seamless transfer of cases between pre-court ADR and courts 71
Figure 3.3. Improving court enforcement of mediation settlements 76
Figure 4.1. Mapping of the simplified procedure 84
Figure 4.2. Mapping of the warning procedure 89
Figure 4.3. Automating the warning procedure 92
Figure 4.4. Mapping of consumer claims 96

Boxes

Box 2.1. The forthcoming OECD Online Dispute Resolution Framework 21
Box 2.2. Unpacking a strategic approach to ODR 22
Box 2.3. Improving capacity in the public sector to enhance online access to justice services 28
Box 2.4. Partnering with service providers to enhance ADR services 33
Box 2.5. Developing a suitable legal and regulatory framework for ODR 35
Box 2.6. European Union: Proposal for regulation on the digitalisation of judicial co-operation and access to justice in cross-border matters 37
Box 2.7. Applying ODR to legal domains and types of claims in OECD countries 38
Box 2.8. European Union: AI in justice systems and broadly 49
Box 3.1. Latvia: Providing justice services and case information through e-case portal 57
Box 3.2. One-stop-shop platforms in justice 58
Box 3.3. Portugal: Using natural language processing to improve access to justice 59
Box 3.4. Ukraine: Enhancing access to legal aid through digital transformation 60
Box 3.5. The United States: Providing guidelines for online hearings 61
Box 3.6. Netherlands: Step-by-step legal advice tool to prevent court litigation 64
Box 3.7. Triage mechanisms and automation for efficient case management in justice 69
Box 3.8. Cyberjustice Laboratory: Integrating pre-court ADR and e-court systems 73
Box 3.9. CEPEJ Good Practices Guide on Enforcement of Judicial Decisions 74
Box 3.10. Estonia: Conducting judicial auctions with a dedicated online platform 76
Box 4.1. Arbitration in Latvia and suitability to small claims: The case of the Arbitration Court of Latvian Chamber of Commerce and Industry 83
Box 4.2. European Union: Simplifying cross-border claims through the European small claims procedure 85
Box 4.3. European Union: The European Order for Payment procedure 90
Box 4.4. Germany: Automated order for payment procedure 93
Box 4.5. Norway: Improving communication between citizens and the government through digital mail 94
Box 4.6. Consumer ODR platforms 98
Box 4.7. Ombud schemes with binding decisions 100
Box 4.8. Enhancing ombuds through simplified platforms 102

Box 4.9. Germany: Federal ombud schemes and the German General Conciliation Body (Universalschlichtungsstelle) 103

Follow OECD Publications on:

https://twitter.com/OECD

https://www.facebook.com/theOECD

https://www.linkedin.com/company/organisation-eco-cooperation-development-organisation-cooperation-developpement-eco/

https://www.youtube.com/user/OECDiLibrary

https://www.oecd.org/newsletters/

Executive summary

Latvia has made comprehensive efforts to modernise its justice system and fulfil its commitment to improving access to justice along the lines of the Sustainable Development Goal (SDG) 16.3. Access to justice for all is instrumental for democracy, promoting inclusive and sustainable economic growth and improving people's overall well-being.

Online dispute resolution (ODR) is central to modernise justice systems improving access to justice in an efficient and cost-effective way and addressing the legal needs of people, businesses and communities. Drawing on a series of strategic documents and a strong impetus for change, Latvia is in a position to develop a holistic ODR strategy for implementing and providing seamless ODR services that include the full range of dispute resolution mechanisms, from conciliation, mediation, ombud proceedings and arbitration to court litigation.

A set of strategic documents reflecting Latvia's commitments lays the groundwork for success. Innovation is one of the priorities of the Latvian Sustainable Development Strategy until 2030 ("Latvia2030"), which presents the country's long-term development vision. The National Development Plan for 2021-2027 sets Latvia's commitments to achieve the 2030 SDGs and prioritises the culture of dispute resolution through alternative dispute resolution (ADR) methods, the attainment of accessible and efficient judicial and law enforcement systems and the use of digital technologies and data. Additionally, the Latvian Justice Strategy for 2022-2026 sets the priorities of a fair judicial system, a safe business environment and the digital transformation of justice services, which the Digital Transformation Guidelines for 2021-2027 also supports. Reflecting all these high-level commitments, Latvia has started using digital technologies and data for random distribution of court cases, authentication mechanisms, electronic signature and a court information system (TIS), the e-case platform "e-lietas platforma" and the one-stop shop "Latvija.lv". This all points to a clear awareness of digital transformation to improve access to justice in the country.

While much has been accomplished so far, there is scope to address several challenges to unlock the full potential of ODR in Latvia. ADR still lacks credibility as an effective and trustworthy means of settling disputes, due partly to concerns with impartiality and conflicts of interest, low levels of enforceability and predictability of its outcomes. Low levels of awareness and skills have been identified as other important issues, including the need to improve digital user skills among justice civil servants, render ADR more attractive to different profiles and promote legal awareness among citizens of dispute resolution options beyond the courts. The mapping and application of the forthcoming OECD Online Dispute Resolution Framework ("OECD ODR Framework") to specific types of claims – simplified and warning procedures and consumer claims – also highlights areas for improvement, including legal reforms to monetary caps, procedural deadlines and opportunities for automation.

Latvia's future strategies and implementation paths could be supported by a clear and comprehensive approach to ODR and broader modernisation efforts of its justice sector. As part of Latvia's continuous improvements, there is an untapped opportunity to expand digital transformation efforts to improve dispute resolution within and beyond courts. From a digital governance perspective, there is a need to shift away from "digital by default" by adopting an approach that embeds digital technologies and data in the design and delivery of justice policies and services. Designating a leadership body for digital transformation would

be an important step to secure strategic oversight and facilitate the co-ordination and implementation of digital transformation projects, including ODR.

Investing in robust digital and data governance, including data architecture and infrastructure, is key to implementing digital tools in the Latvian justice system that are key for the success of ODR, such as e-signature and interoperable systems. This can also help enable automation, with potential applications in streamlining technical, procedural and time-bound steps during the enforcement phase, provided no objections are raised by any involved parties. Furthermore, automating the assessment, conception and provision of comprehensive legal aid services is also worth considering. Embracing technology-neutral lawmaking, advocating open standards, and decommissioning outdated services can help mitigate technology legacy risks. In the pursuit of modernising the justice sector, measures must be taken to build ethical and transparent guidelines for the use of digital technologies and data.

This report highlights some of the areas where further efforts could underpin the successful implementation of ODR for greater access to justice. In this regard, Latvia could consider making further efforts to make the justice system more people-centred, including by adopting a universal gateway, guiding individuals with legal issues to the appropriate services and channels. Engaging stakeholders from the outset and throughout the design and deliver of ODR solutions are other important aspects of a people-centred justice system and the successful implementation of ODR. Conducting regular legal needs surveys and periodic assessments of justice services can provide valuable insights into the needs of the population and the effectiveness of existing policies and initiatives. Promoting training to justice civil servants and empowering people by enhancing legal literacy and awareness, including on ADR, can also improve the uptake of ODR in Latvia.

To expand the use of ODR, including ADR, Latvia should continue to reinforce public trust in ombud schemes. Particular attention is needed to ensure the impartiality of the process and its outcomes. Latvia could also consider legal reforms, including promoting legal certainty and enforceability of arbitration and mediation agreements; addressing issues related to attorney fees; and reviewing monetary caps and procedural timelines for simplified and warning procedures and consumer claims. Particularly for the latter, Latvia could also consider allowing ombuds to decide the case in its entirety and not limit their competency to consumer protection law, introducing a single-entry point for all consumer-trader disputes to help centralise and distribute incoming complaints to competent bodies, and linking ombuds' platforms to court systems.

These recommendations collectively pave the way for successfully implementing ODR in Latvia.

1 Developing online dispute resolution in Latvia: Assessment and recommendations

This chapter outlines the main takeaways of the OECD assessment of online dispute resolution (ODR) in Latvia and summarises key policy recommendations to support its development. OECD recommendations have been designed to support Latvia in attaining its strategic objectives of modernising its justice system and successfully implementing ODR.

1.1. Introduction

This report describes Latvia's digital transformation efforts in the justice sector, assesses opportunities and challenges, and provides recommendations for the successful implementation of online dispute resolution (ODR), drawing on the OECD Online Dispute Resolution Framework ("OECD ODR Framework") (OECD, forthcoming[1]). The report identifies potential areas to use ODR in Latvia and applies the forthcoming OECD ODR Framework to three specific types of claims – simplified and warning procedures and consumer claims. Based on the OECD Recommendation on Access to Justice and People-Centred Justice Systems (OECD, 2023[2]) and the experience of other OECD countries, this chapter summarises key policy recommendations to support Latvia's ongoing efforts to modernise its justice sector and help with the coherent implementation of ODR.

1.2. Continue advancing towards a people-centred justice approach

In line with the Sustainable Development Goal (SDG) 16 and Indicator 16.3 on leaving no one behind, Latvia has been committed to adopting a people-centred approach in its justice system to deliver effective, efficient and accessible justice services. In recent years, the country has been taking steps to reform its justice sector from a people-centred perspective, enhance skills and legal awareness among justice civil servants and the broader population, and expand the use of alternative dispute resolution (ADR) mechanisms.

Still, there is space for improving co-ordination and triage mechanisms to help channel individuals with legal needs to the appropriate services. More broadly and with a view to strengthening the overall people-centricity of justice services, there is scope to enhance legal literacy and awareness, particularly among vulnerable groups; undertake regular legal needs surveys to strengthen the understanding of the legal needs of people and businesses; and assess the effectiveness of existing policies and initiatives. Furthermore, to maximise the use of ADR, there is a need to expand legal aid, increase the enforceability and certainty of decisions and advance efforts to increase the attractiveness of mediation services.

There are additional challenges that need to be addressed. Due to the amount of attorney fees that a losing party must compensate, the current system may encourage an overindulgent number of objections to claims. Likewise, the lack of diversity of mediators, including background and areas of expertise, was identified as a barrier to its use as an effective dispute settlement.

In order to take these efforts to the next level, Latvia could consider the following recommendations:

- Adopt a "no wrong door" approach to help ensure sound co-ordination and triage, directing people with legal issues to the right services and channels.
- Promote awareness and embedding ethical values at all stages of ODR service design and delivery.
- Continue to ensure that stakeholders are involved as early as possible and throughout the entire process of designing and delivering ODR in Latvia.
- Enhance legal literacy and awareness, including on ADR, as a means to empower people, notably vulnerable groups.
- Consider running periodic legal and justice needs surveys to help understand people's and businesses' needs and assess the effectiveness of justice system policies and initiatives in place.
- Consider promoting legal reforms to provide legal certainty and the enforceability of ADR (e.g. arbitration, mediation) decisions.
- Consider re-evaluating the amount of attorney fees a losing party must compensate, to prevent the abusive use of legal mechanisms to object claims.

- Consider enlarging the use of legal aid to ADR to maximise access to justice and encourage the use of ADR by economically disadvantaged people.
- Enhance the attractiveness of mediation by increasing training and creating incentives to attract a more diverse range of prospective mediators.
- Set periodic evaluations to help assess the relevance, efficiency, effectiveness, sustainability and impact of reforms in arbitration against new strategic approaches and targets.

1.3. Leveraging digital technologies and data to transform dispute resolution

Latvia has taken steps to introduce digital technologies in the justice sector in the past few years. Some of these efforts are reflected in its justice system, including strategic guidelines for digital transformation, the launch of the e-case portal "Elieta.lv" (an online portal where services, information and file materials are available to parties of an investigation, legal and enforcement proceedings), the implementation of digital tools in courtrooms, authentication mechanisms, electronic signature and a court information system ("Tiesu informatīvā sistēma" - TIS).

Still, there is scope to improve digital and data governance in justice, including allocating responsibilities to a leadership body for digital transformation and further aligning co-ordination mechanisms with central government; adopting a strategic approach that shifts from a digital-by-default concept; and enhancing information and communication technology (ICT) infrastructure. There is also a need to develop data infrastructure and architecture, including standards, reference data and interoperability between systems (e.g. TIS and e-case) as enablers to improve the design and delivery of justice services, and automation of certain services, such as legal aid, and steps in legal proceedings. Likewise, safeguards and guidelines for the ethical use of data in the justice sector seem lacking. In addition, there is scope to enhance the application of an agile approach in technology management practices; strengthen a collaborative ecosystem between the justice sector and non-governmental and private service providers; and enhance digital skills among justice actors and all members of the justice system.

The following recommendations might be contemplated:

- Consider designating a leadership body for digital transformation to provide strategic oversight and facilitate the implementation of digital transformation projects, including ODR.
- Adopt a digital-by-design approach when designing ODR services.
- Establish sound data governance to support data-driven design and delivery of ODR policies and services.
- Establish necessary safeguards and guidelines to ensure the transparent and ethical use of digital technologies and data in the justice sector.
- Support a collaborative ecosystem of non-governmental and private service providers to ODR services.
- Continue investing in digital technologies, shared services and tools for the long term (e.g. hosting and infrastructure, digital identity and signature) to enable the sustainable digital transformation of justice in Latvia.
- Ensure interoperability among various justice systems, notably the TIS, the e-case platform and ODR platforms, to enable end-to-end services.
- Continue improving the TIS system, particularly to improve the use of justice services.
- Adopt approaches that help manage technological advances, such as technology-neutral law making, favouring open standards and decommissioning services to reduce risks of technology legacy.

- Strengthen the digital skills of justice actors and continue improving levels of digital skills among all members of the justice system, including ODR.
- Commit to systemically applying an agile approach in the design and delivery of ODR services in Latvia.
- Consider automating strictly technical, procedural and/or time-bound steps in the enforcement phase, provided no objections have been submitted by any parties.
- Consider automating the process of assessing, conceiving and providing the full spectrum of legal aid services.

1.4. Revamping the simplified procedure in Latvia

The simplified procedure, which is applicable to small claims up to EUR 2 500, with a specific focus on debtor claims, offers advantages to parties choosing this route, including cost-effectiveness, flexibility and less formality in dispute settlement.

The mapping conducted for this report made it possible to identify certain aspects of the simplified procedure that might benefit from reforms. This includes developing further guidance for judges in conducting hearings and providing relevant information to people about the simplified procedure. In addition, there is a need to reconsider the value of monetary claims and streamline technical, procedural and time-bound steps through automation.

To elevate the simplified procedure to another level, Latvia may consider the following recommendations:

- Provide further guidance to judges on whether and how to conduct in-person or online hearings in simplified procedure when there is a court hearing conducted, considering judges' discretion, participants' rights to participate effectively and integrity in the participation of witnesses, experts and the presentation of evidence.
- Improve e-cases portal E-lieta.lv to integrate clear guidelines as part of a justice section in the platform with comprehensive information on the simplified procedure, including applicability, requirements to file a claim and the step-by-step process.
- Consider increasing the value of monetary claims subject to the simplified procedure to at least EUR 3 500 by amending Part 2 of Article 259[19] of the Civil Procedure Law.
- Consider automating aspects of the simplified procedure, including repetitive tasks that represent significant workload (e.g. procedural acts that are not contradictory or that do not require in-depth analysis of facts or law, such as granting due date extensions; issuing time-bound decisions after no response from parties; and notifying parties for the fulfilment of certain requirements, such as the payment of charges, the presentation of documents or information requests or the identification of missing requirements or elements in a file) while preserving a judge's review as needed.

1.5. Revamping the warning procedure in Latvia

Overall, the warning procedure offers a range of advantages to dispute resolution in Latvia. It is an attractive option for resolving disputes efficiently, cost-effectively and less adversarial than traditional litigation procedures. Concretely, it allows the creditor to obtain an enforcement document against the debtor without undergoing a full litigation procedure. The monetary cap of EUR 15 000 limits the use of such a procedure.

The mapping of the warning procedure for this report also helped identify bottlenecks to efficiency and smoothness. For example, the three-month period to initiate ordinary litigation from the closure of the

warning procedure might lead to an unnecessarily lengthy process. Likewise, there is an untapped opportunity to automate certain steps of the warning procedure.

To address these issues, the following recommendations might be considered:

- Consider increasing the value of monetary claims subject to the warning procedure to at least EUR 25 000 by amending Point 6 of Part 2 of 406^{1} of the Civil Procedure Law.
- Consider reducing the period given to the debtor to initiate the ordinary procedure from three to two months after the closure of the warning procedure with a positive decision to the creditor by amending Part 1 of Article 406^{10} of the Civil Procedure Law.
- Consider automating certain aspects of the warning procedure (including time-bound processes, assessment of requirements, issuing of the warning and enforcement decisions) as it follows very clear steps based on certain requirements that could be translated into simple rules.

1.6. Revamping consumer claims in Latvia

Consumer disputes arise from consumer law and encompass conflicts between a person who has acquired goods or services from another person or entity acting within their economic or professional capacity. The justice system in Latvia privileges informality and the preservation of relationships to settle consumer disputes. The Consumer Rights Protection Centre (CRPC), the Consumer Dispute Resolution Commission (CDRC), sectoral out-of-court dispute resolution mechanisms and court litigation are some of the options available to settle consumer disputes.

Scope remains, however, to improve public trust in ombud schemes in light of alleged concerns with impartiality and conflicts of interest in the past. Comparatively high non-compliance rates linked to lack of enforceable nature of decisions, little offer of ombuds, limited competency to consumer protection law and lack of centralisation of access to ombuds are some other bottlenecks people may face when trying to solve their consumer issues. The mapping of consumer claims for this report made it possible to identify limited integration between the CRPC and sectoral ombuds' platforms to court systems, representing a considerable bottleneck for consumers trying to address their legal needs.

To tackle these gaps, Latvia could:

- Continue working towards reinforcing public trust in ombud schemes with particular attention to conflicts of interest.
- Consider the introduction of binding decisions, subject to judicial review, for certain types of consumer claims (e.g. in the context of banking and insurance), in particular, because dispute settlement before the CRPC is faster and bears no financial burden to consumers.
- Consider allowing ombuds to decide a case in its entirety and not limit their competency to consumer protection law, so as to encourage the use of dispute resolution in Latvia.
- Consider introducing a single-entry point (e.g. through a one-stop-shop/Latvia e-case platform for all consumer-trader disputes to help centralise and distribute incoming complaints to competent bodies, therefore improving accessibility of ombud schemes for consumer-trader disputes through the provision of a comprehensive offer to consumers.
- Consider linking the CRPC and sectoral ombuds' platforms to court systems.

References

OECD (2023), *Recommendation of the Council on Access to Justice and People-Centred Justice Systems*, https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0498. [2]

OECD (forthcoming), *OECD Conceptual Framework for Online Dispute Resolution*. [1]

2 Transforming dispute resolution in Latvia: Towards a people-centred justice approach

Drawing on the forthcoming OECD Online Dispute Resolution Framework ("OECD ODR Framework"), this chapter identifies the state of play of Latvia's digital transformation efforts, assesses opportunities and challenges and provides recommendations for the successful implementation of online dispute resolution (ODR) in the country. Aiming at a coherent approach to the implementation and seamless delivery of ODR services, which is essential to improving access to justice, the chapter elaborates on the three pillars for a sound ODR Framework: governance; policy levers; and ethics and safeguards. Doing so also lays the groundwork for applying the ODR concept to specific dispute resolution settlements, such as mediation, adjudication and arbitration, and the three specific types of procedures later covered in this report – simplified and warning procedures and consumer claims.

2.1. Framing online dispute resolution for access to justice

Access to justice for all is a fundamental underpinning of democracy and the bedrock of a strong social contract. It is a crucial part of the institutional foundation for inclusive and sustainable economic growth and a thriving investment climate. It plays an essential role in enabling the delivery of broader outcomes to people, including their ability to participate in the economy, employment, relationships and health (OECD, 2023[1]). In light of its relevance to well-being and sustainable development, access to justice has gained increasing importance globally with the development of international standards. Some prominent examples are the 2030 Agenda and its Sustainable Development Goals (SDGs), in particular SDG 16.3 to "promote the rule of law at the national and international levels, and ensure equal access to justice for all" (United Nations, 2019[2]), and the recently adopted OECD Recommendation on Access to Justice and People-Centred Justice Systems (OECD, 2023[1]).

Concretely, access to justice refers to the ability of people, businesses and communities to prevent conflicts and obtain effective, fair, equitable and timely resolution of their legal and justice-related needs (OECD, 2023[1]). In a people-centred justice system, the user perspective is adopted as a starting point and places people at the core when designing and delivering legal and justice services within and beyond court rooms. Legal and justice services cover the spectrum of in-person, online or hybrid judicial and out-of-court services offering people and businesses support in the form of legal information, advice, resources and representation, as well as formal or informal mechanisms to resolve their disputes or address their legal needs.

The development of online dispute resolution (ODR) is part of an ongoing transformation to make justice systems more accessible and people-centred. People and businesses are experiencing conflicts in new ways and becoming more demanding in terms of how their conflicts are solved. Higher expectations of public services from more empowered users in a context of growing internal and external pressures, such as lower levels of trust in public institutions (OECD, 2022[3]), promises of the digital age and economic crises are major drivers that call for change in justice systems. This implies putting people's needs at the centre of the design and delivery of justice services. Digital technologies and data are important leverages in the process transforming justice services.

There is no universally accepted definition of ODR. However, the two common essential elements of every definition are the types of dispute resolution processes covered and how digital technologies and data are applied to improve ODR-related processes and services – whether they are used to transform processes and deliver innovative justice services (e.g. providing seamless integration between pre-court and court services; applying algorithms to improve case management or suggest settlement options; improving identity and signature authentication mechanisms for parties and civil servants) or operationalise otherwise traditional mechanisms of dispute resolution (e.g. de-materialisation, bringing court hearings on line, enabling access to files through platforms).

ODR has a great potential to maximise access to justice. Adopting a people-centred justice approach in the process of using digital technologies and data to design and deliver ODR mechanisms is essential to ensure that people and businesses can obtain effective and timely resolution for their justice and legal needs, and have their rights enforced, in compliance with human rights (OECD, 2023[1]). In addition, ODR can contribute to enhancing access to justice by improving affordability and proximity to parties to dispute settlement and access to information (e.g. notifications, file cases, and decisions available on line) (OECD, 2021[4]). ODR can also contribute to the continuity and effectiveness of justice services. For example, ODR increases available channels for people and businesses to settle disputes. Likewise, ODR can help offer a simple, efficient and out-of-court solution to dispute settlement, positively impacting workload, resources and quality of court services.

2.2. Transforming dispute resolution in Latvia

Effective, efficient and people-centred justice is increasingly recognised as a critical dimension of inclusive growth and as a means of improving citizen well-being and economic performance (OECD, 2015[5]; 2021[6]).

Countries are developing people-centred approaches to delivering legal and justice services in this context. Latvia has joined this global trend. It has committed to modernising its justice system and facilitating access to justice for all, in line with SDG 16 and Indicator 16.3 on leaving no one behind. The Latvian Sustainable Development Strategy until 2030 ("Latvia2030") (Government of Latvia, 2010[7]), the National Policy Development Plan for 2021-2027 (Government of Latvia, 2020[8]), the Digital Transformation Guidelines for 2021-2027 (Government of Latvia, 2021[9]) and the Justice Strategy for 2022-2026 (Government of Latvia, 2022[10]) are some of the strategic documents that reflect these efforts.

Latvia has undertaken several efforts to improve levels of access to justice by considering the needs of people (OECD, 2021[11]), businesses (OECD, 2018[12]) and vulnerable groups (OECD, 2023[13]) and evaluating legal and justice needs and its justice system (CEPEJ, 2022[14]). The country has led several reforms and initiatives to improve efficiency, including developing guidelines and performance indicators on case management and resource use (European Union, 2023[15]) and expanding the use of alternative dispute resolution (ADR) in areas such as family and consumer law. However, Latvia still has a room to improve trust in justice institutions (OECD, 2022[3]).

Latvia has also taken steps to introduce digital technologies in the public sector in the past few years. In 2022, the country showed satisfactory levels in digital public services, above the EU average (European Union, 2022[16]). Some of these efforts are reflected in the Latvian justice system, including the country's strategic guidelines for digital transformation (see Strategic approach to dispute resolution); the launch of the e-case portal (that enables submission and access to court case documents to parties); the provision of videoconference tools to courtrooms; and the introduction of authentication mechanisms, electronic signature and a court information system ("Tiesu informatīvā sistēma" - TIS).

Challenges remain around connectivity (e.g. broadband coverage, price) and integration of digital technology (e.g. interoperability, cloud) when contrasting Latvia to other EU member states (European Union, 2022[16]). This has implications in several dimensions of service delivery, including access to and effectiveness of Latvia's justice system (see Managing technological advances, Data governance and its strategic use, Advancing in digital transformation in Chapter 3 and Pathways and the seamless transfer of information and cases in Chapter 3). Despite several online court services available in Latvia, no comprehensive ODR plan is currently in place to ensure their strategic design and delivery.

2.3. Applying the OECD Online Dispute Resolution Framework to Latvia

Legislatures, regulators, international organisations and scholars have taken different approaches to defining ODR, depending on the context. As such, when regulating ODR, it is important to agree on a shared understanding of the term (OECD, forthcoming[17]). Following the approach proposed in the forthcoming OECD Online Dispute Resolution Framework ("OECD ODR Framework"), this report considers a broad definition of ODR, understood as **the use of digital technologies and data to support dispute settlement within and beyond the court system**.

the OECD ODR Framework aims to contribute to coherently implementing ODR services and improving the seamless transfer of information and disputes between different dispute resolution avenues. Such an approach fits in with a set of initiatives that Latvia has been adopting to foster access to justice, contributing to people and businesses to obtain the effective and timely resolution of legal needs and enforce their rights in compliance with human rights obligations.

Following these initiatives, combined with the country's strategic documents (see Strategic approach to dispute resolution), Latvia has started advancing towards developing a more effective framework for dispute resolution that leverages ODR.

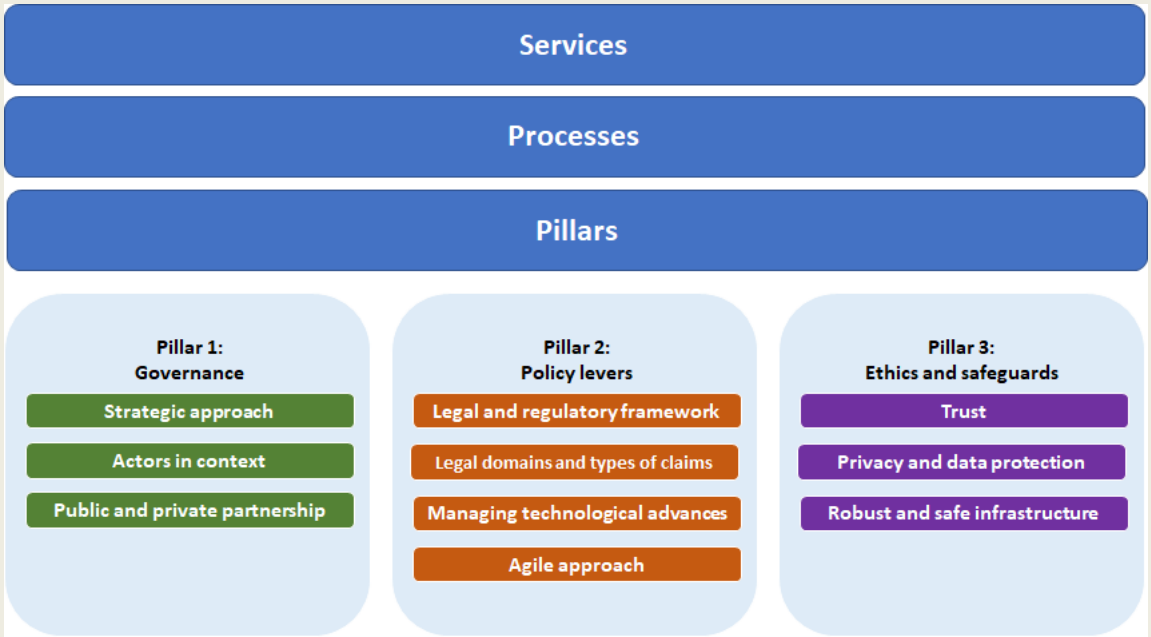
Building on the OECD ODR Framework (see Box 2.1), this chapter identifies the pillars and design principles; assesses opportunities and challenges; and provides recommendations for the successful implementation of ODR in Latvia. This chapter also lays the groundwork for applying the ODR concept to specific dispute resolution mechanisms (e.g. mediation, adjudication, arbitration) and the three specific types of procedures later covered in this assessment report – simplified and warning procedures and consumer claims.

Box 2.1. The forthcoming OECD Online Dispute Resolution Framework

The OECD ODR Framework consists of three pillars for modernising dispute resolution:

- **Pillar 1** – **Governance** emphasises a strategic approach to dispute resolution, ensuring that the overarching direction of ODR aligns with the broader goals of accessible and effective justice systems. This pillar also acknowledges the various actors involved in the ODR ecosystem and encourages collaboration between public and private entities to harness their respective strengths for ODR's benefit.
- **Pillar 2** – **Policy levers** delves into the foundational aspects of ODR. It highlights the necessity of a robust legal and regulatory framework to underpin ODR, offering a stable foundation for their implementation. This pillar considers legal domains and the types of claims that ODR can effectively address. Additionally, managing technological advances is integral to keeping ODR platforms up-to-date and aligned with the evolving needs of users and stakeholders.
- **Pillar 3 – Ethics and safeguards** emphasises the paramount importance of ethical standards and safeguards for ODR. These principles ensure fairness, transparency and accountability, which are vital to trust levels in ODR.

Together, these three pillars form a comprehensive framework that aims to guide the development and implementation of ODR and the broader modernisation of justice systems.



Source: Based on OECD (forthcoming[17]), *The OECD Conceptual Framework for Online Dispute Resolution*.

2.4. Applying the OECD ODR Framework to Latvia

Applying the OECD ODR Framework's three pillars to the Latvian context is detailed below. This set of pillars underscores the importance of placing the design and delivery of dispute resolution services at the centre and embedding digital technologies and data in the process beyond simply considering information and communication technology (ICT) infrastructure.

2.4.1. Pillar 1: Governance

Strategic approach to dispute resolution

A strategic approach to dispute resolution can help enhance efficiency, cost-effectiveness and user satisfaction while promoting a system responsive to the changing needs of individuals and communities. A well-designed dispute resolution strategy should aim to provide efficient, effective, fair and accessible dispute resolution mechanisms, regardless of users' preferred channels. Whether specific, part of a broader digital transformation strategy or sectoral national strategy (e.g. national justice strategy), the strategy should consider justice and legal services, dispute settlement, digital technologies and data.

To successfully embrace digital transformation in dispute resolution, governments must set a clear vision and goals, adopt a whole-of-government approach, engage stakeholders, allocate resources effectively, and establish a well-defined roadmap with targets and key performance indicators (KPIs) for implementation (see Box 2.2).

Box 2.2. Unpacking a strategic approach to ODR

Setting clear vision, goals and principles

A dispute resolution strategy should have a clear and compelling vision of the future and well-defined goals to inform and guide implementation. These goals should be specific, measurable, achievable, relevant and time-bound (SMART). Principles should guide these goals.

In democratic and inclusive societies, the ultimate goal should be promoting accessible and people-centred justice systems for all. As underlined in the OECD Recommendation on Access to Justice and People-Centred Justice Systems, a justice strategy should encompass a human-centred approach that adopts the perspective of people as a starting point and places people at the core when designing, delivering and evaluating justice services. Justice systems should consider the perspectives and needs of potential users and specific communities, including marginalised or under-served groups and vulnerable groups. Likewise, justice systems worldwide are expected to deliver on the promises of the digital age. Therefore, they should aim at achieving effectiveness and efficiency while ensuring the fairness, transparency and trustworthiness of ODR mechanisms.

Addressing the use of digital technologies and data

A well-designed strategy should embed digital technologies and data in the design and delivery of dispute resolution mechanisms from the outset. Following the OECD's long-standing approach to digital transformation in the public sector, digital technologies and data should be considered as a mandatory transformative element to be embedded throughout policy processes. This implies mobilising existing and emerging technologies and data to rethink and re-engineer government processes and the design and delivery of justice policies and services.

In the justice sector, a strategic approach to digital technologies enables justice systems to deliver appropriate, accessible, seamless and effective dispute resolution mechanisms that are responsive to people's legal and justice needs and allow for the timely resolution of conflicts. Embedding digital

technologies as a strategic asset to dispute resolution also makes it possible to design an omni-channel experience that means user journeys provide the same outcomes across all channels.

Data is another element to be considered in the strategy. Sound data governance allows for the interoperable and seamless delivery of dispute resolution services. Likewise, data can be used as a strategic asset to anticipate needs; help governments better plan and design services; monitor and evaluate results; contribute to feedback loops; be evidence-based; and ensure an agile approach to the design and delivery of dispute resolution services.

Adopting a whole-of-government approach

Modernising dispute resolution mechanisms touches several spheres, from ADR providers and front-office civil servants in courts to decision makers in line ministries and central government. Adopting a whole-of-government approach to the modernisation of dispute resolution allows different institutions across branches of power to break down silos and pool their resources, expertise and efforts to tackle challenges that require comprehensive and integrated responses. Concretely, embedding a whole-of-government approach can favour seamlessly consistent, joined-up, high-quality dispute resolution services.

Engaging stakeholders

Involving relevant stakeholders, such as government agencies, private sector entities, civil society organisations and citizens in the design and implementation of a strategy ensures better buy-in and collaboration. Particularly in the case of less-utilised channels (e.g. on line) and methods of dispute resolution (e.g. mediation, arbitration), engagement throughout the policy lifecycle contributes to higher levels of literacy and trust.

Specifying resources

Adequate funding, infrastructure and skilled personnel are crucial for successfully attaining goals. A well-designed dispute resolution strategy should contain a clear plan for allocating resources in the short, medium and long terms. This also helps ensure a sustainable vision and implementation of dispute resolution reforms over time.

Organising outreach and awareness campaigns

A strategy should include outreach efforts to inform potential users about the availability and benefits of different channels to both alternative and in-court dispute resolution mechanisms. This can help expand the strategy's impact and stakeholders' buy-in. Likewise, regular updates on progress and outcomes help build trust and accountability.

Setting a clear roadmap for implementation with targets and KPIs

Regularly assessing the strategy's effectiveness through pre-defined performance metrics can help identify pain points and ensure improvements in an agile approach. Carrying out user satisfaction assessments can also complement pre-defined metrics in the strategy and help understand the performance of dispute resolution services in relation to users' needs and expectations.

Source: OECD (2023[1]), *Recommendation of the Council on Access to Justice and People-Centred Justice Systems*, https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0498; CEPEJ (2021[18]), *Guidelines of the Committee of Ministers of the Council of Europe on Online Dispute Resolution Mechanisms in Civil and Administrative Court Proceedings*, https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a2cf96; OECD (2020[19]), *The OECD Digital Government Policy Framework: Six dimensions of a Digital Government*, https://doi.org/10.1787/f64fed2a-en; OECD (2022[20]), *OECD Good Practice Principles for Public Service Design and Delivery in the Digital Age*, https://doi.org/10.1787/2ade500b-en; OECD (2019[21]), *The Path to Becoming a Data-Driven Public Sector*, https://doi.org/10.1787/059814a7-en; Baredes (2022[22]), *Serving citizens: Measuring the performance of services for a better user experience*, https://doi.org/10.1787/65223af7-en.

Latvia's strategic approach to dispute resolution

The Latvian approach to access to justice and modernising its justice system comprises a set of strategic documents, notably the Latvia2030, the National Development Plan for 2021-2027, the Digital Transformation Guidelines for 2021-2027 and the Justice Strategy for 2022-2026. Latvia2030 defines Latvia's long-term broad development vision. The strategy highlights innovation among its priorities (Government of Latvia, 2010[7]). The National Development Plan for 2021-2027 is Latvia's medium-term development planning document. It sets Latvia's commitments to achieve the 2030 SDGs and builds on Latvia2030. The strategy encompasses each of the points mentioned above, including setting a clear vision and goals, adopting a whole-of-government approach and engaging stakeholders, specifying resources, and setting clear funding sources, targets and bodies in charge of implementation.

Priority 6 of the National Development Plan for 2021-2027 ("Direction: Rule of law and governance") contains the most relevant measures around access to justice and ODR. It sets targets on "developing a culture of dispute resolution through the use of ADR methods, including an increased role for mediation" (Measure 427) and ensuring accessible and efficient judicial and law enforcement systems (Measure 429). Strengthening capacity, improving co-operation and simplifying the process of court and out-of-court dispute mechanisms are among the means to attaining these measures. Digital technologies and data are equally mentioned as key transformational aspects to attain these goals. The Ministry of Justice, together with other ministries, municipalities and non-governmental organisations (NGOs), are appointed as responsible institutions for implementation, and the state budget as the primary source of funding (Government of Latvia, 2020[8]).

A talented and skilled workforce and society are other priority areas deserving attention in Latvia (Priorities 2 and 4). The National Development Plan for 2021-2027 acknowledges the need to improve digital skills to foster inclusiveness in society and effectively deliver public services (Government of Latvia, 2020[8]). This confirms findings identified through interviews when several stakeholders emphasised the lack of digital literacy as one of the main challenges to the uptake of ODR in Latvia (see Actors in context).

Despite recognising the importance of digital technologies to leverage public services (Priority 4 – "Direction: Technological environment and services"), the strategy adopts a "digital-by-default" approach to digital transformation in the public sector or, in simple words, putting services and information on line. While this approach might seem like an expedient solution, it often overlooks the complexities of digital transformation and designing and delivering services, including the diversity of users' needs and preferences.

Latvia could consider advancing towards a "digital-by-design" approach for the development of its upcoming strategy. Such an approach entails embedding digital technologies and data from the outset in the design and delivery of justice policies and services. It recognises that digital technologies and data are carefully applied to enhance effective service delivery and users' experience, regardless of their opted channel (e.g. on line, telematic, in person). This helps avoid the pitfalls of exclusion and one-size-fits-all solutions.

The current Latvian Justice Strategy sets the rule of law as the ground for vision, values and priorities for 2022-26 (Government of Latvia, 2022[10]). The strategy encompasses a clear vision and goals, a whole-of-government approach, engaging stakeholders, and clear funding sources, targets and bodies in charge of implementation. The strategy defines the rule of law as awareness of rights and duties, access to recourse, law enforcement and safety, contributing to overall prosperity and growth. Promoting a fair judicial system, digital transformation of justice services and a safe business environment are among the five main priorities of the justice strategy.

Linked to its vision and priorities, the document renews Latvia's commitment and ongoing digital transformation efforts to leverage access to justice (Government of Latvia, 2022[10]). Among the strategy's objectives, Latvia emphasises the development of online channels for dispute resolution for in-court and

out-of-court dispute settlement. The strategy also mentions leadership, skills and digital transformation of justice among pre-conditions for the sustainability of objectives in the long term (Government of Latvia, 2022[10]). These are common and cross-cutting to the 12 specific policy areas covered in the strategy (e.g. constitutional law, administrative law, commercial law and civil rights).

Expanding opportunities for the engagement of stakeholders in policy making and accountability of decisions, enhancing communication with the public and fostering a justice ecosystem and co-operation within and outside Latvia are among the main targets for leadership. This is present, for example, in promoting stakeholders' meaningful participation, including vulnerable groups, in constitutional and real state law policies, as well as accountability mechanisms to justify how engagement is considered in policy and decision making.

The strategy also shows concern for the future of the workforce in justice. Reflecting priorities set in the National Development Plan for 2021-2027, the Latvian government commits to promoting institutional changes, including organisational structure, learning culture and ways of working, and supporting upskilling (e.g. communication, analytical skills, flexible thinking, digital user skills) and retaining civil servants following the current and upcoming needs of the justice sector. These commitments are found in the Justice Training Centre and initiatives to share good practices, for example.

Robust, reliable and safe infrastructure, online services and gradual adoption of emerging technologies are top commitments of the Ministry of Justice for delivering a modern and people-centred justice. The Latvian justice strategy puts forward digital transformation as a means to leverage access to justice in the country (Government of Latvia, 2022[10]). This encompasses cross-border legal co-operation and linking justice services to customer service centres. The strategy emphasises other important areas where digital technologies and data can be beneficial for business environments, such as the implementation of the EU Directive 2-19/1151 on the use of digital tools and processes in company law (European Union, 2019[23]), the development of Business Registers Interconnection System (BRIS) and Beneficial Ownership Registers' Interconnection System (BORIS) processes (Government of Latvia, 2022[10]).

The strategy underlines the importance of digital technologies and data to leverage out-of-court dispute resolution mechanisms and further develop the e-case platform and portal for effective access to online court proceedings. The strategy also mentions the importance of triage mechanisms, the integration of ADR in court systems and online publication of court decisions. Digital technologies and data are mentioned as important means to improve the efficiency of the internal processes of courts and enhance law enforcement. The Latvian justice strategy is concerned with a trustworthy and safe use of data, notably in light of the potential risks justice data can entail to data subjects. At a societal level, the strategy aims to promote communication campaigns to provide information on the value of data in the public sector and empower people on their rights and recourse for data protection.

In parallel, the Digital Transformation Guidelines for 2021-2027 highlight the digital transformation of justice among its action areas. The accessibility of services, the simplification of proceedings and upskilling the justice workforce are emphasised in the strategy. The document also covers justice data, particularly the structuring of said data. Importantly, the guidelines in the field of digital transformation are a cross-sectoral planning document that defines national priorities in the field of digital transformation, as well as basic principles in the aspects of digital transformation that should be taken into account when planning and implementing sectoral policies. The strategy strongly emphasises the digital transformation of dispute resolution mechanisms (in-court and out-of-court) and the implementation of Phase 2 of the e-case program, with detailed steps and "required actions".

Actors in context

Implementing the OECD ODR Framework requires considering a wide range of stakeholders at multiple levels (OECD, forthcoming[17]). Policy makers need to consider creating and maintaining rules and institutions within a coherent framework. This comprises setting up institutions, creating or remodelling

legal frameworks, hiring, training, and retaining staff, building and updating ICT infrastructure and managing the associated cultural changes that ODR entails (OECD, 2021[24]).

In Latvia, the digital transformation of the public sector is co-ordinated by the Information Society Council, of which the Minister of Justice is a member. The lead rests with the Ministry of Environmental Protection and Regional Development (VARAM). This ministry co-ordinates the activities across Latvia. In addition, inter-institutional working groups are concerned with the details of the digital justice strategy. Likewise, Latvia has put in place several working groups and steering committees to drive the implementation of Latvia's strategies on the digital transformation of justice. Some examples are the E-Case Council, the Interinstitutional Working Group, the Information System Users Working Groups and the E-Case Program Council (see Table 2.1).

Table 2.1. Co-ordination mechanisms within the Latvian government to steer the implementation of the strategic approach on digital transformation in justice

Co-ordination mechanism	Members	Areas covered	Co-ordinating institution	Frequency of meetings/interactions
E-Case Council	Right of vote: Minister of Justice, Minister of Environmental Protection and Regional Development, Minister of the Interior, Prosecutor General Advisor: Minister of Finance	A collegial institution that supervises the e-case and co-ordinates its operation and development by approving the unified national-level E-Case concept, architecture, action plans and source of financing	Chairman: Minister of Justice Secretariat: Ministry of Justice	At least two times a year
Interinstitutional Working Group	Consists of information technology (IT) experts from each institution that has joined or is planning to join the E-Case Platform for Data Exchange (e.g. Ministry of Economics, Prison Administration, Legal Aid Administration, Competition Council, Corruption Prevention and Combating Office, Union of Local Governments of Latvia, Prosecutor's Office of the Republic of Latvia, Latvian Council of Sworn Advocates, Latvian Council of Sworn Notaries, Constitutional Court, State Revenue Service, State Probation Service)	Co-operation and co-ordination of working groups to ensure the implementation and development of a unified national E-Case concept and unified E-Case architecture, as well as further operation of the e-case, preparing information and documents for the E-case Council.	Chairman: An expert of the Court Administration on ICT issues Secretariat: The Court Administration	At least four times a year
Information System Users Working Groups	Representatives of courts (e.g. judges, judges assistants), lawyers, applicants	Working groups in every litigation process (e.g. e-civil cases, e-criminal cases), with lawyers, with applicants using the e-case portal "Elieta.lv" for filing applications for compulsory enforcement of obligations according to the warning procedure. Working groups discuss topics regarding information system improvements and user experience.	Chairman: An expert of the Court Administration on ICT issues	As required, each working group usually meets at least once every two months
E-Case Program Council	Representatives from the Ministry of Justice, the Ministry of Environmental Protection and Regional Development, the Ministry of the Interior, the	A collegial institution on the use of EU Recovery and Resilience Mechanism (RRF) funds for the E-Case Program	Secretariat: Project Department of the Ministry of Justice	At least two times a year

Co-ordination mechanism	Members	Areas covered	Co-ordinating institution	Frequency of meetings/interactions
	Prosecutor's Office of the Republic of Latvia, the Court Administration, the Information Center of the Ministry of the Interior As advisors: Representatives of the Central Finance and Contracts Agency, Prison Administration, Legal Aid Administration, State Probation Service and other representatives of the Ministry of Justice			

Source: Information provided by the Latvian Court Administration.

Overall, Latvian authorities show a commitment to improving the efficiency and accessibility of justice, including through the introduction of digital technologies and, in particular, tools such as ODR. The Latvian Court Administration trusts that ODR can further enhance access to justice by helping deliver justice services more simply, faster and at lower costs (Government of Latvia, 2021[25]).

Other stakeholders show a strong interest in the implementation of ODR. Interviews carried out for the development of this report reflected their awareness and involvement in some of the government's initiatives in ODR. Business associations representing finance and insurance institutions expressed seem keen on expanding ODR in Latvia as an avenue to standardise proceedings for dispute resolution, improve certainty in dispute outcomes, reduce time for payments, spare human resources, facilitate new entrants to the Latvian market and improve economic welfare.

Stakeholders in the front-line of service delivery seem equally supportive of ODR. Professional associations of judges, arbitrators, ombuds and mediators, lawyers and civil servants showed interest in having at their disposal tools enhanced by digital technologies and data for the automatic completion of information, verification of addresses and jurisdictions, calculation of state fees and remote consultations. These groups of stakeholders emphasised the importance of putting users at the core of designing justice services and considering an omni-channel approach to ensure effective access to justice, regardless of users' preferred channels to legal and justice services.

At the same time, some of the biggest challenges for ODR in Latvia revolve around culture, digital talents and skills and ICT infrastructure (e.g. Internet connection, hardware). Fact-finding interviews revealed a certain level of scepticism about embracing further innovation in justice from various justice stakeholders who would be affected by the change. Such scepticism might result from previous digitalisation attempts that might not have always been perceived as successful by the judiciary staff and service users.

Looking ahead, to tackle these challenges, it would be important to involve stakeholders (e.g. law makers, policy makers, court administrators, judges, public servants, lawyers, ombud schemes, arbitrators, mediators, professional associations, translators, notaries, ICT staff, technology service providers, businesses and citizens) as early as possible and throughout the whole process of designing and delivering ODR services in Latvia and monitoring barriers to stakeholders' participation. Besides increasing a sense of ownership of ODR services, involving stakeholders could foster dialogue and awareness of digital transformation in justice and a cultural change among justice stakeholders.

At the level of delivering ODR services (e.g. by court administrations, judges, ombud schemes, arbitrators and mediators), legal frameworks and policies need to be translated into concrete daily practices. Challenges in the governance of ODR are not limited to law makers, policy makers and justice

administrators. Instead, the needs and expectations of service users (see Vulnerable groups, Businesses as parties, ODR involving public bodies), professional associations, notaries, mediators, lawyers, judges and civil servants, ICT staff and service providers should be factored in when designing and delivering people-centred ODR services.

Leadership should continue its efforts by implementing initiatives that foster openness to innovation and a learning culture within justice institutions. For example, Latvia could support initiatives where civil servants are encouraged to learn, and exchange good practices for instance through working groups and task forces within justice and across sectors. This helps nurture civil servants' curiosity and mitigate their risk aversion.

Within the public sector, fostering a learning culture where civil servants are encouraged to develop new skills, apply knowledge and nurture their curiosity can help increase their engagement and buy-in for using digital technologies and data in ODR. It also equips the justice sector to deliver better services to people (OECD, 2021[26]). In addition, in line with practices in some OECD countries, such as Canada and France (see Box 2.3), other avenues to assist the public sector and people in embracing ODR would be providing trainings to civil servants to help self-represented individuals who are unfamiliar or uncomfortable with using digital tools (see Vulnerable groups and ODR and justice institutions) or involving community librarians in providing basic guidance on online legal and justice services.

Box 2.3. Improving capacity in the public sector to enhance online access to justice services

Canada: Training community librarians to support access to justice

A partnership has been developed between Ontario's Community Advocacy and Legal Center (CALC), the Community Legal Education of Ontario (CLEO) and public libraries. The initiative aims to involve community librarians in enhancing access to legal services, especially for communities from remote and rural areas. The partnership focuses on training librarians to provide credible information to people seeking guidance on justice and legal services. CALC and CLEO organised several workshops to train library staff to provide support on accessing and using justice and legal online resources, including CALC's and CLEO's websites. Legal references in public libraries were updated, and librarians were trained to be familiar with online resources.

Trainings for community librarians allow them to better answer requests for justice and legal information resources and enable them to improve the delivery of legal education and public information. While bridging the access to justice gap, this initiative has also strengthened librarians' role in the community. Librarians have become trustworthy points of contact that support local communities in accessing justice and legal services and are important actors in decreasing the justice gap.

France: Rolling out digital advisors to support access to online public services

In France, 4 000 digital advisors (*conseillers numériques*) are recruited and trained to assist people and small and medium-sized enterprises (SMEs) to access and learn how to use public services on line in their daily lives. This initiative was launched by the Secretary of State for Digital Transition and Electronic Communication as part of the French post-COVID-19 recovery plan. This initiative aims to closely support people and businesses in using online services as needed and encourage them to embrace digital transformation.

Digital advisors are allocated in places where they can be in close contact with the local population (e.g. libraries, associations, city halls). This is enabled by partnerships between central government and local authorities, associations, and social and solidary-based enterprises. Individuals and SMEs can consult the digital advisors' website to find their nearest digital advisor. Digital advisors organise workshops to train and support citizens and SMEs in using online services and tools (e.g. Internet, e-mail, smartphone applications, word processing and digital content management). Support can be

adapted for specific needs and purposes, such as completing online administrative procedures, finding a job or training. This includes helping users in case of litigation or dispute.

Beyond helping bridge the digital gap in France, digital advisors fulfil another important role. They are an important source of information and help direct users to appropriate service channels or local facilities for detailed information or support with specific services. For example, digital advisors can provide contact information on justice institutions (bar association, legal aid, notaries, bailiffs).

Source : Community Advocacy and Legal Centre (2015[27]), *Librarians and Access to Justice Outreach : Project Report and Resources*, https ://communitylegalcentre.ca/wp-content/uploads/2018/03/Librarians-and-access2justice-report.pdf ; Government of France (2023[28]), *Conseiller numérique France services*, https://www.conseiller-numerique.gou v.fr/; Government of France (2023[29]), *Conseiller numérique : Lieux de médiation numérique par région*, https://www.conseiller-numerique.gouv.fr/regions.

A particular stakeholder group that requires integration in different stages of the design and delivery of dispute resolution services are technology services providers – both internal (e.g. as part of court, arbitration, ombud or mediation institutions) and external/outsourced (see Public and private partnerships for ODR). Fact-finding interviews revealed that ICT teams operating within justice institutions in Latvia receive legal and institutional support (e.g. from law makers, policy makers). Additionally, a comprehensive approach involving the entire government, such as working groups and taskforces, is adopted during the design and delivery phases of digital transformation projects.

Non-governmental and private service providers are an integral part of the full chain of legal and justice services. Involving justice service providers and technology service providers allows for a collation of perspectives and experiences of people facing legal and justice needs and creates space for listening to users of the justice systems (OECD, 2021[6]). Nevertheless, a challenge remains to create a collaborative, open and agile environment to bring together justice and technology service providers. The delivery of people-centred justice comes with a wide range of responsibilities across state and non-state bodies and calls for collaboration to more effectively address people's legal and justice needs in a timely manner. Understanding and embedding the culture of collaboration between different service providers is essential to achieve the desired outcomes of meeting users' needs and expectations.

Vulnerable groups

ODR holds opportunities and risks for vulnerable groups.[1] By putting users' needs at the core of designing and delivering services, digital technologies and data can adapt justice services to special needs and bring justice closer to people. During fact-finding meetings, several stakeholders emphasised the advantages that ODR could potentially bring to enhance access to justice in Latvia for vulnerable groups. Among the examples, stakeholders mentioned the importance of facilitating access to online services and information, including catalogues and online one-stop-shops for people with reduced mobility, suffering from certain health conditions or living in remote areas. ODR also shows potential to make access to justice more affordable by allowing people to consult information and services without the need to travel long distances or interrupt their routines to visit public facilities.

From another perspective, however, digital technologies and data may exclude those users who cannot or do not want to interact through online channels. Access to online justice services can be a concern in particular to elderly groups in Latvia. The number of internet users considerably drop for people above the age of 55 compared to other countries (OECD, 2020[30]). Stakeholder interviews revealed a strong awareness of the potential risks ODR could entail. For example, on several occasions during the fact-finding interviews, stakeholders shared concerns about the lack of digital user skills (e.g. use of a computer or accessing information on line), access to infrastructure (e.g. broadband connection, a computer) by households in Latvia, and resources to purchase devices or software among a ratio of the Latvian population are potential barriers for accessing ODR services.

Adopting a people-centred approach when designing justice services is the starting point for achieving higher levels of quality and inclusion of justice services. In particular, aiming for omni-channels as a principle can help design user journeys that work for users across all channels (e.g. screens, phone calls, virtual assistance or face to face) seamlessly. Consolidating channels and ensuring integration and interoperability of services can improve coherence in the outcomes of a service, regardless of the channel(s) used (OECD, 2022[20]). Using non-digital channels as opportunities to engage, inform and encourage users to support the transition to the use of digital channels is another form of bringing users, notably vulnerable groups, closer to digital transformation in the medium and long terms. Latvia has already been taking steps in this regard by training community librarians and making public libraries available as access points for people attending hearings or consulting information on line about their cases.

To fully unlock the potential of digital technologies and data in implementing ODR services to consider vulnerable groups, the Latvian government would need to approach the design and delivery of public services by treating data as a strategic asset (see Data governance and its strategic use). This implies understanding the need for qualitative and quantitative data and appropriately using them to iterate throughout the service lifecycle (OECD, 2022[20]). Following such an approach can positively impact serving people's needs, notably vulnerable groups.

Interviews also revealed that certain vulnerable groups (e.g. the Roma community) often suffer from similar limitations regarding traditional channels of justice services. For example, low education may prevent certain groups from understanding the justice system and responding adequately, such as submitting and/or replying to a claim, providing documents and filling in forms. Other important barriers identified were difficulty in understanding communications by non-Latvian speakers in the country and an overall lack of awareness of justice institutions. For example, interviews suggested that some citizens do not know how to explain their applications and which applications to bring, even in cases where the documents they receive are written in relatively easy-to-understand language.

While ODR has great potential to support vulnerable groups, interviews and desk research suggest that Latvia may need to consider enhancing digital literacy and legal awareness to empower their citizens, notably vulnerable groups, and increase the buy-in of innovative solutions in justice. Efforts can consider strengthening community legal education and providing self and guided help to improve understanding of rights, duties and recourse to justice. Partnering with civil society organisations and community services (e.g. local authorities, trusted members of the community, or public officials) is another avenue to involve the local community in the delivery of justice services (see Box 2.3) (OECD, 2021[6]).

Businesses as parties

Designing ODR mechanisms involving businesses on one or both sides of a dispute requires considering different types of businesses. Micro and small businesses, for instance, have different needs in terms of access to justice than large companies. In the case of Latvia, this is particularly relevant as the country has a large population of micro-businesses[2] – 97 220 in 2022 (Statista, 2022[31]). Micro-businesses accounted for 92.7% of all businesses in Latvia in 2022 (European Union, 2022[32]).

Micro and small enterprises often struggle to engage with traditional justice systems (OECD, forthcoming[17]). Litigation options are often perceived as too expensive, slow, and cumbersome by smaller businesses (Blackburn, Saridakis and Kitching, 2015[33]). Given the reduced capacities and smaller resources available to these groups of businesses, the cost and non-monetary burden of conflict is relatively higher for them (OECD, 2017[34]). Against this background, Latvia could consider introducing particular ODR pathways for micro and small enterprises. For example, ombud schemes or conciliation procedures could be introduced for business-to-business (B2B) conflicts. Currently, such approaches are limited in Latvia. However, there is great potential to also offer swift and affordable justice to businesses by way of such schemes, in particular, for small value disputes.

As with citizens, it is essential to understand the justice needs of businesses in order to design useful ODR options for them. As part of the agile approach to justice service design, Latvia would benefit from mechanisms to better understand the specific justice needs of businesses, particularly micro-enterprises. Legal needs surveys are one way to gather the necessary empirical evidence (OECD/Open Society Foundations, 2019[35]). This would allow the Latvian government to meet businesses where they are with their access to justice needs rather than requiring them to adjust to inefficient public structures. Empirical research shows, for example, that businesses prefer dispute resolution mechanisms that provide them with more control (PricewaterhouseCoopers and Europa-Universität Viadrina, 2005[36]). ODR mechanisms follow accordingly as they provide businesses with more control, taking as examples mediation and conciliation.

ODR involving public bodies

The use of ODR mechanisms for disputes has specific challenges. ODR mechanisms, notably ADR, might need adjustments as dispute resolution mechanisms traditionally build on the assumption of private relationships between parties rather than an asymmetric relationship, in which one party (the state) holds public power over the other. However, ODR can also bring value to dispute settlements involving public institutions.

In addition to saving time and costs, ODR can enhance citizen and business trust in public institutions (Noone and Ojelabi, 2020[37]). For example, offering fast and efficient ODR of tax-related disputes can promote good government-taxpayer relations (Sourdin et al., 2016[38]). In Latvia, the advice-first approach has proven very successful. At the same time, users might be sensitive to whether a possible involvement of the state on both sides (i.e. as a provider of dispute resolution services and a party) can impact the neutrality of services offered.

A further issue that merits attention is the involvement of public bodies and public departments in dispute resolution pathways. ODR may already start as part of a particular public body's services. For example, a public register may annex an ODR mechanism and legal aid on its website. Interviews have shown that some progress in this area has been made. However, links between different services could be improved using one-stop-shop platforms (see One-stop-shop in Chapter 3).

ODR and justice institutions

Modernising justice systems often calls for significant changes in skills and institutional environments and may require simplifying and standardising existing processes (Reiling and Contini, 2022[39]).

A crucial issue in implementing digital transformation initiatives such as ODR is bridging the digital skills gap. ODR requires that civil servants master the necessary skills and expertise to maximise the benefits ODR can offer. Creating an environment that enables and fosters the development of skills and talent is part of the challenge of integrating ODR and promoting broader digital transformation reforms in the justice system. A learning culture that encourages digital transformation must be embraced at all levels (OECD, 2021[26]). This starts from an organisation’s leadership in encouraging and providing a safe environment where civil servants can experiment, learn and develop their capacities to deliver better justice services in the long run.

Latvia has taken steps to bridge the digital skills gap within its justice institutions. The Court Administration regularly promotes training sessions for judges and administrative staff on the latest features provided by the TIS. These training sessions aim to help users become familiar with the platform, including the use of the newly adopted tools, and increase the efficiency of the judicial process. Civil servants recognised workshops on TIS functionalities (e.g. introduction of e-files) among their most valuable training sessions in 2021 (Government of Latvia, 2021[40]).

In 2022, Latvia concluded a four-year training period on the effective use of ICT skills for 3 470 employees of the justice system and affiliated institutions (e.g. judges, court employees, prosecutors, law enforcement officers, investigators, forensic experts, policy makers and implementers, notaries, lawyers). The training was carried out within the framework of the European Social Fund project "Justice for Development" and covered several topics, including the use of jurisprudence and litigation databases, good practices for everyday computer use in courts and the use of electronic documents, digital evidence, information security, cyber security and personal data protection (Government of Latvia, 2022[41]).

In 2023, Latvia launched the Justice Academy, a training centre for developing qualifications and continuously improving civil servants' skills in justice while performing their duties. From 2025, training sessions and seminars will be directed to judges, court assistants, prosecutors, assistant prosecutors, investigators and lawyers. Latvia is currently working to approve the regulatory acts related to establishing the Justice Academy and developing its curriculum.

While judges are expected by law to attend training (Government of Latvia, 1993[42]), there is no such requirement for other civil servants in the justice system. Likewise, digital literacy does not seem to be addressed in any specific law or skills framework for the justice sector. To ensure consistent levels of digital literacy among all members of the justice system, including ADR, Latvia could consider integrating digital user skills as components of a justice sector skills framework and extending training obligations to other civil servants. Latvia would also benefit from having the Justice Academy integrate in its programme skills around the management and use of data and ethical considerations on using digital technologies and data. This would help mitigate risks involving the potential misuse of digital technologies, including emerging technologies and data in the justice sector in Latvia. Likewise, it would be beneficial to consider integrating training throughout the whole justice civil servants' career lifecycle. This could be done, for instance, in the context of the Justice Academy project.

Public and private partnerships for ODR

The changing ecosystem of ODR raises questions about the role public and private sector service providers can play in delivering services. Non-governmental and private service providers might be in a position to develop attractive dispute resolution services following agile and innovative approaches (OECD, forthcoming[17]). Creating the right conditions for private service providers to develop ADR platforms can foster the uptake of ADR in Latvia and potentially help reduce the number of cases that go to court. When involving such actors, the process should consider, for example, commissioning processes that value a people-centred approach.

Some jurisdictions have seen the emergence of private service providers complementing ODR services offered by public institutions. This can take different forms. For example, business associations might set up a customer dispute resolution system. Establishing private ODR platforms could also be an option for certain cases, such as small claims or consumer disputes. In other instances, laboratories and start-ups have been developing solutions that help people and businesses understand the legal aspects of a potential conflict; assigning neutral third parties for cases; drafting letters to parties and dispute resolution institutions; collecting relevant information from parties to diagnose a conflict or issue; setting up resolution flows; and creating customisable document and e-mail templates, real-time dashboards, pre-configured decisions and reports.

Integrating ODR mechanisms with court systems is key for a seamless experience for people, businesses, judges, court assistants, attorneys and mediators involved in pre-court and court dispute resolution. Seamless integration of ODR systems enhances the potential for successful collaboration between public and private service providers. For example, should a private ODR platform be established for certain cases in Latvia, such as the simplified procedure or consumer cases, it would be essential to maintain a strong link with the court system. This would ensure that parties act in good faith and that ODR settlements are enforceable in courts (see Box 2.4). The ODR settlement could hold a legally binding force.

Box 2.4. Partnering with service providers to enhance ADR services

Tyler Technologies: Developing fit-for-purpose solutions for courts

Tyler Technologies is a private company headquartered in the United States that offers integrated technology and management solutions for the public sector, including integrated software designed for ADR, courts and justice agencies. This software covers various aspects, such as court case management, electronic filing, investigations and audits, jury management and virtual court products.

Tyler's ODR solution guides parties step by step through an online process to swiftly resolve disputes. The product is powered by the Modria platform, which aims to relieve the burden on courts by empowering citizens to address their disputes on line, at their convenience and from anywhere. Asynchronous communication gives parties time to thoughtfully consider their responses. If they cannot resolve the issue on their own, either party can invite a mediator or an expert from within the platform to help them resolve the issue.

In a nutshell, Modria's platform makes it possible to:

- diagnose the issue
- enable online negotiation between parties
- provide access to a mediator, if needed
- refer the case for an evaluative outcome.

Tyles Technologies facilitates integration between its ODR solution with Enterprise Justice, providing a seamless experience for parties, lawyers and justice civil servants.

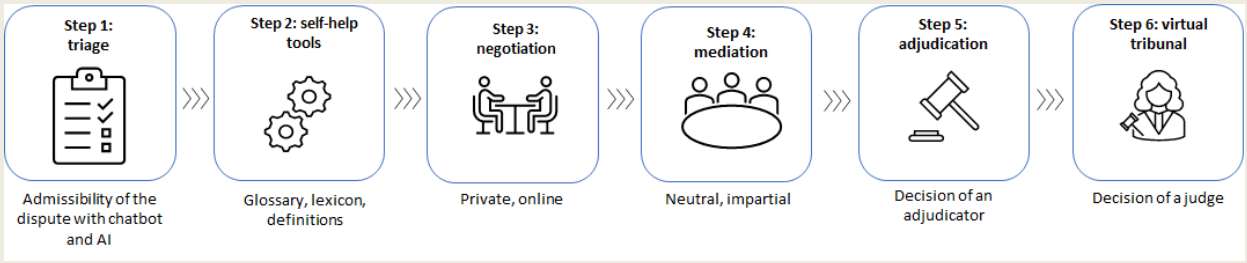
Resolver: Connecting consumers to ODR

Resolver, an example from the United Kingdom, is a private ODR tool to assist consumers and businesses in managing and settling their disputes outside of court. The solution is a free and neutral platform that facilitates communication between parties and achieving dispute resolution. Acting as a neutral third party, Resolver also offers guidance to consumers, helping them make informed decisions and connecting with public or private organisations tailored to their needs.

Resolver provides tailored guidance to help consumers resolve their issues. The solution features a search engine that enables consumers to identify complaint procedures adapted to their issues. Resolver empowers consumers by providing them with information about their rights and guidance on pathways to resolve their legal and justice needs. Resolver also provides templates for consumers to draft adapted communications to businesses. In cases where a business fails to respond to a consumer's complaint, Resolver automatically notifies them. If parties cannot resolve their case, the service offers a package of information to help consumers plan the next steps in addressing their legal or justice issues. For instance, Resolver can redirect consumers to public or private ADR providers.

Cyberjustice Laboratory: Transforming the dispute resolution experience for everyday issues

PARLe, an example from Canada, is a globally recognised leader in ODR. The PARLe platform (Platform to Aid in the Resolution of Litigation electronically) empowers courts and public bodies to transform the dispute resolution experience for everyday people. PARLe increases access to justice by facilitating dispute resolution before cases go to courts, tribunals and administrative bodies.



This solution is highly modular and adaptable to the needs and contexts of each jurisdiction and type of claim. PARLe also allows for the smooth and seamless integration between pre-court ADR mechanisms and e-court systems. Among its functionalities, the platform allows for the direct transfer of files from ADR institutions to courts. This feature is particularly beneficial as it facilitates enforcement by swiftly transferring documents and non-compliant settlement agreements with the click of a button. PARLe has been adopted in several jurisdictions, including Quebec (Office de la protection du consommateur, OPC) and Ontario (Ontario Condominium Authority Tribunal, CAT).

Source: Tyler Technologies (2022[43]), *Courts and Justice: Courts and Public Safety*, https://www.tylertech.com/solutions/courts-public-safety/courts-justice; Tyler Technologies (2022[44]), Br*ochure: Online Dispute Resolution - Proven Technology*, https://www.tylertech.com/resources/resource-downloads/brochure-online-dispute-resolution-proven-technology; Tyler Technologies (2022[45]), *Enterprise Justice Software*, https://www.tylertech.com/products/enterprise-justice; Resolver (2022[46]), *About Resolver*, https://www.resolver.co.uk/about; Cyberjustice Laboratory (2022[47]), *PARLe – Plateforme d'Aide au Règlement de Litiges en ligne*, https://www.cyberjustice.ca/logiciels-cyberjustice/nos-solutions-logicielles/parle-2/.

Fact-finding interviews have revealed that technology-based dispute resolution services are rarely offered on a private basis in Latvia. In particular, Latvia seems to lack a thriving LawTech start-up scene like those in other OECD countries, such as Estonia, Germany and the United Kingdom. A potential avenue for developing ODR in Latvia is establishing an ecosystem that promotes legal tech initiatives and encourages private provision of ODR services. Relevant elements for such an ecosystem include regulatory practices that foster innovation in ODR services by private service providers, making funds available for LawTech start-ups and fostering the development of skills to support competitive start-up leadership.

Consideration could be given to providing funding for LawTech start-ups through a competitive funding call. Similar funding mechanisms are in place, such as those offered by Innovate UK, the United Kingdom's national innovation agency. LawTech start-ups can apply for general innovation grants, and there are also specific funding rounds dedicated to the LawTech sector.

Other initiatives to promote legal tech and encourage innovation are hackathons organised by public institutions (e.g. Ministry of Justice, Consumer Rights Protection Centre) in collaboration with universities, associations and professional organisations. Likewise, co-operation with regional and local start-up events (e.g. Techchill, Startup Days Latvia, sTARTUp Day Estonia, Deep Tech Atelier) would further align the ODR agenda with the needs of service providers and users.

2.4.2. Pilar 2: Policy levers

Legal and regulatory framework

ODR requires a legal and regulatory framework that not only authorise certain practices but also supports further advancements in the area. The first aspect, authorising practices, is necessary to ensure that procedural steps can be carried out online. This may concern, for example, submitting and signing documents, sitting hearings or making proof of identity through ODR platforms. The second step, supporting further advancements, refers to creating opportunities and possibilities for courts, arbitration bodies, ombuds and mediation services to adopt new online practices or collaborate with private ODR service providers.

Box 2.5. Developing a suitable legal and regulatory framework for ODR

In general terms, developing a suitable legal and regulatory framework for ODR requires addressing the scope of the regulatory plan, target audience, relevant actors, suitable regulatory arrangements, principles and content. These aspects are detailed below:

1. **What is the scope of the proposed regulatory plan?** This question aims to emphasise aspects related to the digital transformation of dispute resolution. As this report highlights, ODR suits all legal domains and types of cases in the area of civil and commercial law. Depending on the country's context, feasibility, stakeholder buy-in and available resources, some governments may opt to focus on certain areas first. For example, as part of the Latvian government's commitment to promoting ODR (see Strategic approach to dispute resolution), the country's attention has been channelled to areas such as simplified and warning procedures. As Latvia advances in its agenda of the digital transformation of justice, it may wish to consider expanding ODR to other areas or types of procedures.
2. **Who is the target audience?** Based on the regulatory plan, it is valuable to identify the target audience affected by the reform. This may concern, for example, those involved in delivering justice services (e.g. judges, ombuds, mediators, administrative staff), the involved parties, the advisors supporting those parties (e.g. lawyers, accountants, tax advisors) and those supplying the hardware and software that enables setting up dispute resolution on line (see Public and private partnerships for ODR). Identifying the target audience is important to identify needs and helps foresee the effects of legal and regulatory reforms on certain groups. This may help in adopting a tailored approach to address the specific challenges and requirements of those affected. Likewise, identifying the target audience is important to enabling inclusive decision making and, thus, enhancing the legitimacy and effectiveness of reforms.
3. **Who are the relevant regulatory actors?** In line with the OECD ODR Framework (OECD, forthcoming[17]), an effective legal and regulatory framework requires the involvement of a wide spectrum of stakeholders, including the Parliament and other policy makers (e.g. governments and ministries), courts, lawyers, IT specialists, users, dispute resolution institutions (e.g. ombuds) and professional organisations. Interviews and workshops conducted throughout this project have shown good levels of co-ordination among stakeholders. An example is the implementation of Phase 2 of the e-case program, with the engagement of the Ministry of Justice, Court Administration and the Latvia Ministry of Environmental Protection and Regional Development. Latvia should continue to mirror its own efforts to engage stakeholders when developing a legal and regulatory framework for ODR.
4. **What is the most suitable regulatory form?** A wide range of possible regulatory and other government instruments, such as legislation, government regulations, case law and practice directions, could be employed to create a sound ecosystem for ODR. This might also include soft law approaches, such as codes of conduct, institutional rules, pledges and contractual clauses. In addition, the market forces of supply and demand may also impact the regulatory landscape. This is relevant, in particular, for those forms of ODR where the state lacks a monopoly, as in most forms of ODR other than e-court proceedings (International Finance Corporation, 2016[48]).
5. **What is the rule or principle to be enunciated?** An essential step in creating an effective regulatory framework for ODR is identifying the rules or principles. New rules can be general and abstract or concise and specific. In the context of Latvia, existing legal rules and principles may require updates if new areas transition to ODR.

6. **What is the regulatory content?** The content of ODR regulation is a matter of public policy. For example, this report applies ODR to three selected policy areas: simplified and warning procedures and consumer claims. Legal needs surveys and administrative data could be useful resources to support law making and regulatory decisions. For instance, data on the total number of cases of a certain type received annually, court hearings held in absentia and number of claims filed digitally may serve as proxies to identify areas ODR can advance. Reporting progress on the implementation of legislation, like the European Commission's Consumer Disputes Out of Court report (European Commission, 2022[49]), can also be a useful way to help identify challenges and inform possible future reflections on the uptake of ODR.
7. **How do we align the form with the content?** Different areas and aspects of ODR may require different regulatory approaches and different blends or layers of regulation. For example, regulating online ombud proceedings may be based on legislation, a ministerial instrument, an ombud institution's charter and contractual clauses between the parties using an ombud proceeding.
8. **How do we determine the appropriate regulatory blend?** Different jurisdictions adopt different regulatory approaches to ODR. Depending on the institutional status of ODR and involved actors, some approaches rely predominantly on statutory rules, while others lean more towards private autonomy and contractual solutions. Others employ mixed approaches (International Finance Corporation, 2016[48]).

Source: International Finance Corporation (2016[48]), *Making Mediation Law*, https://doi.org/10.1596/28297; OECD (forthcoming[17]), *OECD Conceptual Framework for Online Dispute Resolution*; European Commission (2022[49]), *Resolving Consumer Disputes Out of Court (Report)*, https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13417-Resolving-consumer-disputes-out-of-court-report-_en.

Effectively introducing ODR would require amending the Latvian Civil Procedure Law and other relevant laws governing court proceedings, notably the Arbitration, Mediation and Consumer Rights Protection Laws. Certain reforms would also enhance the uptake of ADR mechanisms in Latvia.

In the case of the Arbitration Law, Latvia could consider strengthening the independence, objectiveness and fairness of arbitration institutions and arbitrators. This could encompass further detailing high ethical standards prescribed in Section 14 (5), Section 16 (2), Section 17 (1) and (2), and Section 22 of the Arbitration Law (Government of Latvia, 2014[50]). To enhance quality and trust in arbitration, Latvia could also consider amending the Arbitration Law with an annulment procedure in case of a breach of independence, objectiveness and fairness of an arbitral decision. Likewise, arbitration could be strengthened by reforms providing legal certainty for the arbitral awards rendered.

To support the digital transition of arbitration services, Latvia could standardise and specify the use of certain digital tools in arbitration. Stakeholders have reported that laws sometimes cast doubt on the validity of arbitral awards arising from online procedures. In particular, addressing stakeholders' concerns, amendments to the Arbitration Law might be required to establish a precise mechanism for identifying participants in online hearings.

Additionally, there is room for improving the Mediation Law as part of legal reforms to help transition to ODR. It is worth noting that mediation needs less direct regulatory support for online aspects of dispute resolution. Instead, consideration could be given to making mediation more appealing to realise its full potential, whether online or offline. Indeed, as highlighted in the previous OECD country review, *Access to Justice for Business and Inclusive Growth in Latvia* (OECD, 2018[12]), and in fact-finding interviews with stakeholders, the reduced uptake of mediation primarily stems from its lack of attractiveness, as opposed to issues related to digital tools themselves (see Advancing in digital transformation in Chapter 3).

Several measures could be adopted to improve the uptake of mediation in Latvia. For example, the country could consider amending Section 14 of the Mediation Law to change the nature of a mediation agreement. Instead of a certification issued as the outcome of mediation, the settlement could be immediately enforceable. A middle-ground solution could involve offering parties the option of an enforceable settlement. Likewise, Latvia could consider revising the Civil Procedure Law to specify that a mediation agreement is the basis for the writ of execution, following amendments to Section 14 of the Mediation Law. Latvia could also revise the Civil Procedure Law to specify a procedure listing grounds for review of a mediation agreement, following amendments to Section 14 of the Mediation Law.

It is likely that the necessary adjustments in the Latvian legal framework regarding ODR cannot be consolidated into one single ODR law, as it could result in potential overlap with other existing legislation on specific areas of dispute resolution (e.g. the law on Judicial Power, Civil Procedure Law, State Ensured Legal Aid, Arbitration Law, Mediation Law). In this regard, one option could be introducing changes to the litigation process through the Civil Procedure Law. Ombud regulation could be introduced through a separate law or amendment to the Consumer Rights Protection Law. It would be important that legislation and the regulatory framework refrain from prescribing specific tools or solutions, given fast-paced changes in the digital age and the rapid development of ODR tools.

A further step involves introducing and clarifying the use of artificial intelligence (AI) in out-of-court and in-court dispute resolution, notably the automation of certain processes and case decisions. Some AI applications might face legal obstacles in Latvia. Article 92 of the Latvian Constitution states, “Everyone has the right to defend his or her rights and lawful interests in a fair court.” Currently, this is understood to require the presence of a human adjudicator. It is also worth noting that there are relevant AI use cases that do not concern decision making and decision drafting *per se* and are, therefore, less contentious.

Regarding the cross-border aspect of ODR, consideration could be given to enhancing the international enforcement of mediation. A recent development is the Singapore Convention on Mediation, specifically the United Nations Convention on International Settlement Agreements resulting from Mediation. Given Latvia’s status as an EU member state, decisions regarding this matter would need to be made at the EU level. Latvia could support signing the Singapore Convention at the EU level (United Nations, 2018[51]).

Currently, many jurisdictions, including Germany, the United Kingdom, and the European Union, are revising their dispute resolution laws to mandate and support ODR. In the case of an EU jurisdiction such as Latvia, additional impetus for reform comes from the European Union, encompassing both national and international approaches. Other reform initiatives in the area of ODR are under discussion, in addition to existing EU instruments, such as the European ODR Platform for consumer claims and FIN-NET (Financial dispute resolution network) for claims related to financial services (see Box 2.6).

Box 2.6. European Union: Proposal for regulation on the digitalisation of judicial co-operation and access to justice in cross-border matters

The European Union is currently working on a proposal for a regulation on the digitalisation of cross-border judicial co-operation, with the main purpose of utilising new digital tools for online communication in cross-border judicial procedures in the areas of civil, commercial and criminal matters. This proposed legislation aims to enhance cross-border access to justice in the European Union by mandating the use of a digital channel for all EU cross-border judicial co-operation communication and data exchanges between competent national authorities, with limited justified exceptions.

According to the proposal, citizens and businesses would have the option to communicate electronically with courts and other judicial authorities of EU member states through national portals where available or, alternatively, a European access point hosted on the European e-Justice Portal. To utilise this option,

citizens and businesses will need to possess either a qualified or advanced electronic signature and/or seals. Additionally, the system would allow electronic payment of judicial fees.

The proposed legislation ensures the validity of electronic documents and prevents their rejection solely due to their electronic format. The European Union's proposal for a regulation on digitalisation of cross-border judicial co-operation may contribute to the timeliness of justice services and the decrease of paperwork in national courts.

Source: European Union (2020[52]), *Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) (recast)*, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32020R1784; European Union (2020[53]), *Regulation (EU) 2020/1783 of the European Parliament and of the Council of 25 November 2020 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (taking of evidence) (recast)*, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32020R1783; European Union (2022[54]), *Proposal for a Regulation of the European Parliament and of the Council on the Digitalisation of Judicial Cooperation and Access to Justice in Cross-border Civil, Commercial and Criminal Matters, and Amending Certain Acts in the Field of Judicial Cooperation,* https://eur-lex.europa.eu/legal-content/EN/HIS/?uri=CELEX%3A52021PC0759.

Legal domains and types of claims

An effective approach in identifying legal domains and types of claims suited for ODR involves considering whether an online process adequately addresses parties' needs and dispute concerns. For policy makers, the suitability of ODR to certain legal domains and types of claims matters when designing laws and institutions. The suitability of ODR may also vary depending on each country's legal, institutional, technological and cultural contexts.

Conceptually, in civil and commercial law, all legal domains and all types of claims are potentially well suited for ODR. Nonetheless, examining the implementation of ODR across jurisdictions reveals that certain legal domains and types of claims are particularly well suited (see Box 2.7).

Box 2.7. Applying ODR to legal domains and types of claims in OECD countries

Numerous jurisdictions have started introducing ODR for money claims and consumer-trader disputes. These types of disputes are particularly well suited for ODR due to their relatively standardised nature. In addition, as the value of such claims is often modest, the cost-effectiveness of ODR aligns well with the nature of these claims.

It is important to recognise that the potential of ODR extends to many types of disputes. The subsections below describe some of the most prevalent types of claims in which ODR has been introduced.

Small claims

Small claims are simplified procedures for complaints that involve a small amount of money, varying according to the country. Small claims are particularly adapted to the use of ODR because expenses for court proceedings can be very dissuasive for small amounts. Likewise, small claims procedures generally do not require the presence of a lawyer, facilitating the implementation of ODR.

Countries have been advancing in the application of ODR to small claims. For example, in the United States, the state of Ohio employs ODR to solve small claims, including tax cases. In Canada, British Columbia's Civil Resolution Tribunal implemented ODR for small claims up to CAD 35 000 (Canadian dollars).

Consumer claims

These disputes arise between consumers, understood as a person who has acquired goods or services, with another who acted within the scope of their economic or professional activity. Consumer claims often pertain to issues like quality of goods or services, delay in performing an obligation or unfair contractual terms. Given their often low value, ODR offers an efficient, cost-effective solution for consumer claims.

The European Union's ODR platform is an example of an ODR avenue for resolving consumer disputes outside court. In Germany, consumer claims are resolved on line through the ombudsman scheme of the German General Conciliation Body.

Traffic and parking offences

ODR proves valuable for settling small civil infractions or minor misdemeanours like traffic and parking offences. Frequent occurrence of such cases leads to court backlogs, making ODR a practical solution.

In Michigan, the United States, over 20 individual courts employ ODR to resolve traffic and parking offences. The New Jersey Courts Judiciary developed an ODR programme to solve 37 types of traffic offences.

Property

Property disputes concern real estate conflicts, often between tenants, landlords or homeowner's associations. ODR can be an attractive option for property disputes because it allows litigants to try to reach a mutually beneficial decision quickly and at a low cost.

In Canada, British Columbia uses ODR to solve property disputes between landlords and tenants through an Online Civil Resolution Tribunal. In the United States, the Delaware Justice of the Peace Court resolves disputes between landlords and tenants by referring them to an online trained mediator.

Tax assessment appeals

Tax assessment appeals refer to cases where citizens dispute tax values. This type of dispute usually involves comparing the value of an asset to that of a similar one. Tax assessment appeals require the possibility to provide numerous documentary evidence, such as photos and appraisals. ODR can help by simplifying the process of providing documentary evidence. A dynamic mapping system could help litigants find comparative assets easily to support their claims.

In the United States, the Ohio Board of Tax Appeals uses ODR to resolve claims. Litigants can file their claims, negotiate settlements and track progress on line. The Colorado Board of Assessment Appeals also provides online tools for tax assessment appeals. Citizens can file an appeal on line and participate in online hearings.

Family claims

Family claims encompass legal issues within families, such as divorce or parenting issues. Family cases often include conflicts of low complexity that can be easily resolved through negotiation between parties without substantive human intervention. These low-complexity conflicts are often well adapted to the use of ODR. For high-complexity claims, ODR also benefit parents and children by offering the possibility to access online legal resources and solve their disputes directly from home, without the need to share courtrooms.

In Michigan, the United States, online tools (e.g. online calculators) assist parents in resolving child support payment disputes. The Michigan Family Court also implemented online tools for case management and hearings. The United Kingdom’s Family Mediation Voucher Scheme supports resolving family law disputes through out-of-court agreements. In Spain, the Virtual Desktop for Digital Mediation allows amicable

divorces to be formalized from home. Elderly people and those with intellectual disabilities may also appear in court from their nursing homes or medical centres, thus avoiding the burden of travel while guaranteeing the legal certainty of the hearing.

Source: OECD (forthcoming[17]), *OECD Conceptual Framework for Online Dispute Resolution*; National Center for State Courts (2017[55]), *JTC Resource Bulletin*, https://www.ncsc.org/__data/assets/pdf_file/0031/18499/2017-12-18-odr-for-courts-v2-final.pdf; Government of Spain (2023[56]), *Digital Transformation of Justice in Spain: Presentation to the delegation of the Brandenburg Parliament*, https://www.mjusticia.gob.es/es/JusticiaEspana/ProyectosTransformacionJusticia/Documents/Digital%20Transformation%20of%20Justice.pdf.

Interviews suggested that Latvian stakeholders generally share the perception that ODR holds potential across all legal domains and types of claims within civil and commercial laws. Some stakeholders raised concerns about whether certain elements of a dispute resolution procedure might better take a non-online form. For example, some Latvian judges emphasised that having a witness or party present in person is sometimes essential to form a comprehensive impression of their oral statements. However, this should not challenge the overall appropriateness of ODR provided that there is flexibility to incorporate non-online elements into proceedings if desired or needed by the involved parties or circumstances of the case, ultimately emphasising the importance of a digital-by-design approach to ODR (see Managing technological advances).

Latvian citizens and businesses overwhelmingly endorse ODR for civil and commercial matters, indicating strong support. This sentiment has been succinctly captured in interviews as "the more ODR, the better". Awareness regarding vulnerable groups, particularly within court administration, is evident and emphasised in a dedicated section (see Actors in context).

Managing technological advances

Digital transformation significantly alters interactions between people, businesses and public institutions. As societies and economies become increasingly digital, governments need to embrace digital transformation to meet the expectations of more demanding and empowered service users (OECD, 2020[19]). As people and businesses expect the public sector to provide services and policies that deliver adequately on the promises of the digital age, public institutions are constantly challenged by the fast pace of changing societies, the increasing demands of citizens, and the allocation of resources and internal capacities, such as skills and infrastructure.

Reflections surrounding the digital transformation of justice often assume this is a technical problem requiring a technological solution. Historically, the e-government approach certainly encouraged this view of taking analogue processes and making them available on line (OECD, 2020[57]). However, such an approach fails to account for the broader challenges of applying the digital-by-design approaches that can transform outcomes for people.

Digital technologies in the form of common components and tools should be seen first as a means to support teams in meeting the needs of people rather than an end in itself (OECD, 2020[57]). Transforming dispute resolution mechanisms in the digital age is less about digital technologies and more about enabling technology and platforms that can help governments respond to the needs of their services' users. Combining common components, hosting and infrastructure with sound digital and data governance is the most suitable approach (see Data governance and its strategic use).

Despite digital transformation being among the country's main priorities (see Strategic approach to dispute resolution), the assessment phase of this project revealed considerable gaps in underlying hosting, infrastructure and common components, such as software, cloud-based solutions, data registers and catalogues. Investments should not be limited to technology but also capacity to support implementation. This may include engagement with service teams, actively showcasing what is available throughout the public sector; supporting the product teams to address barriers to adoption; and helping to quantify the

benefits of using common components and tools instead of developing individual solutions. Adopting such a holistic approach can help service teams deliver not only at pace and scale but with a level of quality and consistency of user experience that builds public trust and coherence among otherwise disparate public sector organisations (OECD, 2020[57]).

Another layer of complexity involves national reform initiatives and their implementation. This is particularly challenging for EU member states, such as Latvia, that need to comply with both EU reforms and their domestic agendas. ODR is part of the challenges the justice sector encounters to keep pace with a changing world and continue delivering on the needs of access to justice from people and businesses. Some of these challenges are explored in other sections of this report, including ethical issues on the use of digital and emerging technologies (see Pillar 3: Ethics and safeguards) and the need for upgrading skills and capacities within the justice sector and for the population in general (see Actors in context, Vulnerable groups, and ODR and justice institutions).

There is scope to examine financing and governance in Latvia to leverage the implementation of ODR in Latvia. Government funds remain limited for the digitalisation of the justice sector. This has led to a fragmentation of efforts between justice sector players. Innovation in ODR would benefit from a central leadership mechanism/body responsible for the strategic oversight and implementation of digitalisation projects and governing regulations.

To help Latvia navigate the fast pace of technological advancements in the justice sector, the OECD ODR Framework suggests considering certain approaches in adopting digital technologies in the justice sector. An essential approach to managing fast-paced changes is using technology-neutral law making. This involves law makers refraining from specifying the use of a particular technology and instead deferring certain technical decisions to a later stage, for instance, on procurement or implementation of technological solutions. Adopting a technology-neutral approach is critical to have laws that abstract from concrete technologies. This makes it possible for laws to remain adaptable to various technologies over time while also contributing to legal predictability. This approach enables the adoption of new types of digital technologies without requiring legal reforms each time a new technology emerges. Consequently, from a legal standpoint, new technological advancements can be promptly integrated without requiring extensive legal modifications.

Generally, interviews revealed that Latvia employs a technology-neutral approach in its legislative process. Positive outcomes of this approach are reflected in findings from interviews with the Latvian Ministry of Justice and Court Administration, in charge of leading the digital transformation of the justice sector. For example, civil servants from the Latvian Court Administration involved in digital transformation projects expressed no concerns regarding legal barriers to implementing these projects. Adopting such a technology-neutral approach results from a learning process arising from the hectic rhythm of legal reforms in the past (OECD, 2018[12]).

When integrating AI and automation into justice processes, it will be key for Latvia to consider certain aspects, such as privacy and ethics, fairness and the country's cultural context. First, it is important to ensure that AI applications align with Latvia's established legal framework, encompassing the Civil Procedure Law, EU and national data protection regulations and international standards, such as the *OECD Recommendation on Artificial Intelligence* (see Box 2.8 further below). Additionally, Latvia's unique legal culture and traditions would need to be factored into the design of AI systems, ensuring their compatibility with local practices. Safeguarding data privacy in accordance with EU and national laws and guidelines is paramount (see Box 2.8 further below), especially to protect the confidentiality of individuals involved in legal proceedings (see Data governance and its strategic use and Pillar 3: Ethics and safeguards).

In light of Latvia's diverse population, AI systems would need to be designed in ways to mitigate bias. This would help avoid any potential discriminatory outcomes. Ensuring transparency in AI usage would help cultivate public trust and acceptance. This could be enabled by establishing mechanisms for human

oversight in AI decisions, contributing to accountability and fairness, and ethical guidelines tailored to Latvia's justice system (see Pillar 3: Ethics and safeguards). Encouraging collaboration among legal experts, AI specialists and stakeholders within and outside the justice sector would help Latvia design AI solutions well suited to their context. Lastly, awareness campaigns highlighting AI's benefits and limitations would foster understanding and public buy-in. By navigating these considerations, Latvia can harness AI's potential to augment its justice processes while upholding principles of equity, transparency and the rule of law.

Favouring open standards in the design and delivery of ODR mechanisms can significantly contribute to effectively managing the rapid pace of technological advances. Having frameworks or guidelines that identify and specify the use of open standards, practices, frameworks, reusable components and data is paramount in mitigating risks of vendor lock-in or proprietary technologies over time. Likewise, timely decommissioning services can help reduce challenges associated with legacy technology. This can be achieved by defining clear conditions under which systems and services will be retired or their contracts terminated.

In implementing ODR-related solutions, it is important to maintain a good engagement with stakeholders. During interviews, some judges expressed that the online court platform was rolled out in a short time, leaving little opportunity for stakeholders to be properly trained and adapt to the new tool. Interviews also revealed a preference to start small and find ways of incorporating ODR into non-actionable matters, or where there are fewer discretionary or controversial elements, focusing on a base level of digitalisation.

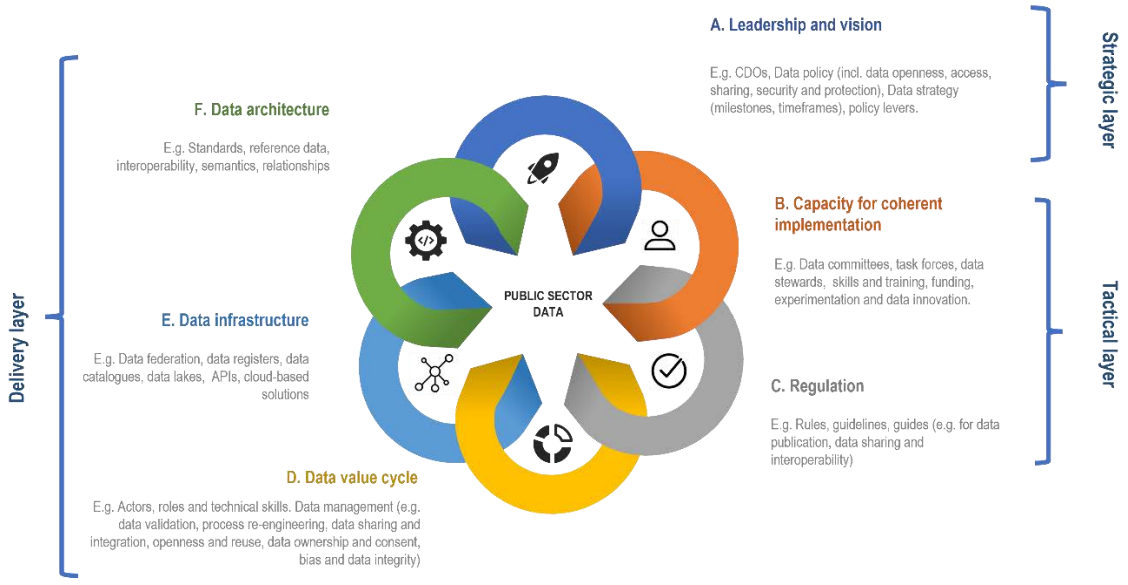
Data governance and its strategic use

Data governance is imperative to enable the use of data as a strategic asset in the public sector. Enabling the right cultural, policy, legal, regulatory, institutional, organisational and technical environment is necessary to control, manage, share, protect and extract value from data (OECD, 2019[21]).

The OECD Framework on Data Governance in the Public Sector (see Figure 2.1) encompasses strategic, tactical and delivery layers formed by:

- the leadership and vision to ensure strategic direction and purpose for the strategic use of data in the public sector
- the need for coherent implementation and steering of data policies and initiatives across government as a whole and within individual organisations
- putting in place or revisiting rules, laws, guidelines and standards associated with data
- developing the necessary data infrastructure (e.g. cloud-based data-hosting services, application programming interfaces [APIs], data lakes) to support the policy goals identified in the strategic layer
- having a data architecture that reflects standards, interoperability and semantics throughout data generation, collection, storage and processing.

Figure 2.1. The OECD Framework on Data Governance in the Public Sector



Source: OECD (2019[58]), *Digital Government Review of Argentina: Accelerating the Digitalisation of the Public Sector*, https://doi.org/10.1787/354732cc-en. https://doi.org/10.1787/354732cc-en.

Data can be used to assess the functioning of ODR pre-court and court services by helping anticipate, plan, deliver, evaluate and monitor justice policies and services. Treating data as a strategic asset can help extract value from data, enabling greater data access, sharing and integration at the organisational level and beyond and increasing overall efficiency and accountability.

An assessment of the reforms to modernise dispute resolution mechanisms in Latvia suggests that the country could consider establishing an overarching data governance to support the strategic use of data in the justice sector, including the data-driven design and delivery of dispute resolution policies and services. This would require introducing a common base registry to help improve the delivery of justice services in Latvia as part of broader reforms on data architecture and infrastructure for the whole public sector.

As illustrated throughout this report (see Chapters 3 and 4, particularly Pathways and the seamless transfer of information and cases, Revamping the simplified procedure, Revamping the warning procedure and Revamping consumer dispute resolution mechanisms), there is an untapped opportunity to strengthen the interoperability of data in the justice sector. In fact, improving interoperability would help Latvia address several issues identified in the mapping and fact-finding exercises at once. Some of these issues refer to data requested several times, lack of integration between databases (e.g. court system and public registers) and frictions in transiting between systems (e.g. ADR and in-court dispute resolution mechanisms).

It would be desirable that Latvia treat data as a strategic asset underpinning the transformation of services regarding e-case program . This encompasses understanding the needs for data and promoting interoperability by ensuring that any data collected is easily integrated and reused by other public sector organisations/services. This would not only enable users to provide data only once, following the “Only Once Principle”, but also decrease the amount of information requested in general, saving precious resources of both users and the public sector in general (OECD, 2022[20]).

Another critical aspect Latvia may wish to consider is engaging a wide range of stakeholders to contribute to the justice data ecosystem. This could be achieved by allowing them to participate in data collection, sharing and reuse. Likewise, Latvia could establish common standards and guidelines for greater

consistency, as well as co-ordination and collaboration protocols and processes to facilitate data management, security and sharing.

To date, a more fundamental reorientation of the delivery of court services has not been undertaken in Latvia. Data are currently used mainly for statistical purposes. As such, there is scope to strengthen the collection and use of data to anticipate justice needs, as well as monitor and evaluate the functioning of justice institutions. Instead, data are only used ad hoc to analyse legal needs. In this regard, Latvia could tap the potential of justice data to transform the operational performance of justice institutions, leading to more efficient use of public resources, and develop a culture of continuous improvement (OECD, 2019[21]).

Data was identified in service mapping and fact-finding interviews as a fundamental aspect requiring reform in Latvia. While the ODR initiatives concerning courts in Latvia have initiated some use of data, a comprehensive data strategy that applies to dispute resolution mechanisms is still lacking. To maximise the advantages of ODR in Latvia, there is scope to develop and implement a justice data strategy. An effective strategy for the Latvian justice sector would need to include data governance and data standards and cover the following essential aspects (OECD, 2019[21]):

- **Anticipating and planning**: This refers to the role of data in designing policies, planning interventions, anticipating possible changes and forecasting needs (OECD, 2019[21]). Concretely, in the justice sector, this could translate into anticipating the needs of Latvian citizens and businesses for ODR.
- **Delivery**: This includes using data to transform the delivery of dispute resolution processes and services to improve effectiveness and user experience (OECD, 2019[21]). An example is the analysis of legal needs data to improve ODR services.
- **Evaluation and monitoring**: This covers, for example, evaluating policy approaches and measuring the impact of introducing ODR, auditing decisions, and monitoring the performance of services.

While sound data governance is essential to amplifying the use of data, the increasing availability of and access to data poses new challenges regarding the ethical collection, storage, use and treatment, as well as accountability, fairness and respect for human rights (OECD, 2019[21]). This is particularly important considering how governmental approaches to these issues are central to building trust in the context of increasing awareness of people and businesses about their data (see Pillar 3: Ethics and safeguards). Accordingly, governments are encouraged to establish legal and regulatory frameworks, data principles and guidelines to leverage data use while maintaining, recovering or boosting public trust.

Latvia would greatly benefit from a coherent data ethics approach that addresses the core elements of ethics, privacy and consent, transparency, and security (OECD, 2019[21]). In the context of ODR, this would entail, for example, enabling secure infrastructure, using data for public interest in a fit-for-purpose way, and defining clear boundaries for data collection, access, sharing and use, particularly in the context of big databases and interoperable platforms. Given the fast-paced changes in the technological landscape, a flexible yet robust and comprehensive approach to these challenges would foster trustworthiness, thus ensuring stakeholder buy-in and the uptake of new solutions that are efficient, fair and compliant with the best standards.

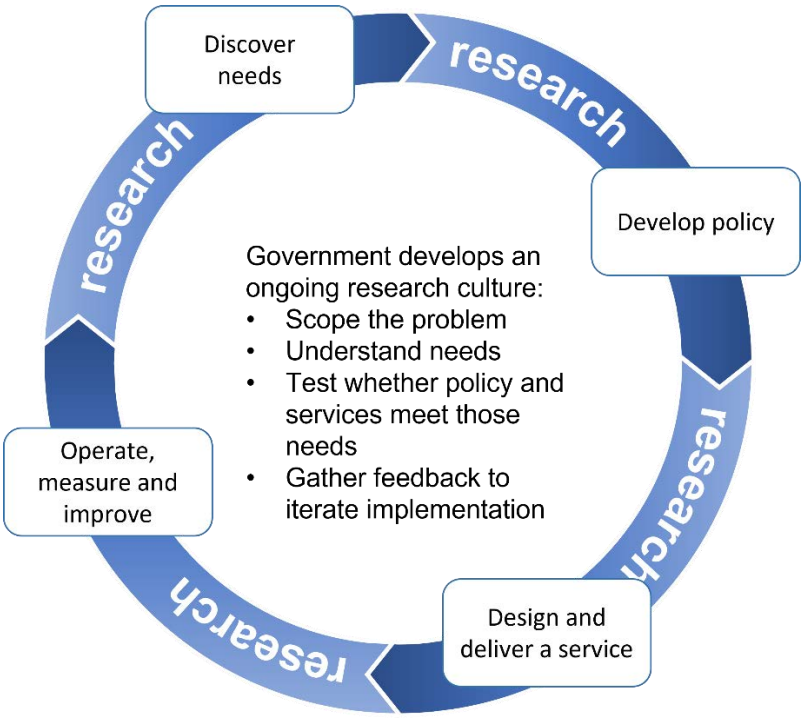
Agile approach in designing and delivering ODR

Implementing ODR in Latvia presents challenges in responding to technological advances, managing the ongoing transformation of justice services, encouraging digitalisation practices and reflecting societal demands. To master such challenges, an agile approach to designing and delivering ODR is recommended. Such an approach can also help the justice sector better understand users and make dispute resolution services more suitable to their needs. This might have positive outcomes, such as

simplifying the process, decreasing justice gaps and increasing the effectiveness of dispute resolution services.

Adopting an agile approach involves scoping a project, understanding user needs, designing dispute resolution functionalities, testing, implementing, monitoring and evaluating (see Figure 2.2).

Figure 2.2. An agile approach to policy making, service delivery and ongoing operations



Source: OECD (2020[57]), *Digital Government in Chile: Improving Public Service Design and Delivery*, https://www.oecd-ilibrary.org/governance/digital-government-in-chile-improving-public-service-design-and-delivery_b94582e8-en.

These steps are not linear, leading to a final and static design (see Figure 2.2). Instead, the process underlying the agile approach is iterative and seeks continuous improvement. Adopting an agile approach involves embracing uncertainty and expecting continuous learning and improvement. Instead of being initiated in government, service design responds to an understanding of people's needs based on research conducted with them, reflecting views expressed across a wide sample of the population and informed by insights available from societal data collected through administrative or legal and justice needs surveys, for example. This allows for the design of services to be guided and led by users' needs rather than implementing assumed or paternalistic solutions devised by public servants at their desks. At launch, when justice services impact real lives, the agile, research-led approach emphasises the continued understanding of user experience to establish impact and respond to any insights in understanding whether the service is producing its desired outcomes (OECD, 2020[57]).

Fact-finding interviews revealed that the design and delivery of ODR services in Latvia do not systematically follow an agile approach. Stakeholders confirmed that despite the adoption of ICT infrastructure in the past few years, the agile approach is not applied in the design and delivery of dispute-resolution-related processes and services.

Fact-finding interviews revealed that data are not employed to understand whether ODR services address users' needs, or to forecast, measure performance and evaluate them. This applies, for example, to the design and delivery of legal aid services in Latvia. Currently, legal aid services operate on the basis of

case-by-case or anecdotal experience from their users. For example, the legal aid services do not establish whether the same client has called and/or visited the offices of the legal aid service. This may lead to a lag of contacts and differences in the advice provided to a client. Data are not systematically collected and thus used to enhance users' experiences regarding legal aid services. This may negatively impact access to justice by hindering the identification of justice gaps and how they could be addressed to support those seeking legal assistance.

An underlying issue behind not following an agile approach might be related to lack of justice and users' data. Latvia could increase efforts in this area and consider collecting data through justice institutions and their interactions with users, legal and justice needs surveys, feedback questionnaires, engagement with communities and evaluation exercises. Notably, the capacity for developing and providing data is distributed across a range of government and non-government actors, such as courts, legal aid agencies, community legal centres, private practitioners and others. To ensure sufficient commonality and interoperability, the Latvian government has an opportunity to take a leadership role, in particular by engaging a wide range of stakeholders as contributors to the justice data ecosystem for collecting, managing and reporting their data; establishing, in co-operation with other data providers, common standards and minimum datasets for greater consistency; and establishing, in co-operation with other data providers, co-ordination and collaboration protocols and processes to facilitate the management, security and sharing of data (OECD, 2021[6]).

Legal aid is a concrete area where Latvia could benefit from an agile approach to service design and delivery. Collecting relevant data and applying an agile approach could help, for example, design a legal aid online platform that provides step-by-step guidance on how to apply for legal aid. Such a platform could replace the current electronic templates and improve both the user experience and data collection by legal aid services. Likewise, user experience could, for example, be improved by guiding users through the completion of forms, as some of them currently struggle with the completion of the templates provided, as reported during fact-finding interviews. In addition, the platform could collect data to help identify users' patterns and bottlenecks in delivering legal aid services.

2.4.3. Pillar 3: Ethics and safeguards

Despite the positive impact on improving access to justice, the extensive use of digital technologies and data poses pressing and somehow new ethical challenges. For example, the increasing availability and access to data – personal and non-personal – raise a significant number of questions not only about their ethical collection, treatment, storage and use, but also about responsibility, accountability, fairness and respect to the rule of law and human rights when applying digital, notably emerging, technologies.

An important aspect in the implementation of ODR concerns ethical implications and safeguard mechanisms to protect parties, in particular, vulnerable groups, third-party neutrals, advisers and support staff. Citizen and business concerns about data practices are changing fast, and interest in ethical approaches to data management is growing. High-profile data breaches, the influence of large technology companies ("tech giants") in the private sector, and the development of regulation have put how data are handled in the public consciousness. Representatives of institutions expressed enthusiasm for new solutions in fact-finding interviews but also expressed concerns about their implementation, for example, related to data protection and security. This is a positive sign of awareness and consideration of these values by Latvian stakeholders.

Trust is one of the core aspects of a data-driven public sector and presupposes existing sound data governance mechanisms (see Data governance and its strategic use). The trust dimension encompasses how a data-driven public sector can respond to challenges brought by the use of data. It comprises adopting an ethical framework to guide decision making and inform behaviour; protecting privacy and clarifying data ownership and permissions; securing transparency on the use of data; and recognising the

importance of security infrastructure and measures, without hampering efforts to innovate and deliver cutting-edge people-centred justice services (OECD, 2019[21]).

Among the overarching issues on the ethical and trustworthy use of data in the justice sector, Latvia could consider the following aspects (OECD, 2021[59]):

- **Using data to serve the public interest and deliver public value**: The use of data by governments, public sector organisations and public officials should aim to serve the public interest and deliver public value, in line with the *OECD Recommendation on Enhancing Access to and Sharing of Data* (OECD, 2021[60]). For this purpose, justice institutions and civil servants should always prioritise the public interest and consider the legitimate needs of stakeholders such as individuals, communities and the private sector to maximise the benefits of data access, sharing and use for society as a whole. This would help increase the government's legitimacy in the processing and use of data and delivering human-centred policies and services.
- **Managing data with integrity**: Justice civil servants should always ensure trustworthy data management across the different stages of the data value cycle, including, but not limited to, data generation, collection, selection, curation, storage, disposal, access, sharing and use. This includes acting according to the public interest, their functions and applicable hard and soft regulatory rules.
- **Ensuring data are fit for purpose**: Justice civil servants should consider the purpose of data to be collected, accessed, shared or used. This implies ensuring clarity between the purpose and legitimate interest that justifies data collection, access, sharing and use. This helps maintain trust and mitigate risks related to the misuse of data.
- **Incorporating data ethics considerations into governance and institutions in the justice sector**: This comprises developing and sharing guidelines, frameworks and tools on the use of data following an ethical approach. This may help strengthen accountability, design training and capacity-building materials to promote awareness among justice civil servants. Concretely speaking, this encompasses building in procedures to systematically address the potential misuse of data; peer-to-peer assessments on the use of data in data-driven projects among justice civil servants; regular and random data auditing (including quality, compliance with standards, best practices and rules); and safe havens to report data misuse.
- **Defining boundaries for data collection, access, sharing and use**: Latvia could consider following a balanced approach to data collection and use by weighing relevant trade-offs and societal costs and benefits and assessing constraints, risks and rules surrounding data sharing, collection and use. Concretely, boundaries may include adopting norms such as data minimisation and proportionality and considering the use of disaggregated data and encryption tools.
- **Being clear and open about the use of data in justice**: Good communication is key to informing and engaging relevant stakeholders in an inclusive process of social dialogue around the ethical use of data in justice. In this regard, the Latvian leadership in the justice sector should be open about how data are being used, for what purpose and by whom. Concretely, this may include raising awareness and publishing data governance and management policies, practices, and procedures, especially around the use of personal data. Likewise, this includes engaging in social dialogue with relevant actors inside and outside the justice public sector (actors whose data are being used, or their representatives, and secondary stakeholders who can be affected or harmed by data use).
- **Allowing data subjects to have control over their data**: Upon being informed about how and with whom data are shared, individuals should be given the decision power to exercise autonomy, control and agency over their data and to freely give or withdraw consent to its use. Concretely, a couple of measures Latvia could consider putting in place are offering data subjects or their representatives the possibility and tools to opt in to and opt out of specific data uses; and designing

and deploying tools (or building upon existing mechanisms, such as freedom of information requests) to enable individuals to request information from public sector organisations on their data holdings.

The use of emerging technologies, such as AI and distributed ledgers (blockchain), in dispute resolution raises some questions and concerns among justice stakeholders in relation to current justice values and principles. The background of this question is the consideration of whether technological advances transform justice services so fundamentally that new values are needed (OECD, forthcoming[17]). While established human rights, procedural rights and policy recommendations, such as the OECD Recommendation on Access to Justice and People-Centred Justice Systems and the *Criteria for People-Centred Design and Delivery of Legal and Justice Services*, remain valid, the implementation of ODR requires the application of these values in a new context, and through complementary approaches.

Trust is a key enabler of digital transformation and the uptake of AI. Although the nature of future AI applications and their implications may be hard to foresee, the trustworthiness of AI systems is a key factor for their adoption in the justice sector and buy-in from stakeholders (OECD, 2019[61]). Adopting an ethical approach and safeguards is essential to preserve trust in justice institutions and contributes to stakeholders' endorsements of the adoption of digital technologies and data in the justice sector.

As the use of AI in the justice system becomes more prevalent and no longer uncommon to generate automated decisions, the Latvian leadership and policy makers should commit to a set of values when designing and delivering policies and services, in line with the *OECD Recommendation on Artificial Intelligence*. These values comprise the respect of the rule of law, human rights and democracy. Some concrete expressions of these values are freedom, dignity and autonomy, privacy and data protection, non-discrimination, equality and fairness in the results produced by AI systems (OECD, 2019[61]).

To adhere to principles of trustworthy AI, Latvia may wish to consider implementing appropriate mechanisms and safeguards throughout the whole AI system lifecycle. These mechanisms include transparency and explainability of AI systems, including providing meaningful information that offers a general understanding of AI systems deployed; promoting awareness when stakeholders interact and/or are affected by an AI system; and enabling those adversely affected by an AI system to challenge its outcomes based on plain and easy-to-understand information on the factors and the logic that served as the basis for the prediction, recommendation or decision (OECD, 2019[61]).

Stakeholders interviewed in Latvia showed great interest and a good understanding of relevant values, notably in the context of ODR. At the same time, they were aware of potential risks involving data processing, privacy and security. Some uncertainty and concerns, however, were raised regarding the application of AI to certain types of dispute resolution proceedings. It is therefore recommended to continue discussing the values of dispute resolution and how they are impacted by the application of digital technologies and data, and notably the use of AI in ODR systems.

In implementing AI systems, Latvia should also consider robust, secure and safe infrastructure throughout their entire lifecycle so that, in conditions of normal use, they do not pose unreasonable safety risks. Likewise, a systematic risk management approach to each phase of the AI system lifecycle should be applied continuously to address risks related to AI systems, including privacy, digital security, safety and bias. AI actors should be accountable for the proper functioning of AI systems and for the respect of the above-mentioned principles (OECD, 2019[61]).

When introducing AI systems to justice, Latvia may wish to consider existing binding legal acts and guidance, in addition to the *OECD Recommendation on Artificial Intelligence* and the *European Ethical Charter on the Use of Artificial Intelligence in Judicial Systems* and their environment (see Box 2.8). This includes the General Data Protection Regulation (GDPR) and the forthcoming EU Artificial Intelligence Act that, if adopted, might have the force of a regulation. The draft already hints at how the European Union plans to set the standard for AI systems, regulate and, in some cases, restrict their use (see Box 2.8).

Box 2.8. European Union: AI in justice systems and broadly

European Union: The *European Ethical Charter on the Use of Artificial Intelligence in Judicial Systems*

With the implementation of AI in the functioning of justice systems, the need for an ethical approach and safeguards becomes essential. The *European Ethical Charter on the Use of Artificial Intelligence in Judicial Systems* is a set of principles adopted by the European Commission for the Efficiency of Justice (CEPEJ) of the Council of Europe. The charter aims to ensure that the fast development of AI in judicial systems complies with fundamental rights. It also aims to provide a framework for both policy makers and public and private stakeholders in charge of designing and implementing AI tools in processing judicial decisions and data.

The charter demonstrates the importance of setting a legal framework to strengthen transparency, accountability and respect for human rights to encourage the responsible use of AI in the justice sector. It emphasises the following core principles to be respected in the field of AI and justice:

1. **Principle of respect of fundamental rights**: Ensuring that the design and implementation of AI tools and services are compatible with fundamental rights.
2. **Principle of non-discrimination**: Specifically preventing the development or intensification of any discrimination between individuals or groups of individuals.
3. **Principle of quality and security**: With regard to the processing of judicial decisions and data, using certified sources and intangible data with models conceived in a multi-disciplinary manner in a secure technological environment.
4. **Principles of transparency, impartiality and fairness**: Making data-processing methods accessible and understandable, authorising external audits.
5. **Principle of "under user control"**: Precluding a prescriptive approach and ensuring that users are informed actors and in control of their choices.

Besides highlighting core principles, the charter raises the necessity of adopting measures to monitor and evaluate their application by stakeholders in order to improve and adapt practices to a fast-changing technology environment.

The EU Artificial Intelligence Act

The European Union Artificial Intelligence Act (EU AI Act) is a regulatory framework launched by the European Commission to regulate AI systems and establish a global standard on AI policy. The proposed regulation aims to ensure the harmonised use and development of AI systems that align with fundamental rights and EU values.

The EU AI Act adopts a risk-based approach to classify AI practices and systems. First, it prohibits practices that are incompatible with the rights and values guaranteed by the European Union. For instance, it targets "systems that exploit any of the vulnerabilities of a specific group of persons (…), in order to materially distort the behaviour of a person pertaining to that group in a manner that causes or is likely to cause that person or another person physical or psychological harm." The EU AI Act then identifies high-risk AI systems and specifies the associated requirements and obligations for stakeholders involved in the provision, distribution and use of this high-risk category.

While the proposal is still under discussion, the EU AI Act demonstrates awareness of the potential adverse effects of AI use and emphasises the importance of international collaboration to establish a common framework.

Member States also lead the way: the Spanish Agency for the Supervision of Artificial Intelligence

As part of Spain's National Strategy for Artificial Intelligence and the Digital Spain 2026 Agenda, the country recently established the Spanish Agency for the Supervision of Artificial Intelligence, the first of its kind in Europe. With the creation of this agency in August 2023, Spain became the first member State of the European Union to establish an AI regulatory body.

The ultimate objective of this organization is minimise risks that the use of AI may entail and promote adequate development and enhancement of artificial intelligence systems. The Spanish government will be the authority responsible for the supervision, and when appropriate, sanction of artificial intelligence systems, with the aim of eliminating or reducing risks to integrity, privacy, equal treatment. and non-discrimination, particularly gender-based bias, and other fundamental rights that may be affected by the misuse of AI systems.

Source: Council of Europe (2018[62]), *Council of Europe adopts first European Ethical Charter on the use of artificial intelligence in judicial systems*, https://www.coe.int/en/web/cepej/cepej-european-ethical-charter-on-the-use-of-artificial-intelligence-ai-in-judicial-systems-and-their-environment; European Union (2023[63]), *EU AI Act: First regulation on artificial intelligence*, https://www.europarl.europa.eu/news/en/headlines/society/20230601STO93804/eu-ai-act-first-regulation-on-artificial-intelligence; Government of Spain (2023[64]), *Royal Decree 729/2023, of August 22, which approves the Statute of the Spanish Agency for the Supervision of Artificial Intelligence*, https://boe.es/diario_boe/txt.php?id=BOE-A-2023-18911.

Existing rules of the GDPR and national data protection laws (i.e. the Personal Data Processing Law) apply in all cases when a court issues an automated decision. The GDPR explicitly provides that individuals must be properly informed of the fact that decisions are taken automatically and the logic behind it, also reflecting the principles set out in the *OECD Recommendation on Artificial Intelligence*. In addition, the GDPR gives individuals the right to object to decisions made solely by automated means. Recital 71 explicitly states that such processing should be "subject to appropriate safeguards, which should include specific information for the data subject and the right to obtain human intervention, to express his or her point of view, to obtain an explanation of the decision made following such evaluation and to challenge the decision."

To ensure jurisdictional independence, courts do not submit to the supervisory authority (in Latvia, the State Data Inspectorate) if personal data are processed in the exercise of the court's jurisdictional function, according to the GDPR. However, courts must still follow the rules in the GDPR and other applicable privacy laws in Latvia.

References

Baredes, B. (2022), "Serving citizens: Measuring the performance of services for a better user experience", *OECD Working Papers on Public Governance*, No. 52, OECD Publishing, Paris, https://doi.org/10.1787/65223af7-en. [22]

Blackburn, R., G. Saridakis and J. Kitching (2015), *The Legal Needs of Small Businesses: An Analysis of Small Businesses' Experience of Legal Problems, Capacity and Attitudes*, https://doi.org/10.13140/RG.2.1.5039.0488. [33]

CEPEJ (2022), *Evaluation of the Latvia justice system*, https://www.coe.int/en/web/cepej/cooperation-programmes/evaluation-of-the-latvian-justice-system. [14]

CEPEJ (2021), *Guidelines of the Committee of Ministers of the Council of Europe on Online Dispute Resolution Mechanisms in Civil and Administrative Court Proceedings*, https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a2cf96. [18]

Community Advocacy and Legal Centre (2015), *Librarians and Access to Justice Outreach: Project Report and Resources*, https://communitylegalcentre.ca/wp-content/uploads/2018/03/Librarians-and-access2justice-report.pdf (accessed on 22 November 2022). [27]

Council of Europe (2018), *Council of Europe adopts first European Ethical Charter on the use of artificial intelligence in judicial systems*, https://www.coe.int/en/web/cepej/cepej-european-ethical-charter-on-the-use-of-artificial-intelligence-ai-in-judicial-systems-and-their-environment (accessed on 12 December 2022). [62]

Cyberjustice Laboratory (2022), *PARLe – Plateforme d'Aide au Règlement de Litiges en ligne*, https://www.cyberjustice.ca/logiciels-cyberjustice/nos-solutions-logicielles/parle-2/. [47]

European Commission (2022), *Resolving Consumer Disputes Out of Court (Report)*, https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13417-Resolving-consumer-disputes-out-of-court-report-_en (accessed on 12 December 2022). [49]

European Union (2023), *2023 Rule of Law Report - Country Chapter Latvia*, https://commission.europa.eu/publications/2023-rule-law-report-communication-and-country-chapters_en. [15]

European Union (2023), *EU AI Act: First regulation on artificial intelligence*, https://www.europarl.europa.eu/news/en/headlines/society/20230601STO93804/eu-ai-act-first-regulation-on-artificial-intelligence (accessed on 30 August 2023). [63]

European Union (2022), *Digital Economy and Society Index*, https://digital-agenda-data.eu/charts/desi-components#chart={%22indicator%22:%22desi%22,%22breakdown-group%22:%22desi%22,%22unit-measure%22:%22pc_desi%22,%22time-period%22:%222022%22}. [16]

European Union (2022), *Proposal for a Regulation of the European Parliament and of the Council on the Digitalisation of Judicial Cooperation and Access to Justice in Cross-border Civil, Commercial & Criminal Matters, & Amending Certain Acts in the Field of Judicial Cooperation*, COM (2021) 759, https://eur-lex.europa.eu/legal-content/EN/HIS/?uri=CELEX%3A52021PC0759. [54]

European Union (2022), *SME Performance Review 2021/2022 - Latvia country sheet*, https://ec.europa.eu/docsroom/documents/50694 (accessed on 1 December 2022). [32]

European Union (2020), *Regulation (EU) 2020/1783 of the European Parliament and of the Council of 25 November 2020 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (taking of evidence) (recast)*, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32020R1783. [53]

European Union (2020), *Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) (recast)*. [52]

European Union (2019), *Directive (EU) 2019/1151 of the European Parliament and of the Council of 20 June 2019 amending Directive (EU) 2017/1132 as regards the Use of Digital Tools and Processes in Company Law*, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019L1151. [23]

Government of France (2023), *Conseiller numérique : Lieux de médiation numérique par région*, https://www.conseiller-numerique.gouv.fr/regions (accessed on 5 December 2022). [29]

Government of France (2023), *Conseiller numérique France services*, https://www.conseiller-numerique.gouv.fr/ (accessed on 5 December 2022). [28]

Government of Latvia (2022), *Extensive digital skills training for law enforcement officers is coming to an end*, https://www.ta.gov.lv/lv/jaunums/nosledzas-apjomigas-digitalo-prasmju-macibas-tieslietu-darbiniekiem. [41]

Government of Latvia (2022), *Latvia Justice Strategy for 2022-2026*, https://www.tm.gov.lv/lv/media/10187/download. [10]

Government of Latvia (2021), *Court Administration*, https://www.ta.gov.lv/lv/media/2183/download?attachment (accessed on 30 August 2022). [40]

Government of Latvia (2021), *Digital Transformation Guidelines for 2021-2027*, https://digital-skills-jobs.europa.eu/en/actions/national-initiatives/national-strategies/latvia-digital-transformation-guidelines-2021-2027. [9]

Government of Latvia (2021), *Jānis Bordāns: Latvia and the OECD are starting co-operation for the introduction of a new court service - online dispute resolution*, https://www.tm.gov.lv/en/article/janis-bordans-latvia-and-oecd-are-starting-co-operation-introduction-new-court-service-online-dispute-resolution. [25]

Government of Latvia (2020), *National Development Plan 2021-2027*, https://www.pkc.gov.lv/sites/default/files/inline-files/NAP2027__ENG.pdf. [8]

Government of Latvia (2014), *Arbitration Law*, https://likumi.lv/ta/en/en/id/266615. [50]

Government of Latvia (2010), *Latvian Sustainable Development Strategy until 2030*, https://www.varam.gov.lv/sites/varam/files/content/files/lias_2030_parluks_en.pdf. [7]

Government of Latvia (1993), *On Judicial Power*, https://likumi.lv/ta/en/en/id/62847-on-judicial-power. [42]

Government of Spain (2023), *Digital Transformation of Justice in Spain: Presentation to the delegation of the Brandenburg Parliament*, https://www.mjusticia.gob.es/es/JusticiaEspana/ProyectosTransformacionJusticia/Documents/Digital%20Transformation%20of%20Justice.pdf. [56]

Government of Spain (2023), *Justice data portal*, https://datos.justicia.es/. [66]

Government of Spain (2023), *Royal Decree 729/2023, of August 22, which approves the Statute of the Spanish Agency for the Supervision of Artificial Intelligence*, https://boe.es/diario_boe/txt.php?id=BOE-A-2023-18911. [64]

International Finance Corporation (2016), *Making Mediation Law*, https://doi.org/10.1596/28297. [48]

National Center for State Courts (2017), *JTC Resource Bulletin*, https://www.ncsc.org/__data/assets/pdf_file/0031/18499/2017-12-18-odr-for-courts-v2-final.pdf. [55]

Noone, M. and L. Ojelabi (2020), "Alternative dispute resolution and access to justice in Australia", *International Journal of Law in Context*, Vol. 16/2, pp. 108-127, https://doi.org/10.1017/S1744552320000099. [37]

OECD (2023), *Recommendation of the Council on Access to Justice and People-Centred Justice Systems*, https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0498. [1]

OECD (2023), *Towards a Child-friendly Justice System in Latvia: Implementing the Barnahus model*, OECD Publishing, Paris, https://doi.org/10.1787/83ab7bf5-en. [13]

OECD (2022), *Building Trust to Reinforce Democracy: Main Findings from the 2021 OECD Survey on Drivers of Trust in Public Institutions*, Building Trust in Public Institutions, OECD Publishing, Paris, https://doi.org/10.1787/b407f99c-en. [3]

OECD (2022), *Good Practice Principles for Public Service Design and Delivery in the Digital Age v1 - OECD Good Practice Principles for Public Service Design and Delivery in the Digital Age*, https://engagement.oecd-opsi.org/engagement/processes/9/draft_versions/6 (accessed on 15 November 2022). [20]

OECD (2021), *Good Practice Principles for Data Ethics in the Public Sector*, https://www.oecd.org/digital/digital-government/good-practice-principles-for-data-ethics-in-the-public-sector.htm (accessed on 10 November 2021). [59]

OECD (2021), *Government at a Glance 2021*, OECD Publishing, Paris, https://doi.org/10.1787/1c258f55-en. [4]

OECD (2021), *OECD Framework and Good Practice Principles for People-Centred Justice*, OECD Publishing, Paris, https://doi.org/10.1787/cdc3bde7-en. [6]

OECD (2021), *Performance of the Prosecution Services in Latvia: A Comparative Study*, OECD Publishing, Paris, https://doi.org/10.1787/c0113907-en. [11]

OECD (2021), *Recommendation of the Council on Enhancing Access to and Sharing of Data*, https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0463. [60]

OECD (2021), *The E-Leaders Handbook on the Governance of Digital Government*, OECD Digital Government Studies, OECD Publishing, Paris, https://doi.org/10.1787/ac7f2531-en. [24]

OECD (2021), "The OECD Framework for digital talent and skills in the public sector", *OECD Working Papers on Public Governance*, No. 45, OECD Publishing, Paris, https://doi.org/10.1787/4e7c3f58-en. [26]

OECD (2020), *Digital Government in Chile – Improving Public Service Design and Delivery*, OECD Digital Government Studies, OECD Publishing, Paris, https://doi.org/10.1787/b94582e8-en. [57]

OECD (2020), *OECD Digital Economy Outlook 2020*, OECD Publishing, Paris, https://doi.org/10.1787/bb167041-en. [30]

OECD (2020), "The OECD Digital Government Policy Framework: Six dimensions of a Digital Government", *OECD Public Governance Policy Papers*, No. 02, OECD Publishing, Paris, https://doi.org/10.1787/f64fed2a-en. [19]

OECD (2019), *Digital Government Review of Argentina: Accelerating the Digitalisation of the Public Sector*, OECD Digital Government Studies, OECD Publishing, Paris, https://doi.org/10.1787/354732cc-en. [58]

OECD (2019), *Recommendation of the Council on Artificial Intelligence*, https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0449. [61]

OECD (2019), *The Path to Becoming a Data-Driven Public Sector*, OECD Digital Government Studies, OECD Publishing, Paris, https://doi.org/10.1787/059814a7-en. [21]

OECD (2018), *Access to Justice for Business and Inclusive Growth in Latvia*, OECD Publishing, Paris, https://doi.org/10.1787/9789264303416-en. [12]

OECD (2017), *Small, Medium, Strong. Trends in SME Performance and Business Conditions*, OECD Publishing, Paris, https://doi.org/10.1787/9789264275683-en. [34]

OECD (2015), *Equal Access to Justice - 2nd Expert Roundtable Background Notes*, https://www.oecd.org/gov/Equal-Access-Justice-Roundtable2-background-note.pdf (accessed on 14 December 2022). [5]

OECD (forthcoming), *OECD Conceptual Framework for Online Dispute Resolution*. [17]

OECD/Open Society Foundations (2019), *Legal Needs Surveys and Access to Justice*, OECD Publishing, Paris, https://doi.org/10.1787/g2g9a36c-en. [35]

PricewaterhouseCoopers and Europa-Universität Viadrina (2005), "Commercial Dispute Resolution Konfliktbearbeitungsverfahren im Vergleich". [36]

Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) (recast) (2020), *Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) (recast)*. [65]

Reiling, D. and F. Contini (2022), "E-Justice platforms: Challenges for judicial governance", *International Journal for Court Administration*, Vol. 13/1, https://doi.org/10.36745/ijca.445. [39]

Resolver (2022), *About Resolver*, https://www.resolver.co.uk/about. [46]

Sourdin, T. et al. (2016), "Evaluating alternative dispute resolution in taxation disputes", *SSRN Electronic Journal*, https://doi.org/10.2139/ssrn.2706879. [38]

Statista (2022), *SMEs in Latvia in 2022, by size*, https://www.statista.com/statistics/879095/number-of-smes-in-latvia/ (accessed on 1 December 2022). [31]

Tyler Technologies (2022), *Brochure: Online Dispute Resolution - Proven Technology*, https://www.tylertech.com/resources/resource-downloads/brochure-online-dispute-resolution-proven-technology. [44]

Tyler Technologies (2022), *Courts and Justice: Courts and Public Safety*, https://www.tylertech.com/solutions/courts-public-safety/courts-justice. [43]

Tyler Technologies (2022), *Enterprise Justice Software*, https://www.tylertech.com/products/enterprise-justice. [45]

United Nations (2019), *SDG Indicators Metadata: SDG 16.3.3*. [2]

United Nations (2018), *United Nations Convention on International Settlement Agreements Resulting from Mediation*, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXII-4&chapter=22&clang=_en (accessed on 19 December 2022). [51]

Notes

1. In this context, vulnerable groups are understood as people in vulnerable situations (e.g. women victims of domestic violence, children, indigenous groups, refugees, people with low incomes, children, elderly and people with disabilities).

2. For the purposes of this report, micro businesses are those that have 0-9 employees.

3 Unlocking ODR potential for effective dispute resolution in Latvia

This chapter explores approaches to unlock the potential of online dispute resolution (ODR) in Latvia by applying digital technologies and data. The chapter examines the use of digital tools such as e-case platform and portal and one-stop-shops to enhance users' experiences with ODR, dispute prevention, automation of diagnosis and dispute triage mechanisms, and improving pathways and the seamless transfer of cases. The chapter examines the current situation in mediation and arbitration and outlines current challenges and opportunities for improving dispute resolution. Additionally, it highlights the importance of enforcing ADR agreements and analyses alternatives for improvement.

3.1. Recent efforts to advance the digital transformation of Latvia's justice system

There is great potential for the digital transformation of dispute resolution in Latvia (see Chapter 2, Transforming dispute resolution in Latvia: Towards a people-centred justice approach). The integration of digital technologies in dispute resolution processes and services currently follows a "digital-by-default" approach (i.e. focusing on replicating analogue services by digitising information and procedures without rethinking the strategic use of digital technologies and data to transform processes and services to the online environment).

The next sections assess the use of digital tools in the Latvian justice system. A particular focus is given to the e-case portal ("Elieta.lv") and e-case platform ("e-lietas platforma"), e-ID and one-stop shop. The sections identify challenges with the current state of these digital tools and highlight recommendations to address these issues.

3.1.1. Digital tools in the Latvian justice system

E-case portal and platform

Latvia has set in place an e-case portal and platform to digitalise certain elements of court proceedings allowing parties to access case materials remotely in digital format. The platform makes it possible to process administrative, civil, criminal and administrative offence proceedings faster, less expensively, more effectively, and in a way that is more transparent and safer for all those involved in court proceedings (see Box 3.1).

Box 3.1. Latvia: Providing justice services and case information through e-case portal

The Latvian Court Administration has worked in the past years to develop the e-case portal ("E-lieta.lv"). The new product is an improved version of the website manas.tiesas.lv. The portal provides access to online justice services to citizens and case information for parties, allowing them to consult their files and receive decisions and notifications. The portal also provides a centralised, safe and more effective way to submit documents, for example, to prosecutors' office, courts or probation services. Furthermore, the transparency and efficiency of court proceedings are enhanced by a legal fees calculator and the possibility to pay on line.

Apart from judicial proceedings, the portal offers an extra-judicial guide on ADR. The guide directs users to the appropriate ADR mechanism according to the amount and the type of dispute.

Source: Government of Latvia (2023[1]), *E-lieta*, https://elieta.lv/web/#/sakums; Labs of Latvia (2021[2]), *E-services development significantly accelerated by COVID-19 pandemic*, https://labsoflatvia.com/en/news/e-services-development-significantly-accelerated-by-covid-19-pandemic.

While e-case portal ("Elieta.lv") and e-case platform ("e-lietas platforma") have been key steps to trigger the introduction digital technologies and data in court proceedings, there is scope for leveraging on the e-case platform to reflect the entire front and back end of court processes. Further developing the platform's functionality has great potential for increasing the user-friendliness and efficiency of court services.

As part of the continuous improvements of e-case and other platforms, enabling users to access their files and notifications in a single place would be beneficial. At present, the multiplication of channels (e.g. manas.tiesas.lv, elieta.lv and tiesas.lv) to follow cases can lead to friction. Centralising access to all files and notifications would raise efficiency (e.g. by reducing risks of missed court notifications and

enabling parties to oversee all their relevant processes) and improve the overall user-friendliness of the platform. In this regard, Latvia could consider ensuring interoperability among various justice systems, notably the TIS ("Tiesu informatīvā sistēma"), e-case and ADR platforms, to enable end-to-end services.

Continuous improvements to e-case and other platforms would require consolidation, whenever possible, of channels of separate organisations and pathways; a review of the TIS and its interoperability with other systems to ensure that users can provide the data only once; the involvement of stakeholders from courts, mediation centres, arbitration, private service providers on an ongoing basis throughout the lifecycle of service design and delivery; and further development of the e-case platform ("e-lietas platforma"). Additional improvements could include reflecting on the entire front and back end of court processes and enhancements in user-friendliness (e.g. centralising access to all files and notifications, enabling interoperability between court and ADR platforms and public registers, unifying videoconference tools to replace current use of various platforms).

One-stop-shop platform: Latvija.lv

Latvia's one-stop-shop platform ("Latvija.lv") has been progressively expanding since 2015. Managed by the State Regional Development Agency, the platform is the visible part of a developed national shared services platform (Government of Latvia, 2023[3]). The one-stop-shop comprises a range of service categories for citizens and businesses, including education, health, housing, transport, social and consular services. The platform provides a space for information and refers users to websites or offices where they can access services. Latvija.lv also allows users to authenticate and access online services.

Despite advancements in Latvija.lv, e-case portal ("Elieta.lv") and e-case platforma "e-lietas platforma" in the past years (OECD, 2018[4]), there is strong potential to make dispute resolution and other justice services available in a single platform. As in the case of health, education and social services, citizens and businesses would greatly benefit from a separate section for justice on the front page of Latvija.lv or have them gathered in the e-caseportal. This would help leverage ODR services in Latvia and empower users by enhancing access to legal and justice information (see Box 3.2). Another untapped opportunity would be to link Latvija.lv to other platforms, such as e-case portal, favouring a "no wrong door" approach.

Box 3.2. One-stop-shop platforms in justice

United Kingdom: Accessing services in a simpler, clearer and faster fashion

The UK government has developed a one-stop-shop platform (GOV.UK) to help people and businesses find information and government services. Content design and user journey are core elements that help the platform maximise user experience. GOV.UK also centralises government activity, including official papers such as guidance, reports, statistics and policy papers. By offering efficient and transparent information, the platform also contributes to reinforcing trust in public institutions.

The platform is a central government portal that replaces multiple departmental websites, breaking down government silos. Services are classified into 17 categories, assembling 23 departments and organisations, and over 400 agencies and public bodies. GOV.UK contains a dedicated section on "Crime, justice and the law", which concentrates all necessary information on rights and legal support; compensation and victim support; courts, tribunals and appeals; reporting crimes; penalties, sentences and police; prisons and probation; and youth. For example, people can find legal advice, check eligibility for legal aid, or file a claim on line.

To help people get effective access to justice, GOV.UK contains interesting features. For example, the one-stop-shop provides a simplified step-by-step form that helps people understand their eligibility for legal aid. Likewise, the platform provides an extensive guide to civil mediation, including information on

suitable disputes, associated fees and a list of registered mediators and mediation providers. The platform provides a list of institutions where people can find legal advice and information and also enables users to find a legal adviser through postcode search.

France: A platform at the service of litigants

Justice.fr is a one-stop-shop platform that aims to provide accessible and comprehensive information about legal services, procedures and resources for citizens and businesses in France. The platform is designed to facilitate easy access to various legal and judicial services, thereby enhancing transparency, efficiency and access to justice in France. Users can create a secure personal space to follow their cases on line and take direct legal action in legal procedures. Justice.fr is available both as a website and mobile application.

The platform offers several features. Information on rights, procedures and referral options are displayed in an amicable and interactive manner that privileges user experience and accessible language, including explanations of legal terms, in both text and videos. It also offers an interactive and dynamic tree of topics that branches out as the user interacts with it in search of a specific question or topic. The platform allows users to find courts or justice points near them and find information on fact sheets on family law, labour, and consumer rights, among others. Every section contains referral options for related online services, and forms, when available, clearly state all the procedures in which a lawyer is not needed and incentivise conciliation and mediation. The service also grants access to directories of legal professionals, such as lawyers, court commissioners, notaries, conciliators and mediators. Finally, Justice.fr provides a simulator of legal aid and alimony.

Source : Government of the United Kingdom (2023[5]), *Welcome to GOV.UK*, https ://www.gov.uk; Government of France (2023[6]), *Justice.fr*, https ://www.justice.fr/; Government of France (2023[7]), *La transformation numérique du Ministère de la Justice*, https ://www.cours-appel.justice.fr/nancy/la-transformation-numerique-du-ministere-de-la-justice.

More broadly, chatbots are other tools that could help improve access to information on legal and justice services. Such a tool could easily help address people's questions such as eligibility for legal aid, options available to address legal and justice needs, justice pathways, eligibility for certain procedures (e.g. simplified and warning procedures) and ADR centres available, among other useful information. In practice, this is feasible by having clear standards and simplifying processes that lead to one or more pieces of information to the maximum extent. Chatbots have been widely used in ODR solutions, such as those in Portugal (see Box 3.3) and developed by the Cyberjustice Laboratory and Tyler Technologies (see Box 2.4 in Chapter 2).

Box 3.3. Portugal: Using natural language processing to improve access to justice

The Portuguese Ministry of Justice developed the Practical Guide to Justice (GPJ), an innovative chatbot that aims to help users find relevant information to their legal and justice needs. GPJ is part of the recently launched GovTech Justice Strategy to improve the accessibility, inclusiveness and responsiveness of the justice system. Based on a natural language processing tool driven by AI technology – ChatGPT, GPJ is responsive to different formulations of questions and provides answers in an easy and accessible manner.

Currently in its Beta version, the initial focus of the platform is on marriage, divorce and starting a business. Users can choose among frequently asked questions or write their own questions freely. The tool provides answers in natural language, referring the user to the relevant service. The Ministry of Justice aims to gradually expand the topics covered in the platform and eventually encompass other services, such as ADR and registers, in order to provide a seamless end-to-end experience for users.

Source: Government of Portugal (2023[8]), *Guia Prático de Justice Versão Beta*, https://justica.gov.pt/Servicos/Guia-pratico-da-Justica-Versao-Beta.

One specific area within justice that would greatly benefit from being available on line on Latvija.lv or e-case portal is legal aid services (see Box 3.4). Fact-finding interviews revealed that citizens mainly learn about legal aid via social services in municipalities. Applications for legal aid can be submitted in person and on line. Yet, fact-finding interviews suggested that Latvija.lv and e-mail channels represent only up to 20% of total applications for legal aid. Despite alleged gradual progress of users learning how to fill in templates and using e-signatures for legal aid requests, the small number of people applying on line for legal aid suggests that at least a portion of justice clients in Latvia continue to rely on analogue services.

Box 3.4. Ukraine: Enhancing access to legal aid through digital transformation

In Ukraine, digital transformation has allowed citizens to access a wide range of administrative services. Strengthening access to free legal aid by digitalising corresponding services is one of the objectives identified in the Cabinet of Ministers' Action Plan. Digital solutions are already implemented in the area of legal aid services. This includes filing requests on line and reaching services through different channels such as hotlines, online chat services or applications.

Digital transformation in the area of legal aid has allowed citizens to better access legal information and services, enhancing their capacity to protect their rights and access justice. These services are designed to simplify access to practical information and aid, avoiding people turning away from the system. Online services also strengthen the possibility for vulnerable groups such as those with low mobility, with disabilities or wishing to remain anonymous to reach legal services. Enabling access to legal aid services through online channels is also detrimental to the continuity of access to justice during crises, such as pandemics or wars.

Source: Government of Ukraine (2020[9]), *Program Activity Cabinet*, https://www.kmu.gov.ua/storage/app/sites/1/Program/diyalnosti-kmu-20.pdf; United Nations (2021[10]), *Digital Transformation for Legal Aid: Challenges and Solutions*, https://www.undp.org/ukraine/blog/digital-transformation-legal-aid-challenges-and-solutions.

The Legal Aid Administration has been taking active steps regarding sharing information on legal aid by preparing seminars for municipalities to explain legal aid; sending information to courts; visiting retirement homes; and communicating with people via X (Twitter). Looking ahead, Latvia could consider offering chatbots or a legal aid simulator. Providing online information on legal aid in an accessible way would also free up resources in the Legal Aid Administration to concentrate on justice clients who do not have the resources or capabilities to use online services.

3.1.2. Absence of key infrastructure in Latvia's justice system

Beyond sound justice, and digital and data governance approaches, infrastructure remains a barrier to the widespread implementation and use of digital tools (see Managing technological advances in Chapter 2). Low bandwidth, inconsistent Internet connectivity and lack of base registries and equipment (e.g. hardware and software) were identified as obstacles to implementing ODR in Latvia. While the Court Administration provides the necessary infrastructure to the court, a range of gaps remain both on the end of courts and justice institutions and users. This has important implications. For example, gaps in infrastructure might lead to interruption in the flow of a hearing or force a delay. This can also hamper users' access to communication tools (e.g. e-mail, computers, printers, software), access and online submission of documents. Lack of a sound digital and data infrastructure can also hamper interoperability and, thus, smoothness of justice services (e.g. linkages between pre-court ADR and court platforms).

In light of these challenges, Latvia would benefit from continuing to invest in digital technologies, shared services and tools for the long term (e.g. hosting and infrastructure, digital identity and signature) to enable the sustainable digital transformation of its justice system. This would require strengthening the co-ordination responsibilities of the Ministry of Justice; developing shared services and tools; continuing to invest in capacity building to support the implementation and use of shared tools and services of all relevant actors; and considering piloting projects on the use of artificial intelligence (AI) in pre-court and court dispute resolution mechanisms, notably in procedural and non-analytical cases.

On top of missing infrastructure, specific challenges have been emphasised as important to tackle for developing ODR in Latvia. They encompass identification systems for parties during hearings; accessibility of online hearings for people with disabilities; and assessment of witness credibility without a complete view of the witness' body language and surroundings. Notably, the right to a fair, accessible justice system was highlighted as a priority by all stakeholders, and functionality must be at the heart of any innovation. Concerns around challenges to the validity of virtual hearings, or mandating electronic forms, have been raised, particularly if this impedes access to justice due to users' lack of understanding or access to infrastructure.

These issues are not limited to Latvia. In fact, they are experienced by many counterparts using online tools. It would be useful to explore good practices for remote hearings, following the example of the UK Judicial College (Judicial College, 2020[11]) or the US National Center for State Courts (see Box 3.5. The United States: Providing guidelines for online hearings), to help Latvia adapt online hearings in light of users' needs. It may also be worth exploring how other sectors, for example, health or finance, verify identities and build consumer trust. Ideally, guidelines would provide clarity to judges and parties and help them understand when – or not – online hearings can be considered an option, also in light of procedural fairness.

Box 3.5. The United States: Providing guidelines for online hearings

The California Commission on Access to Justice has developed guidelines to help courts decide when and how to use online hearings. The guidelines provide good practices to help identify and overcome barriers to access to justice during online hearings. When determining whether, when or how to use online hearings, the following points should be considered:

1. **Which hearings to conduct on line**: Courts should prioritise proceedings where a litigant can be self-represented (e.g. domestic violence), proceedings that are easily suitable to remote hearing technology and procedures (e.g. avoid those involving substantial documentary evidence) and disputes that are likely to reduce courts' backlogs, hence better serving citizens and enhancing access to justice.
2. **Digital divide**: Online hearings should use digital technologies that are easily accessible to users. Courts should provide options to mitigate the incompatibility with certain devices (e.g. voice-only participation, toll-free telephone number).
3. **Compliance with accessibility requirements for persons with disabilities**: Courts should guarantee accessibility for persons with disabilities. Ensuring accessibility for persons with disabilities is essential for creating an inclusive justice system operating remotely. Besides being technically inaccessible, remote technology can cause dizziness, nausea and other feelings of illness. Online hearing proceedings should comply with appropriate standards, such as the Web Content Accessibility Guidelines 2.1.11 and the 21st Century Communications and Video Accessibility Act (CVAA). This means adapting online hearings to ensure inclusiveness, for instance, by providing closed captioning, automatic transcripts and screen reader support.

4. **Usability of the software**: Courts should provide guides to help users understand how the software works and resolve common problems related to the use of the platform without the intervention of court staff.
5. **Cases involving self-represented parties**: Courts should adapt online hearings to the needs of those who are not fluent in the country's language. Remote translation should be provided. Courts must be aware that access to justice might be limited for non-fluent speakers who cannot access online hearings software.
6. **Cases involving illiterate parties**: Courts must be aware that online hearings can limit access to justice for illiterate parties or self-represented litigants unfamiliar with judicial vocabulary. Measures must be taken to mitigate this risk (e.g. provide simplified instructions in plain language or visuals).
7. **Cases requiring documentary evidence**: Online hearings are not recommended when documentary evidence must be presented. However, if remote technology is to be used for hearings involving documents, and especially for submission of documentary evidence, online hearings technology must provide the possibility to submit and record online documentary evidence. Courts must be aware that providing evidence through an online platform may limit equal opportunity in case of inequalities in access to technology. Measures can be taken to ensure equality between the litigants, such as distributing copies of documentary evidence before hearings.
8. **Tools for the court in exercising control over hearings**: Courts should use platforms that allow them to control online hearings to ensure a fair and efficient process (e.g. participant identification and management, confidentiality).
9. **Generation of useable official records**: When deciding which platform to use, courts should consider whether they provide tools for generating official records and transcripts and the option for the parties to contest them.

Source: National Center for State Courts (2020[12]), *Remote Hearings and Access to Justice: During COVID-19 Pandemic and Beyond*, https://www.ncsc.org/__data/assets/pdf_file/0018/40365/RRT-Technology-ATJ-Remote-Hearings-Guide.pdf.

Since May 2023, most individuals in Latvia have an obligation to have an electronic identification ("e-ID"), ensuring the possibility of communicating with public dispute resolution institutions. Likewise, since January 2023 all businesses have an obligation to have an activated official electronic address. State entities, reserve solders and certain individuals (bailiffs, insolvency administrators, soldiers etc.) had this requirement even before January 2023. This is a firm step towards using e-ID for remote identification with public sector institutions, including the judicial system (e.g. identifying individuals and companies remotely before court hearings without the involvement of the court administrative staff). The use of e-ID to enable remote identification would help reduce the workload of justice officials and make it possible to automatically register parties' data in the e-case portal and platform.

3.1.3. Looking ahead: towards a digitally mature justice system in Latvia

There is scope to reconsider the approach Latvia has adopted so far in modernising justice and dispute resolution mechanisms. This may require adopting sound justice, digital and data governance, as well as to rethink and re-engineer public processes and simplify procedures.

Privileging the "digital-by-default" approach over "digital-by-design" has several consequences in the design and delivery of dispute resolution. Service mapping and interviews with stakeholders revealed lack of interoperability and linkage between different systems, usually entailing fragmentation and multiplication

of tools and channels of communication. Reported issues (e.g. multiplication of tools, friction in navigating across platforms and information being requested several times) on user experience with online hearings, platforms and communication tools also suggest Latvia has been focusing on digitising the existing processes and procedures without considering user needs.

As part of potential reforms, Latvia would benefit from continuing to improve the electronic signature and court information system (TIS) and the e-case portal (Elieta.lv), especially to ensure the usability of justice services. This encompasses setting centralised guidelines and standards to ensure sharing of documents and the reuse of documents already submitted, enabling access to case histories of both court and out-of-court claims (alternative dispute resolution, ADR), and making efforts to better understand the users' needs to improve the functions of the system in back-office and front-service dimensions (e.g. increase size for attachments, pre-filling of information). This would help solve reported disparities between paper and electronic records for a same-file claim, for instance. This means continuously seeking out and engaging a diverse group of users (e.g. lawyers, citizens, businesses) to understand and prioritise their needs over the convenience of decision makers. Likewise, it is vital to interact with citizens, users and all stakeholders in the initial and ongoing phases of service design and delivery. Concretely, this means introducing methods of co creation and co-designing services, continually looking for opportunities to involve users in testing, iterating and using feedback loops to inform user segmentation, and a more targeted and customised service experience (see Agile approach in designing and delivering ODR in Chapter 2).

3.2. Applying ODR to dispute prevention and resolution

The modernisation of dispute resolution and implementation of ODR in Latvia has focused chiefly on addressing disputes after they emerge. While ODR can continue benefiting justice users by allowing them to access court proceedings on line, there is an untapped potential to transform the entire spectrum of dispute prevention and resolution settings, including ADR and processes (e.g. automation, triage, pathways).

ODR can significantly contribute to holding back disputes and prevent their escalation. To enhance dispute prevention, Latvia could consider enhancing the e-case portal (Elieta.lv) to help citizens and businesses understand their conflicts and explore options beyond court. Beyond ODR mechanisms, digital technologies and data can greatly benefit from legal services that enable parties to assess the suitability of non-contentious out-of-court ODR mechanisms for their cases. This could be developed as part of online self-evaluation tools and would help parties consider ADR mechanisms before deciding to bring their cases to court. Merely offering a wide range of options for sourcing legal advice and assistance is not always the most effective strategy. Too many choices may hinder individuals from accessing the service most suitable for their needs. Adopting a "no wrong door" approach would help ensure that people with legal issues are directed to the appropriate services and channels (OECD, 2022[13]).

Providing clear guidance and transparent information about various dispute resolution options, their appropriateness, cost, duration, and likelihood of success, would facilitate informed choices. Concretely, the e-case portal could include tools for self-evaluation and provide information to help parties realistically understand their issues and possibilities beyond court (see Box 3.6). Likewise, Latvia could extend its efforts to other elements, such as offering information on available legal support or dispute resolution options, along with time frames for judicial or other decision-making processes (see Box 3.6). Following this approach would encourage parties to embrace amicable ways of resolving disputes and support them in finding consensual out-of-court solutions to their disputes.

Box 3.6. Netherlands: Step-by-step legal advice tool to prevent court litigation

The Dutch "He Jurisdisch Loket" provides interactive step-by-step legal advice to help people solve their legal issues out of court. The platform follows a "no wrong door" approach, providing a universal gateway to justice services. For some subjects, a decision tree is displayed to help citizens find a step-by-step solution to address their needs. The platform also provides free legal counselling and assistance. This contributes to attenuating disputes and preventing their escalation.

The platform provides legal information and sample letters to assist users in resolving a wide range of legal and justice issues (e.g. work, family, debts). The platform informs people of their rights and current legislation related to their problems. He Jurisdisch Loket also refers citizens to lawyers or mediators in case the question requires specific legal expertise or if the services provided are not sufficient to resolve the situation. The platform is also adapted to low-income individuals and foresees lower fees for these groups to enable access to legal and mediation services. In-person access points are also spread around the country, and a hotline is also available.

Source: Het Jurisdisch Locket (2023[14]), *How we work*, https://www.juridischloket.nl/hoe-we-werken/.

3.2.1. ADR in the Latvian justice system

Fact-finding interviews suggested that there is an untapped potential for adopting a comprehensive approach to ODR beyond courts in Latvia. Currently, initiatives concentrate on the digitisation of typical court functions such as the submission of documents, the storing of data in an e-file and the conduction of proceedings and hearings online. In line with best practices such as the institutional introduction of conciliation in German court proceedings (*Güterichterverfahren*), court dispute resolution in Latvia could embrace alternative ways of solving disputes in addition to litigation (see Ombud schemes in consumer-trader disputes and Box 4.9 in Chapter 4).

Integrating alternative dispute resolution mechanisms, such as mediation and arbitration, to the Latvian broader efforts can help the country improve access to justice and advance in modernisation efforts of its justice system.

Mediation in Latvia

Mediation can be defined as "the non-binding intervention by an impartial third party who helps the disputants negotiate an agreement" (Carroll, 1997[15]). Mediation can resolve disputes cost-effectively through processes tailored to the parties' needs. The Mediation Law and the EU Directive on Certain Aspects of Mediation in Civil and Commercial Matters serve as the legal basis for mediation in Latvia. The Mediation Law does not make any distinctions or provide any specific regime for simplified and warning procedures or consumer cases. Mediation applies to all types of disputes that parties desire to resolve amicably, as set in Section 8 (Government of Latvia, 2014[16]).

In Latvia, a voluntary agreement on mediation, whether included as a clause in the contract or concluded as a separate agreement, prevents the use of litigation, except if:

1. One party has informed the other party in writing regarding withdrawal from the mediation agreement included in the contract concluded between them.
2. One party has rejected the proposal of the other party to settle disputes by using mediation.
3. A mediation has been terminated without agreement (i.e. settlement), and the mediator has issued a certification regarding the outcome of mediation.

The exceptions listed above shed light on the voluntary and consensual nature of mediation, perceived as an option for the parties that want to reach a settlement amicably. Not only are parties not required to mediate unless they have agreed to do so, but such an agreement does not necessarily prevent litigation if one or both parties do not want to mediate or cannot reach a settlement.

Interviews suggested an overall consensus that mediation is rarely used outside family disputes. This has been partially related to the voluntary nature of mediation and the lack of confidence as an effective method for dispute settlement, also due to the limited enforcement options for mediation agreements. Indeed, the lack of enforceability of mediation settlements was reported to drive people and businesses out of mediation in Latvia (see Enforcement of decisions). Section 14(3) of the Mediation Law provides that the agreement reached during mediation must be voluntarily performed by the parties (Government of Latvia, 2014[16]). However, such an agreement is not an enforceable document. Hence, if one of the parties does not comply with the agreement, the other needs to initiate litigation requesting compliance with the settlement or payment of compensation for non-compliance. At the same time, if a settlement is reached during the litigation and confirmed by the court, it can be enforceable as a court judgment (Section 228 of the Civil Procedure Law) (Government of Latvia, 1998[17]).

Another reported barrier to the use of mediation is the perceived mismatch between the level of technicalities certain cases require and the lack of specialised mediators to fulfil this demand (OECD, 2018[4]). Businesses have particularly emphasised this concern and confirm previous findings in the OECD report *Access to Justice for Business and Inclusive Growth in Latvia*. Mediators often specialise in human sciences (e.g. psychology, sociology, philosophy), while stakeholders considered that a more diversified pool of mediators with expertise in other fields (e.g. engineering, finance) would enhance the attractiveness of such services. In this context, Latvia could consider enhancing the attractiveness of mediation by increasing the diversification of profiles, training and creating incentives to attract future mediators. This could also encompass creating incentives and programmes to retrain retired judges as mediators. Expanding capacity-building programmes for mediators could also help address the issue. This could be complemented by stronger co-operation between the state and mediation associations to improve support and implement reskilling initiatives for career reconversion.

Currently, in Latvia, legal aid does not apply to ADR (Government of Latvia, 2019[18]). To favour the uptake of ADR in the country, Latvia could consider enlarging legal aid to ADR by amending Article 9 of the State Ensured Legal Aid Law (Government of Latvia, 2019[18]). This would also greatly benefit a share of the population with no financial means to afford ADR-related expenses and help expand access to justice. Enlarging legal aid to ADR could also help promote a shift in the “culture of litigation” by allowing people to choose an alternative method to settle their private disputes. Another positive outcome of encompassing ADR in the State Ensured Legal Aid Law is the potential decrease in court workload. Mediation could be a good candidate for state financial support for legal assistance in view of lower fees compared to other ADR mechanisms, such as arbitration.

Arbitration in Latvia

Arbitration is an ADR mechanism that relies on parties' consent to arbitrate. Without an arbitration agreement, there is no duty to arbitrate. However, if parties have validly agreed on arbitration, they cannot litigate in court. Arbitration does not apply to all types of disputes, even if parties desire to arbitrate. Section 5 of the Latvian Arbitration Law contains a catalogue of legal relationships ineligible for arbitration (Government of Latvia, 2014[19]). This encompasses disputes between employees and employers on employment contracts (i.e. payment matters). Similarly, disputes involving a state or local entity or those where an arbitration award might infringe upon them cannot undergo arbitration (Government of Latvia, 2014[19]).

During focus group discussions conducted with businesses, some invoked damaged reputations as one of the reasons preventing parties from choosing arbitration in Latvia. For very large disputes, some stakeholders preferred to look for arbitration options abroad.

Scholars have also identified the perception of mistrust of arbitration. The arbitration landscape in Latvia is often viewed as "so distorted that arbitration institutions do not operate with the purpose for which they are intended, but to carry out various [illegal] schemes" (Kačevska, 2014[20]; Krumins, 2017[21]). Another author has characterised those words as "a remarkably strong statement that succinctly unveils the gloomy reality of arbitration in Latvia" (Torgāns, 2012[22]). Fact-finding interviews and the views supported by scholars point to a much deeper problem of mistrust of arbitration in Latvia. This can serve as a hurdle to further implementation of ODR in arbitration.

In this context, Latvia could benefit from further improvements in arbitration as a fair and efficient way to resolve disputes. On a technical level, there is scope to strengthen the legal basis for the setting aside procedure for arbitration awards. At the same time, awards by ad hoc tribunals should also rely on robust enforcement procedures. Similarly, there is scope to increase the possibility for witnesses to be heard during arbitration proceedings to ensure disputes are resolved thoroughly and fairly.

In light of alleged reputation issues, improvements in arbitration could also include ensuring the necessary safeguards to eliminate any real or potential conflicts of interest in arbitration and developing ethical requirements for arbitrators, which should be transformed into the cornerstone of the arbitration procedure and compliance with those requirements. As part of improvements, Latvia could consider collaborating with arbitration institutions to develop a training programme for arbiters. A strategic document or programme would be an option to help back these reforms and revamp arbitration in Latvia.

Likewise, setting periodic evaluations could help assess the relevance, efficiency, effectiveness, sustainability and impact of arbitration reforms against new strategic approaches and targets. Evaluation offers a deeper understanding of the underlying policy problems and helps policy makers make informed decisions about the feasibility of continuing or initiating a new policy. Such reforms could help improve the functioning of the arbitration and hence encourage its more widespread use, helping increase the responsiveness of the justice system in Latvia.

3.2.2. Integrating ADR in modernisation efforts in the Latvian justice system

The next step to support the use of ADR mechanisms could be the introduction of online mediation and arbitration. Developing a strategic approach that enlarges the scope of ODR policy to support ADR's development and digital transformation (e.g. mediation, ombuds, arbitration) would be a first step towards further advancing ODR settings in the country (see Strategic approach to dispute resolution in Chapter 2). This approach could also encompass clear principles and goals of ODR in Latvia, adopting a whole-of-government approach, clarifying institutional roles, responsibilities and procedures, specifying resources, reflecting various user groups, and developing a clear roadmap for implementation, with targets and key performance indicators.

The mapping of pathways to dispute resolution in Latvia suggested an absence of channels connecting ADR services and court litigation. Instead, people have to initially attempt pre-court ADR, if they are interested in doing so, and, if such an ADR attempt fails, they have to initiate a new court proceeding without the opportunity to swiftly transfer their case from ADR to an in-court procedure. This fragmentation in the pathways between ADR and court services is perceived as quite cumbersome and lengthy and creates obstacles to considering mediation, arbitration and ombud schemes as viable alternatives to court processes. Similarly, there are no easy pathways to shift a case from court to ADR (and vice versa) after having commenced a court proceeding. Addressing the absence of streamlined paths from court proceedings to ADR mechanisms could be explored as another avenue to promote ADR and reduce court caseloads. Admittedly, this is a big step as it requires sound data governance as part of broader public

sector reforms on data architecture and infrastructure (see Data governance and its strategic use in Chapter 2).

Reforming ADR in Latvia could also consider cost rules. Carefully designed cost rules in ADR have the potential to enhance its accessibility, attractiveness and effectiveness of ADR, leading to more efficient and satisfactory outcomes for all stakeholders involved. Interviews suggested that mediation and arbitration are rarely used for simplified procedures due to the high associated costs (see Pathways to simplified procedure in Chapter 4). Cost rules should consider the principles of fairness (e.g. is it possible to have cost-sharing arrangements, where both parties contribute to the fees, encouraging more collaborative problem solving?); predictability (e.g. are there clear and transparent ADR fee structures?); and accessibility (e.g. do cost rules favour ADR by offering lower fees or reduced financial burden compared to traditional court litigation?; and do cost rules in place allow ADR to remain accessible to all parties, regardless of their financial capacity?).

Confidentiality rules in ADR mechanisms are equally important for creating a safe and conducive environment for parties to resolve disputes effectively. Key considerations to confidentiality rules include transparent rules on the use of information shared over the ADR mechanism (e.g. information revealed in ADR may or may not be used in court); privacy and data protection; preservation of trade secrets; and reputation (see Pillar 3: Ethics and safeguards in Chapter 2).

One of the improvements that could be potentially promoted when reforming ADR is having a robust framework for court-annexed ADR. This allows court proceedings to be temporarily suspended (*ad hoc* or by parties' request) to enable parties to engage in the ADR process. If ADR is successful, the parties can submit their agreement to the court for approval.

Another aspect that could be considered when reforming ADR is the enforcement of decisions. Enforcing ADR outcomes strikes a balance between preserving the voluntary nature of ADR and providing a means to ensure that parties comply with their agreed-upon solutions. While parties are often happy not to have an enforceable instrument following ADR decisions, being able to enforce them can also improve effectiveness and efficiency in dispute resolution. In this regard, when promoting reforms in ADR, Latvia could consider providing easy access to enforceable instruments or explore the possibility of making various ADR/ODR settlements enforceable (see Enforcement of decisions).

A policy offering a more comprehensive approach to ODR could also consider supporting a collaborative ecosystem between the public sector, non-governmental and private service providers to ADR services. The public sector can contribute with an updated legal framework, providing opportunities and certainty for ODR settings. For example, Latvia could consider introducing laws that help remove barriers to ODR and encourage ODR practices (e.g. by way of cost rules favouring ODR and promoting ODR among the legal professions). This would need to be complemented by private initiatives, such as arbitration, ombud schemes and mediation providers embracing online practices. In addition, it would be beneficial to strengthen the LegalTech ecosystem by making funds available and providing support to enhance start-ups' digital skills and competitiveness. Promoting events and national competitions (e.g. hackathons) could also help leverage innovative solutions to ADR services.

3.3. Automating diagnosis and dispute triage

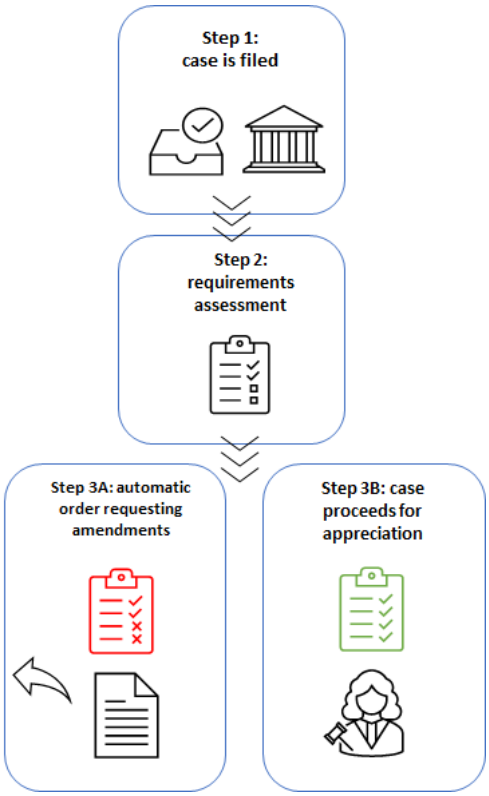
Diagnosis and dispute triage refers to processes and systems that identify, assess and categorise cases according to their suitability to legal requirements, dispute resolution mechanisms, and the legal needs of justice users. Diagnosis and dispute triage help ensure that cases are managed efficiently, effectively and in a timely fashion. It can help determine the best strategies to address legal and justice problems and to make the appropriate referral to dispute resolution channels (OECD, 2021[23]). Diagnosis and triage are useful tools to channel disputes to the right pathways and help parties identify solutions other than litigation,

keeping cases out of court to the extent possible. Automation of diagnosis and dispute triage contributes to reducing justice officials' workloads, channeling resources to the right cases and phases of the proceeding that may require analytical assessment, and discouraging litigation in bad faith.

Following the Justice Strategy for 2022-2026 (see Strategic approach to dispute resolution in Chapter 2), Latvia could build on implementing an ODR concept to promote reforms in diagnosis and dispute triage. For example, civil procedural laws usually contain general requirements that need to be fulfilled to allow the continuity of the procedure (e.g. payment of fees, generic information about parties). Likewise, legal aid requests also heavily build on procedural law. Fact-finding meetings with lawyers and the Legal Aid Administration confirmed that this is another area where Latvia would greatly benefit from automation. In this regard, Latvia could consider automating the process of assessing, conceiving and providing the full spectrum of legal aid services. This would require identifying areas for automation in legal aid, including but not limited to pre-assessment, calculation of benefits and automated processing of human conversation (chatbots), among other uses of digital technologies and data to leverage legal aid.

In addition, in the case of Latvia, the simplified and warning procedures contain specific requirements (see Simplified procedure and Warning procedure in Chapter 4) to allow a file to advance in court (e.g. monetary caps). Some of these requirements, such as payment of the fees or lump sums of a case, can be easily identifiable by automated systems. In addition, usually, the assessment of whether these requirements are fulfilled does not demand analytical thinking or involve major controversy on their applicability. An automatic order could be issued for cases that do not fulfil procedural requirements. Figure 3.1 illustrates this process.

Figure 3.1. Automating diagnosis and dispute triage in a case's early stages



Source: Author's own design.

From a user perspective, triage mechanisms could be valuable to help users identify information for their legal and justice issues and available recourses at early stages. This would also encourage parties to try ADR before opting for litigation. Online tools such as forms and chatbots integrated into e-case portal and one-stop-shops (see One-stop-shop platform: Latvija.lv), powered by big data, algorithms and machine learning, can help implement diagnosis and dispute triage for people and businesses.

The Platform to Aid in the Resolution of Litigation electronically (PARLe) is a good example of an ODR platform with a triage mechanism, which helps assess the admissibility of a dispute (see Box 2.4 in Chapter 2 and Box 3.8 further below). Developed by CyberJustice Canada, PARLe has been integrated into several organisations in North America and Europe. The platform enables convenient, affordable and efficient ODR for low-intensity conflicts in the field of civil, administrative and minor infractions. The platform also contains a chatbot where parties can obtain help with identifying information and solving their issues.

Digital technologies, in combination with one-stop-shops, could support a user-centric approach in Latvia by helping users better understand the key characteristics of their conflicts and match these characteristics with a suitable type of dispute resolution.

Latvia could be further inspired by the example of the State Courts of Singapore to implement dispute triage (see Box 3.7). Singaporean State courts offer an online assessment tool for small claims to guide parties in decision making. The tool provides a preliminary assessment of whether a dispute falls under the jurisdiction of the Small Claims Tribunal. It also provides support regarding the identification of evidence, how to proceed with a claim, and facilitates the completion of a claim form. The tool is available for computers and mobile devices and takes about ten minutes to complete (Government of Singapore, 2022[24]). Likewise, the Bem-te-Vi system, developed by the Brazilian Superior Labour Court, is a court case-management tool that triages cases by assessing the admissibility of appeals (see Box 3.7).

Box 3.7. Triage mechanisms and automation for efficient case management in justice

Singapore: Implementing triage mechanisms in justice through a pre-filing assessment tool

The Singaporean Community Justice and Tribunal System (CJTS) is the online platform for filing claims to Singaporean State Courts. The platform integrates a triage mechanism of cases by providing a unique pre-filing assessment for each of the four types of courts: Small Claims Tribunals, Community Disputes Resolution Tribunals, Employment Claims Tribunals and Protection from Harassment Court. The pre-filing assessment aims at avoiding parties submitting their cases to a court that does not have the competency to judge the dispute. The requirements checklist also helps to keep cases out of court by redirecting parties to ADR mechanisms.

The pre-filing assessment helps identify if the nature of the dispute and conditions concerning the parties are adapted to the competence of the specific court. The online tool also provides advice. For example, an amicable settlement is advised if the user states that this type of resolution has not been sought. The platform also provides contacts of ADR bodies likely to help them (e.g. the Community Mediation Center). Moreover, if there is a preliminary necessary procedure to bring a claim to a certain tribunal, the platform redirects the user to the right body. For instance, trying to reach a settlement through the Tripartite Alliance for Dispute Management (TADM) is a preliminary condition to bring a claim to an Employment Claims Tribunal.

Brazil: AI applied to triage and case management in courts

Bem-te-Vi is a court case-management system developed by the Brazilian Superior Labour Court (TST) to streamline cases in an efficient and timely manner. Developed in partnership with the University of Brasilia (UnB), the system resorts to AI to automate triage by assessing the admissibility of appeals. According to the parameters built upon natural language processing, the system automatically pre-categorises procedures,

thus facilitating human supervision by the responsible judge. Bem-te-Vi is interoperable with other digital judiciary systems.

It also performs automatic analysis of the timeliness of the processes. Users can prioritise the management of procedures according to different strategies and combined options among 38 filters in 9 categories: internal indicators; parts; topic; characteristics of the process; special procedures; preferential procedures; time frames; current status of the process; and lawyer acting in the case. One of the features is the possibility of filtering processes according to the productivity goals set by the National Council of Justice, thus having easy access to cases that should expeditiously come to a conclusion.

Spain: Natural language processing-powered document sorter, anonymiser and similarity analysis to speed up triage and end-to-end case management

As part of Spain's ongoing commitment to improve access justice, the Spanish Ministry of Justice provides natural language processing (NLP) tools to its users. For example, civil servants in the Ministry of Justice can access a similarity analysis tool, which allows to identify the same entity (same person) in different parts of the document and recognise them as the same, despite significant differences in the wording of that entity throughout the document. Likewise, a document sorter, which allows self-cataloguing of the documentation received at the judicial headquarters, based on the standards established by the Council of the Judiciary. Among the most used services is also the anonymisation of documents, a tool that recognises nominal entities that convey information related to specially protected subjects and proceeds to anonymise them.

Justice institutions have also access to tools that allow to speed up case management, including legal and forensic dictation system. The textualisation of hearings' recordings also allows judges, prosecutors and other legal practitioners to save time in their day-to-day tasks.

Source: Government of Singapore (2023[25]), *Community Justice and Tribunals System*, https://cjts.judiciary.gov.sg/home; Government of Brazil (2023[26]), *Bem-te-vi*, https://www.csjt.jus.br/web/csjt/justica-4-0/bem-ti-vi, Government of Spain (2022[27]), *Presentation "Digital Transformation within the Administration of Justice"*, https://www.mjusticia.gob.es/es/JusticiaEspana/ProyectosTransformacionJusticia/Documents/202209%20Digital%20Transformation%20[ENG].pdf.

Similarly, automated diagnosis and triage could be implemented in other phases of proceedings that represent a substantial amount of work for justice officials; heavily rely on procedural acts that are not contradictory; or involve repetitive tasks requiring little analytical assessment. This is the case, for instance, on decisions following untimely documents or written manifestation from parties, due date extension, reconsideration of hearings or requests for payment of fees.

Enforcement can also greatly benefit from automated diagnosis and triage (see Enforcement of decisions). While the execution phase is composed chiefly of assessing technical requirements and fulfilling procedural steps, in Latvia, this phase is usually the longest, sometimes taking several years to complete a case. This impacts the rule of law, access to justice and economic welfare. Automating certain steps of the enforcement phase is a good compromise between implementing fairly simple systems against the gains by saving resources and decreasing the time to complete cases.

3.4. Pathways and the seamless transfer of information and cases

People and businesses experiencing legal and justice issues might need to recur to a range of services and have their legal and justice matters addressed by different institutions or dispute mechanisms. In the context of multiple dispute resolution mechanisms and service providers, a seamless transfer of information and cases can enhance the efficiency and effectiveness of justice systems.

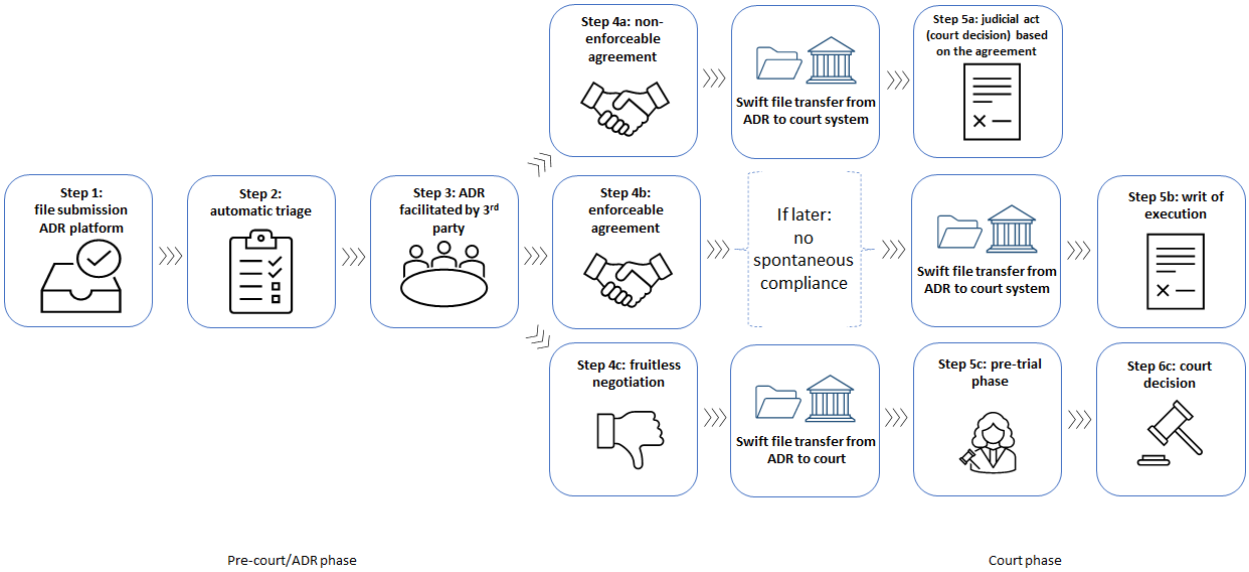
Pathways and the seamless transfer of information and cases have two dimensions – throughout various milestones within the same proceeding and across different types of dispute mechanisms.

Firstly, ODR mechanisms should be designed to allow a seamless case transition, starting from the initiation of the proceeding and progressing through various milestones, such as providing information, to its conclusion and enforcement of the result.

Fact-finding interviews with business representatives shed light on their constant need to access court systems and resubmit the same information and documents several times. The issue seemed to be persistent as most of the stakeholders consulted (e.g. financial institutions, insurance companies) were regular justice clients and usually involved in a large number of ongoing cases. From a user perspective, it would be desirable if court systems, including the e-case portal, could enable the pre-filling of information and reuse of documents when applicable.

A second aspect of seamless ODR pathways is that systems should enable the swift transfer from one dispute resolution mechanism to another (e.g. from mediation to court litigation) (see Figure 3.2). Currently, there is no linkage between pre-court dispute resolution mechanisms and the court system in Latvia. This is often because sector-specific initiatives have mainly driven ODR services. Attempts to improve pathways have occurred within the court system, arbitration and mediation. However, no integrated approach has been considered across these different dispute resolution mechanisms.

Figure 3.2. Improving seamless transfer of cases between pre-court ADR and courts



Source: Author's own design.

For example, mediation and arbitration can take place digitally with the online submission of documents, arbitration hearings and mediation sessions, which became relatively widespread, particularly after the COVID-19 pandemic. At the same time, mediators and arbitration institutions are not part of the judiciary or the public sector. Instead, they are private intermediaries to resolve disputes. Therefore, any platforms that mediators and arbitration institutions might use to submit documents or organise online mediation conferences or arbitration proceedings are currently fully independent from judicial online systems. The same applies to specific out-of-court dispute resolution mechanisms for consumers, such as industry ombuds and the Consumer Rights Protection Centre. They both use their own digital solutions, differing from the judiciary's (see Pathways to consumer claims in Chapter 4).

The lack of swift transfer from one dispute mechanism to another has concrete implications. For example, documents submitted in mediation or arbitration processes cannot be automatically transferred to the court system if parties decide to bring their case to court. If parties agree on arbitration but then voluntarily agree to terminate the arbitration agreement and move the resolution of the dispute to court, they cannot transfer documents to the court system. Similarly, documents submitted to ombuds concerning a consumer dispute are not accessible to courts if one of the parties opts later for litigation. This often entails several challenges, including parties having to submit documents twice, incurring costs associated with the transfer of information, and experiencing delays between closing an ADR dispute and filing a new court proceeding. The lack of interoperability between pre-court dispute resolution mechanisms and court systems, such as the TIS and e-case platform ("e-lietas platforma"), can also discourage parties from seeking ADR mechanisms before or instead of recurring to courts. In this sense, having an integrated system can help promote the use of ADR pre-court mechanisms, potentially helping to keep cases out of court.

Improving the compatibility of ADR and court systems could bring smoothness in the transition of cases from mediation and arbitration centres to courts, save resources and improve overall access to justice. Concretely, compatibility would involve sharing information and documents submitted to the ADR provider directly to court systems as needed (e.g. if the ADR has not resolved the dispute). This could be achieved by designing systems that offer private service providers the possibility of linking systems to the TIS. Enhancements could also involve setting an option ("button") where any of the parties can request at any time the transfer of the case to a court (see Enforcement of decisions).

A seamless transfer between dispute resolution mechanisms in Latvia would also allow users to correct mistakes in their initial choice of a certain dispute resolution mechanism. In the earlier stages of a conflict, it may be difficult for parties to identify the type of dispute resolution proceeding that best fits their needs. Allowing parties to move to another type of dispute resolution gives them a better chance for a suitable solution. In addition, this would save precious time and resources for both parties and justice officials regarding duplication of information and document requests, for instance.

Adopting an integrated approach and seamless pathways when designing justice services would require interoperability enabled by sound data governance (see Data governance and its strategic use in Chapter 2). Interoperability allows the swift transition from one dispute resolution mechanism to another (see Figure 3.2), ensures that separate entry points are integrated (in terms of data, information, content and design) and favours consistent outcomes regardless of the channel(s) used.

Several initiatives have been developed across OECD countries to improve pathways and the seamless transfer of cases between pre-ODR court and court systems. One of the examples previously mentioned is PARLe, developed by the CyberJustice Laboratory (see Box 3.8). PARLe provides litigants with an online tool to promote the resolution of disputes through personalised support throughout each step of the process. PARLe can be adapted according to different structured negotiation, mediation and, if necessary, adjudication processes. The platform is an example of smooth and seamless integration between pre-court ADR and e-court systems, allowing parties to automatically transfer their case to a court if needed. PARLe contains other important functionalities (e.g. triage, electronic signature, and sample emails, notifications, forms, transaction agreements and decisions) further detailed throughout this report.

Adopting a code in open format and a modular approach is another important aspect that enables solutions to be adapted to other contexts, including types of cases and areas of litigation of institutions. PARLe, for example, has been integrated into several organisations in North America and Europe. This includes the Condominium Authority Tribunal (CAT), the Commission for Standards, Equity, Health and Safety at Work (Commission des normes, de l'équité, de la santé et de la sécurité du travail, CNESST), and the Consumer Protection Office (Office de la protection du consommateur) in Canada (see Box 3.8).

Box 3.8. Cyberjustice Laboratory: Integrating pre-court ADR and e-court systems

Resolving disputes with a modular platform

The Platform to Aid in the Resolution of Litigation electronically (PARLe) is an ODR platform developed by the Cyberjustice Laboratory. The platform provides litigants with an online service to resolve low-intensity disputes in civil, administrative, criminal or disciplinary areas. The platform was designed on the basis of an open-source code. The platform is flexible according to the type of procedure and the institution's needs, making it a “tailor-made” solution. PARLe facilitates the settlement of disputes through negotiation and mediation and provides access to virtual court.

The platform is an example of seamless integration between pre-court ADR mechanisms and e-court systems. This allows litigants to directly transfer their case to a judicial court if ADR mechanisms fail to resolve the case without requiring any additional procedures that would be costly and time-consuming for parties and the justice system. The highly modular suite of tools offers ease of use by court personnel, citizens, mediators, arbitrators and judges. The platform has been integrated into several jurisdictions around the world. Its highly modular suite of tools allows the platform to be adapted to each jurisdiction's needs and legal framework, type of proceedings and other needs. For example, in certain cases where PARLe has been implemented, a decision issued from mediation has a nature similar to a judgment in its effect. In other jurisdictions, breaching a mediation agreement might lead a judge to consider bad faith the party who breached the agreement if the dispute is brought to court.

Integrating ODR into courts: The Condominium Authority Tribunal (CAT)

PARLe has been integrated into several organisations in North America and Europe. This is the case for the Condominium Authority Tribunal (CAT) in Ontario, Canada. CAT is a fully online tribunal dedicated to resolving and deciding condominium-related disputes. CAT builds on the PARLe platform to offer access to pre-court ADR.

The platform enables convenient, affordable and efficient ODR through its triage, negotiation and mediation services, as well as adjudication, all fully dematerialised. The CAT ODR process commences with the applicant submitting their application on line and delivering the notice to the respondents and intervenors. Once respondents join the case, CAT automatically moves to the first stage of negotiation, where parties work together to resolve their case between themselves. If parties do not reach an agreement, the case is submitted to a CAT mediator joining the platform. Finally, if the mediation phase cannot resolve the dispute, the case enters automatically in the e-court procedure, with a CAT judge rendering a decision directly through the platform within 30 days.

Enforcement occurs through the courts rather than CAT. Parties may need to enforce an order in either the Small Claims Court or the Superior Court of Justice of Canada. As of 1 January 2020, the Small Claims Court has a monetary limit of CAD 35 000 (Canadian dollars). For amounts greater than CAD 35 000, enforcement orders are processed by the Ontario Superior Court of Justice. The Small Claims Court functions as a branch of the Ontario Superior Court of Justice.

Source: CyberJustice (2022[28]), *PARLe: Transform the Court Experience with Online Dispute Resolution*, https://cyberjustice.openum.ca/files/sites/102/Livret_LABOCJ_PARLe_demilettre_GN-1-Corrige%CC%81-2.pdf; Condominium Authority of Ontario (2022[29]), *After your case*, https://www.condoauthorityontario.ca/tribunal/the-cat-process/after-your-case/; Condominium Authority of Ontario (2023[30]), *The CAT process*, https://www.condoauthorityontario.ca/tribunal/the-cat-process/.

3.5. Enforcement of decisions

Enforcement refers to the implementation of dispute resolution outcomes, whether they are court- or tribunal-ordered outcomes, negotiated outcomes through formal ADR or informal agreements and arrangements that resolve a large number of day-to-day legal issues and disputes (OECD, 2021[23]). Effective enforcement is one of the measures of trust in justice institutions (OECD, 2022[31]) and has important implications for the economy and society. Economic and social welfare requires a well-functioning judiciary that resolves cases and enforces decisions in a reasonable time and with predictable outcomes. Where courts can effectively enforce obligations, economies have better levels of business climate and innovation (World Bank, 2022[32]).

The assessment conducted in Latvia on the state of play of enforcement in ADR and court proceedings combined with a previous OECD assessment (OECD, 2018[4]) suggests that the justice system would greatly benefit from reforms in this area. Focus groups with businesses and fact-finding interviews conducted with other stakeholders showed that the lack of enforceability of ADR decisions is among the main reasons that drive people and businesses away from choosing ADR. This is particularly the case of mediation, as currently, settlement agreements issued by mediation entities do not have any legal value before the courts. Therefore, if parties do not manage to solve their issues through informal negotiation, they usually decide to proceed with litigation instead of opting for mediation.

To address the lack of enforceability, Latvia could consider promoting legal reforms to provide legal recognition and make certain ADR agreements enforceable, such as in the case of mediation. An example is the case of the Condominium Authority of Ontario (CAO), which has implemented PARLe (see Box 3.8). Providing legal recognition and enforceability of agreements would require amending ADR civil procedure and ADR-related laws. Likewise, Latvia would also need to consider the circumstances when a party fails to spontaneously comply with a mediation agreement. This might be cost sanctions in court (i.e. the party not attempting ADR in breach of such promise might have to carry more court costs than usual) or execution through compulsory means, for example, by automated request for the writ of execution via court in the case of non-objections from the other party, without the need to go through the pre-trial phase again.

Latvia could be inspired by some country examples regarding the enforcement of settlements resulting from mediation. For example, in France and Greece, mediation settlements are subject to formal review by the court with very limited options for objection by any of the parties (Meidanis, 2020[33]). A similar mechanism could be introduced in Latvia. This could make mediation more attractive. In this case, a party willing to enforce a non-complied mediation settlement would request the court to automatically issue the writ of execution. In this case, the judge would order a public official (e.g. a bailiff) to enforce the obligations that should, otherwise, have been fulfilled by one of the parties as per the enforceable mediation agreement. The court would issue the document provided the other party had not submitted objections to the issuance of the writ. In case of objections, the court would review the settlement, allowing the objecting party to prove its invalidity. All efforts should be made to automate the steps in requesting the writ of execution, in line with good practices and to ensure effective access to justice.

Importantly, fact-finding interviews brought to the surface the need to address enforcement within court proceedings in Latvia. Partially removing certain processes from the control of courts could be one of the alternatives to improve enforcement. Centralising enforcement in only one agency could make cases easier to follow and unburden courts (see Box 3.9).

Box 3.9. CEPEJ Good Practices Guide on Enforcement of Judicial Decisions

Revolving around the idea of an “ideal enforcement system” and to inspire the Council of Europe member states to unify their enforcement systems, the *Good Practices Guide on Enforcement of*

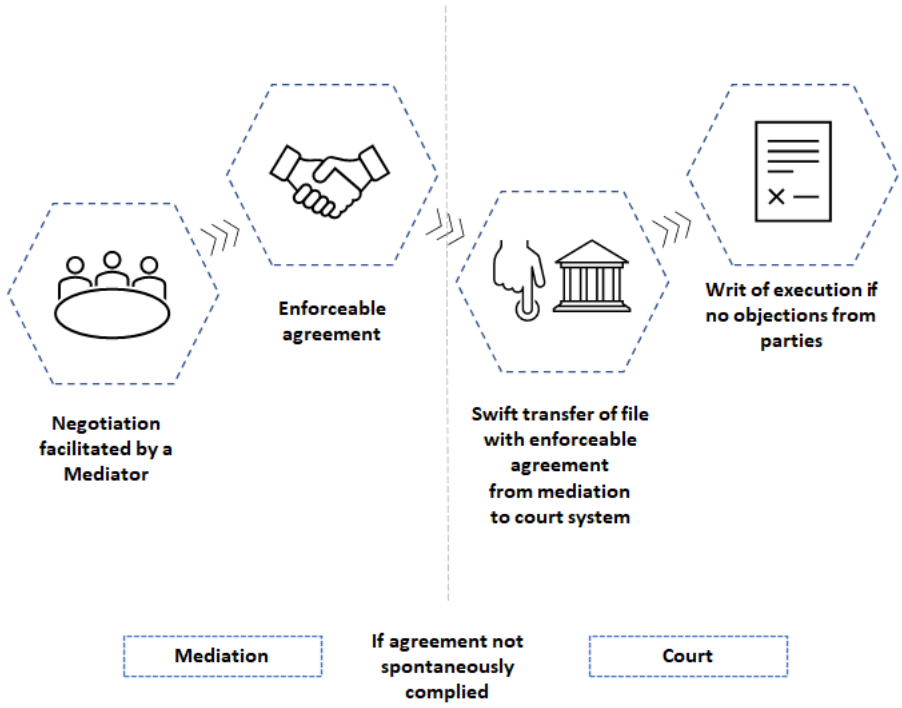
Judicial Decisions highlights certain solutions applied in EU member states. The guide highlights some good practices that can have an impact on people-centred enforcement:

1. **Partially removing enforcement processes from the control of the courts**: As a general rule, division of tasks can help to ease court congestion, speeding up enforcement. Together with centralising enforcement in only one agency, this can make processes easier to follow by litigants, whether they are involved as third parties, debtors or creditors.
2. **Promoting awareness of the enforcement process**: The guide recommends disseminating fact sheets about national legislation, with concise and practical information – in plain language – about enforcement procedures and agents to the parties. This also involves providing written and oral information for recipients of documents, advice for creditors, standardisation of procedural documents and a clear statement of costs of enforcement procedures, all of which should be disseminated as widely as possible.
3. **Promoting "e-enforcement"** to help accelerate enforcement and save time in implementing certain protective or enforcement measures. This constitutes a significant trend across the Council of Europe member states. Currently, this transformation has primarily pertained to actions such as freezing bank accounts, handling immovable property and vehicles and conducting public auctions on line.
4. **Protecting the privacy of debtors and their families**, ensuring their involvement in enforcement procedures (so traumatic experiences, such as being suddenly forced out of the property, can be properly avoided), and adequate protection for the rights of third parties.
5. **Using common legal terminology** on enforcement across countries.

Source: CEPEJ (2015[34]), *Good Practice Guide on Enforcement of Judicial Decisions, European Commission for the Efficiency of Justice, Council of Europe*, https://rm.coe.int/europeancommission-for-the-efficiency-of-justice-cepej-good-practice-/16807477bf.

Leveraging digital technologies and data can help transform information sharing between ADR institutions and courts and simplify the completion of enforcement. This could be enabled by ensuring the integration of pre-court and court services, such as ADR and e-case platform (see Pathways and the seamless transfer of information and cases). This is the case of PARLe (see Box 2.4 in Chapter 2 and Box 3.8). Among other functionalities, the platform allows for the direct transfer of files from ADR institutions to courts (Cyberjustice Laboratory, 2019[35]). This is particularly useful as the swift transfer of documents and a non-complied settlement agreement by "pressing a button" helps expedite enforcement (see Figure 3.3).

Figure 3.3. Improving court enforcement of mediation settlements



Source: Author's own design.

Regarding the broader use of digital tools, fact-finding meetings with stakeholders involved in executing decisions indicated that they are widely used at the enforcement stage, and no complaints were expressed concerning their efficiency. Likewise, if the winning party wants to enforce a decision, bailiffs can do so by accessing data through the TIS, indicating that a judgment is enforceable. However, it would be desirable to further expand the use of digital tools, for example, to widen the potential market for judicial auctions (see Box 3.9 and Box 3.10). It is suggested to expressly provide in the Civil Procedure Law that bailiffs should seek to use international platforms for online auctions in English in order to expand the market for the sold assets.

Box 3.10. Estonia: Conducting judicial auctions with a dedicated online platform

Estonia has a dedicated online platform for judicial auctions. The Chamber of Bailiffs and Insolvency Practitioners holds the platform. The platform provides a unique portal for services related to judicial auctions. By automating judicial auction proceedings, the portal aims to facilitate access to judicial auctions to attract more participants inside and outside Estonia.

The portal centralises all announcements of movable and immovable assets seized in enforcement proceedings. Auction announcements are also published in the official online publication "Ametlikud Teadaanded" at least ten days before the auction. Potential buyers must log in to the portal using their ID card, mobile ID or username and password. Logging in through EU ID is also available for some EU countries. Once connected to the platform, users can register within a certain period of time to participate in an auction. Users can then submit a bid on line via the auction portal and pay a deposit electronically if it is a required condition to participate in an auction. Interested persons can also follow the auction's progress on the online platform.

Source: European Union (2022[36]), *Judicial auctions*, https://e-justice.europa.eu/473/EN/judicial_auctions?ESTONIA&member=1; Government of Estonia (2023[37]), *Kohtutäiturite ja Pankrotihaldurite [Bailiffs and Bankruptcy Administrators]*, https://www.oksjonikeskus.ee/.

Importantly, it is often the case that once decisions are issued, parties to the dispute are left to comply with orders. In light of the dispositive principle, courts currently cannot automatically commence actions to enforce a civil debt but rather require people to apply to the court for it to commence such enforcement. However, additional steps might add delays and costs and pose barriers to effectively resolving disputes. As in the case of the early stages of proceedings (see Automating diagnosis and dispute triage), automation could bring efficiency to the enforcement phase and relieve the workload in courts.

Enforcement is, for the most part, a very technical phase composed of assessing technical requirements and fulfilling procedural steps. In Latvia, this phase is usually the longest, often taking several years to complete. Automating certain steps of the enforcement phase is a good compromise between implementing fairly simple systems against the gains by saving resources and decreasing the time completion of cases. Repetitive tasks, procedural acts that are not contradictory representing a substantial workload (e.g. orders requesting payment of fees or resubmission of documents and information already presented in the pre-trial phase of the case; processing requests of due date extension; acts and decisions deriving from time-bound processes) are good candidates for automation.

References

Carroll, E. (1997), "Arbitration and Mediation in International Business by Christian Buhring-Uhle", *Arbitration International*, Vol. 13/4, pp. 439-440, https://doi.org/10.1093/arbitration/13.4.439. [15]

CEPEJ (2015), *Good Practice Guide on Enforcement of Judicial Decisions, European Commission for the Efficiency of Justice*, Council of Europe, https://rm.coe.int/european-commission-for-the-efficiency-of-justice-cepej-good-practice-/16807477bf. [34]

Condominium Authority of Ontario (2023), *The CAT process*, https://www.condoauthorityontario.ca/tribunal/the-cat-process/ (accessed on 10 December 2023). [30]

Condominium Authority of Ontario (2022), *After your case*, https://www.condoauthorityontario.ca/tribunal/the-cat-process/after-your-case/ (accessed on 20 December 2022). [29]

CyberJustice (2022), *PARLe: Transform the Court Experience with Online Dispute Resolution*, https://cyberjustice.openum.ca/files/sites/102/Livret_LABOCJ_PARLe_demilettre_GN-1-Corrige%CC%81-2.pdf. [28]

Cyberjustice Laboratory (2019), *ODR: PARLe*, https://www.cyberjustice.ca/en/projets/odr-plateforme-daide-au-reglement-en-ligne-de-litiges/ (accessed on 21 December 2022). [35]

European Union (2022), *Judicial auctions*, https://e-justice.europa.eu/473/EN/judicial_auctions?ESTONIA&member=1 (accessed on 15 December 2022). [36]

Government of Brazil (2023), *Bem-te-vi*, https://www.csjt.jus.br/web/csjt/justica-4-0/bem-ti-vi (accessed on 24 August 2023). [26]

Government of Estonia (2023), *Kohtutäiturite ja Pankrotihaldurite [Bailiffs and Bankruptcy Administrators]*, https://www.oksjonikeskus.ee/. [37]

Government of France (2023), *Justice.fr*, https://www.justice.fr/ (accessed on 24 August 2023). [6]

Government of France (2023), *La transformation numérique du Ministère de la Justice*, https://www.cours-appel.justice.fr/nancy/la-transformation-numerique-du-ministere-de-la-justice (accessed on 24 August 2023). [7]

Government of Latvia (2023), *E-lieta*, https://www.elieta.lv/web/. [1]

Government of Latvia (2023), *Latvija.lv*, https://latvija.lv/ (accessed on 19 December 2022). [3]

Government of Latvia (2019), *State Ensured Legal Aid Law*, https://likumi.lv/ta/id/104831-valsts-nodrosinatas-juridiskas-palidzibas-likums (accessed on 9 November 2022). [18]

Government of Latvia (2014), *Arbitration Law*, https://likumi.lv/ta/en/en/id/266615. [19]

Government of Latvia (2014), *Mediation Law*, https://likumi.lv/ta/en/en/id/266615. [16]

Government of Latvia (1998), *Civil Procedure Law*, https://likumi.lv/ta/en/en/id/50500. [17]

Government of Portugal (2023), *Guia Prático de Justiça Versão Beta*, https://justica.gov.pt/Servicos/Guia-pratico-da-Justica-Versao-Beta (accessed on 24 August 2023). [8]

Government of Singapore (2023), *Community Justice and Tribunals System*. [25]

Government of Singapore (2022), *Singapore State Courts*, https://cjts.judiciary.gov.sg/home (accessed on 4 December 2022). [24]

Government of Spain (2022), *Presentation "Digital Transformation within the Administration of Justice*, https://www.mjusticia.gob.es/es/JusticiaEspana/ProyectosTransformacionJusticia/Documents/202209%20Digital%20Transformation%20[ENG].pdf. [27]

Government of the United Kingdom (2023), *Welcome to GOV.UK*, https://www.gov.uk (accessed on 20 December 2022). [5]

Government of Ukraine (2020), *Program Activity Cabinet*, https://www.kmu.gov.ua/storage/app/sites/1/Program/diyalnosti-kmu-20.pdf. [9]

Het Jurisdisch Locket (2023), *How we work*, https://www.juridischloket.nl/hoe-we-werken/ (accessed on 10 December 2022). [14]

Judicial College (2020), *Good Practice for Remote Hearings*. [11]

Kačevska, I. (2014), "Ir normāla situācija, un ir Latvijas situācija [There Is a Normal Situation, and There Is a Latvian Situation]", *Jurista Vārds*, pp. 23 - 24. [20]

Krumins, T. (2017), "Arbitration in Latvia: A cautionary tale?", *Journal of International Arbitration*, Vol. 34, pp. 303-331, https://doi.org/10.54648/JOIA2017016. [21]

Labs of Latvia (2021), *E-Services Development Significantly Accelerated by COVID-19 Pandemic*, https://labsoflatvia.com/en/news/e-services-development-significantly-accelerated-by-covid-19-pandemic. [2]

Meidanis, H. (2020), "Enforcement of mediation settlement agreements in the EU and the need for reform", *Journal of Private International Law*, Vol. 16/2, pp. 275-299, https://doi.org/10.1080/17441048.2020.1796226. [33]

National Center for State Courts (2020), *Remote Hearings and Access to Justice: During COVID-19 Pandemic and Beyond*, https://www.ncsc.org/__data/assets/pdf_file/0018/40365/RRT-Technology-ATJ-Remote-Hearings-Guide.pdf. [12]

OECD (2022), *Building Trust to Reinforce Democracy: Main Findings from the 2021 OECD Survey on Drivers of Trust in Public Institutions*, Building Trust in Public Institutions, OECD Publishing, Paris, https://doi.org/10.1787/b407f99c-en. [31]

OECD (2022), "OECD Good Practice Principles for Public Service Design and Delivery in the Digital Age", *OECD Public Governance Policy Papers*, No. 23, OECD Publishing, Paris, https://doi.org/10.1787/2ade500b-en. [13]

OECD (2021), *OECD Framework and Good Practice Principles for People-Centred Justice*, OECD Publishing, Paris, https://doi.org/10.1787/cdc3bde7-en. [23]

OECD (2018), *Access to Justice for Business and Inclusive Growth in Latvia*, OECD Publishing, Paris, https://doi.org/10.1787/9789264303416-en. [4]

Torgāns, K. (2012), *Civilprocesa likuma komentāri [Commentaries on the Civil Procedure Law]*. [22]

United Nations (2021), *Digital Transformation for Legal Aid: Challenges and Solutions*, https://www.undp.org/ukraine/blog/digital-transformation-legal-aid-challenges-and-solutions. [10]

World Bank (2022), *Why it Matters in Enforcing Contracts - Doing Business*, https://subnational.doingbusiness.org/en/data/exploretopics/enforcing-contracts/why-matters (accessed on 8 December 2022). [32]

4 Applying ODR to specific types of claims in Latvia: Simplified procedures, warning procedures and consumer claims

This chapter applies the OECD Online Dispute Resolution (ODR) Framework to three specific types of claims – simplified procedures, warning procedures and consumer claims – in Latvia. It describes the pathways of simplified procedures, warning procedures and consumer claims from a legal, institutional and people-centred perspective. Drawing on mapping exercises, fact-finding interviews and OECD country practices, this chapter explores a range of potentialities for improvements in Latvia's ODR landscape, including the value of monetary claims, guidance on dispute mechanisms and hearing options, integration between platforms and seamless pathways. In addition, it examines prospects for scaling up automation, including the use of artificial intelligence, and acknowledges the need to factor in ethical, transparent and fairness standards in dispute resolution mechanisms.

4.1. Introduction

The analysis of pathways for three specific types of claims – simplified procedures, warning procedures and consumer claims – aims to narrow the application of the OECD Online Dispute Resolution Framework ("OECD ODR Framework") to specific areas and address the concrete needs of dispute resolution in Latvia.

These specific claims have been identified following an extensive consultation process with the Latvian Ministry of Justice and Court Administration. In addition, the OECD administered a questionnaire to and ran a focus group with business stakeholders (e.g. business associations, chamber of commerce, investment council) in order to inform the choice of the cases (see Annex A). These consultations made it possible to capture some of the businesses' impressions and alternative dispute resolution (ADR) needs with a focus on online dispute resolution (ODR).

The analysis of pathways for each type of claim involved service mapping and assessment from both institutional and user perspectives. For each case, such analysis also aimed to highlight legal and institutional arrangements, processes, and services, as well as the application of digital technologies to transform dispute resolution mechanisms. The service mapping and assessment methodology can be found in Annex A.

Following the broader analysis found earlier in this report, this chapter explores the application of ODR to three specific types of claims:

1. **Simplified procedure** refers to civil litigation of small claims up to EUR 2 500, with a specific focus on debtor claims.
2. **Warning procedure** allows the creditor to obtain an enforcement order against the debtor in an abbreviated procedure, provided the debtor does not contest the claim. This procedure usually applies to cases of small amounts and is contingent on the debtor's lack of action.
3. **Consumer claims** between a person who acquired goods or services from someone acting within their economic or professional capacity (trader or service provider). Such cases often revolve around issues on the quality of goods and services, delays in performance by traders or service providers, or unfair contractual terms, among others. While this category of disputes does not have its own specific form of litigation, it has special ADR and pre-conditions for litigation.

4.2. Simplified procedure

The simplified procedure in Latvia aims to reduce the complexity and expenses associated with the ordinary procedure (outlined in Sections 250^{18}-250^{27A} of the Civil Procedure Law) (Government of Latvia, 1998[1]). This procedure has four fundamental characteristics that distinguish it from the ordinary procedure:

1. It does not involve a hearing unless the court considers it necessary or any of the parties request a hearing under a justified request.
2. The court decision can be reviewed only once, while in the ordinary procedure, the decision may be reviewed before two instances (Section 440^{12} of the Civil Procedure Law).
3. Rather than a full reasoned judgment, the court issues a summary judgment.
4. Importantly, if a creditor opts for litigation and specific criteria are met, the simplified procedure must be followed. If these criteria are not fulfilled, disputes are decided following the ordinary procedure.

The simplified procedure is available for two types of claims: monetary claims capped at EUR 2 500 (excluding contractual penalties and interest), and maintenance claims limited to EUR 2 500.

The simplified procedure may be used by a range of stakeholders, such as consumers, tenants and employees seeking compensation for damages or unpaid salary. Commercial entities, such as financial institutions reclaiming small loans, can also use this procedure. For instance, banks and non-bank lenders might use the simplified procedure to reclaim small loans granted to consumers.

There is no arbitration threshold in Latvia and fees can vary according to several factors, including dispute value and complexity (see Box 4.1). Hence, mediation and arbitration may not be viable options in disputes where arbitration fees could be disproportionate. . For eexample, one of theleading arbitration institutions, the Arbitration Court of Latvian Chamber of Commerce and Industry provides that claims up to EUR 1000 arbitrator's fee is EUR 125. If the claim is EUR 1,001 up to 5,000, then the arbitrator's fee is EUR 175. However, at the same time for all disputes up to EUR 10.000 the arbitration fee is EUR 250. These sums do not include value-added tax (VAT) and additional expenses, like a fee for minutes of an arbitration hearing. Hence, for a claim of EUR 1001, fees would amount to at the very least EUR 514.25 (EUR 425 + 89.25 VAT).

Given the considerable disparity between the value of the claim and arbitration fees, parties often prefer to proceed with litigation if informal negotiations fail. Similarly, for mediation services at the Riga Arbitration Court for claims up to EUR 1 500, the administrative fees are 10% of the amount of the claim but not less than EUR 70. Additionally, a mediator incurs an extra EUR 70 fee, applied to claims up to EUR 1 500.

Box 4.1. Arbitration in Latvia and suitability to small claims: The case of the Arbitration Court of Latvian Chamber of Commerce and Industry

The Arbitration Court of Latvian Chamber of Commerce and Industry (LCCI) is a permanent, independent arbitration court with competence over all civil disputes subject to arbitration. The LCCI reviews both domestic and international civil disputes, and available both for merchants and other persons who have included the arbitration clause of the LCCI Court of Arbitration in their transaction documents. It provides swift arbitration processes with reasonable arbitration costs. Parties can mutually decide on the selection of arbitrators, the language of the arbitration process, the place of proceedings, and its form.

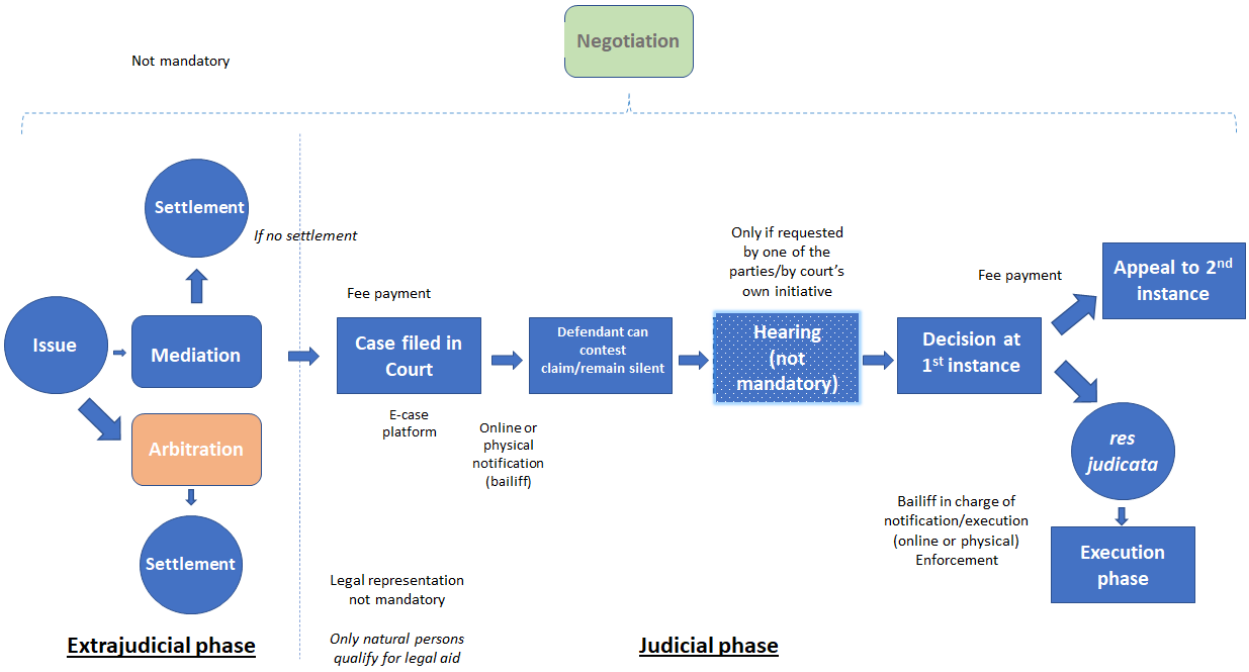
Despite the advantages of arbitration, costs can be dissuasive, particularly for disputes involving small sums, which is often the case for most claims. For instance, if the amount of a claim is EUR 400 and the case is heard by a single arbitrator with only one applicant and one defendant, the arbitration service fee would be approximately 450, which is above the initial claim value. Furthermore, supplementary fees may apply if a language other than the official one is chosen, if the hearing is recorded or if an interpreter is needed.

Source: The Arbitration Court of Latvian Chamber of Commerce and Industry (2023[2]), *About the LCCI*, https://www.ltrk.lv/en/node/30.

4.2.1. Pathways to simplified procedure

The simplified procedure initiates with the submission of a statement of a claim to the court (see Figure 4.1). The submission can be done either online through the e-case portal (Elieta.lv), by e-mailing a claim signed with an electronic signature to the e-mail of the court or in person (for paper-based claims). The statement of a claim employs a standardised template. Litigants can access information through Legal Aid Offices or Latvia's one-stop-shop platform Latvija.lv (see One-stop-shops in Chapter 3). Under the simplified procedure, people can represent themselves or engage a representative who may or may not be an attorney (Government of Latvia, 1998[1]).

Figure 4.1. Mapping of the simplified procedure



Source: Author's own design.

Upon receiving the statement of claim and accompanying documents, the court shares this package with the defendant. The defendant has 30 days to provide explanations upon receipt, with the option to request a hearing or initiate a counterclaim. If the counterclaim surpasses EUR 2 500, the case may be transferred to the ordinary procedure. The absence of explanations from the defendant does not prevent the court from issuing a judgment. Any explanations received from the defendant are forwarded to the claimant (Government of Latvia, 1998[1]). In communication with the parties, the court also:

- explains each party their procedural rights
- provides information about the court
- provides information about the right to petition for the removal of a judge.

While the simplified procedure typically does not involve hearings, they can occur if one or both parties request a hearing, and the court agrees; or if the court deems a hearing necessary.

In the case of a hearing, the court serves the summonses to the parties, informing them that the hearing will take place even in case of absence (Government of Latvia, 1998[1]). The summary decision is available in the court information system (TIS) within two weeks and then distributed to the e-case portal for case parties. Following this, parties have 10 days to request a full judgment, which is delivered within 10 days of the summary decision and made available within 20 days via the TIS and the e-case portal. The court may also prepare the full judgment on its own initiative, which could be sent to any party upon request.

If no hearing is held, the case is conducted through a written process, with the court examining materials without party involvement (Government of Latvia, 1998[1]). Once a summary decision (judgment) is issued, parties are notified about the date of its availability on the E-case portal. Similarly, within the 10day period after the decision, any party may request a full judgment, to be issued within 20 days. Alternatively, the court can independently render a full judgment (within the same time frames), published in the TIS and then distributed to the e-case portal for case parties-. In the case of technical difficulties with the TIS, the judgment must be made available in the Court Registry on the same date as the date of the judgment.

The simplified procedure allows one appeal based on either substantive or procedural grounds. Typically, the appellate procedure does not involve a hearing unless the court decides otherwise. The appellate decision is published on the TIS or the Court Registry in the case of technical issues. Each party has the right to request the delivery of the judgment (Government of Latvia, 1998[1]).

Regarding the costs of the simplified procedure, state fees apply, following the same rules as for the ordinary procedure. In most cases, the state fee is calculated based on the amount of the claim. If the principal claim, excluding interest and contractual penalties, is EUR 2 500 or less, then the claimant must pay 15% of the sum but no less than EUR 70 or more than EUR 320. Once a judgment is issued, the defendant needs to fully or partially compensate the state fee if the claim has been fully or partially satisfied.

In addition to the state fee, there are litigation costs that primarily involve the cost of legal assistance. If the litigant has personally prepared the application (or with the help of another lawyer but not an attorney), then costs related to legal assistance are not reimbursed. When an attorney is engaged for claims up to EUR 2 500, the winning party can recover actual expenses up to 30% of the satisfied part of the claim. If the claim is examined only at the first instance court, the reimbursed amount cannot exceed half of the amount that would be reimbursed by the losing party (i.e. 15% of the satisfied part of the claim). However, in any case, the court has the right to reduce the reimbursable amount considering the principles of fairness, proportionality and other relevant objective circumstances of the case, such as complexity, size, number of hearings and the court instance of examination. The losing party is responsible for reimbursing the winning party for legal assistance and state fees.

According to these criteria, the highest reimbursement claimable by the winning party for legal representation could be EUR 750 and EUR 375 if the decision of the first instance court is not appealed. However, since the simplified procedure normally proceeds without hearings, the actual amount could be notably lower. Currently, the writ of execution issued after a final decision is created in the TIS, then sent to the bailiff for execution. Bailiffs have other information system.

Another pathway to simplified procedure at the EU level is the European small claims procedure, available for cross-border claims up to EUR 5 000 (Box 4.2). Claims can be brought entirely on line through the European e-Justice Portal against businesses, organisations or customers. This cross-border dispute resolution mechanism has the advantage of encouraging trade, strengthening confidence in the EU single market and enforcing EU single market rules in line with its fundamental values and “four freedoms” (European Union, 2007[3]; 2002[4]).

Box 4.2. European Union: Simplifying cross-border claims through the European small claims procedure

The European small claims procedure is an alternative to existing procedures in the laws of the EU member states. This procedure applies for cross-border small claims resulting from civil and commercial disputes up to EUR 5 000. It offers litigants a swift and cost-effective alternative to national procedures. The judgment resulting from this procedure is recognised and enforceable in any other EU country except for Denmark. A court can only decline to enforce the judgment if it conflicts with an existing judgment between the same parties and on the same issue.

The entire procedure can be completed on line through the European e-Justice Portal. Claims can be made against businesses, organisations or customers. The claimant must fill in a form and send it to the competent court. Within 14 days, the court should provide an answer form and serve a copy of both forms to the defendant. The defendant has 30 days to reply by filling in the answer form. The court must send the plaintiff a copy of any reply within 14 days. Within 30 days of receiving the defendant's answer, the court must either issue a judgment, request further details in writing from either party or summon the parties to an oral hearing. If the court is equipped for it, the hearing should be conducted through

videoconference. The parties can request an electronic certificate of judgment directly through the platform. The possibility of appealing the judgment depends on the laws of each EU member state.

The simplified procedure allows the claimant to save both money and time. Depending on the country, a court fee must be paid by the unsuccessful party, but the amount is considerably lower than in ordinary procedures. For instance, the court fee in France is EUR 18.72 without a hearing and EUR 70 with a hearing. In the case of a court hearing, having a lawyer is optional.

Source: European Union (2022[5]), *Small claims: The European Small Claims procedure is designed to simplify and speed up cross-border claims of up to €5000*, https://e-justice.europa.eu/42/EN/small_claims?init=true.

The use of ADR for disputes that qualify for the simplified procedure follows similar patterns as for other disputes. Instead of going through the courts, parties can negotiate, engage in mediation, or resort to arbitration, as long as it is not a consumer dispute (see Advancing in digital transformation in Chapter 3 and Pathways to consumer claims below). However, it is important to highlight that these choices might be less attractive than litigation. Factors like the costs linked to ADR, lack of smooth transition from ADR bodies to courts, limited enforceability, and the perception of ADR in Latvia may discourage parties, leading them to lean towards litigation channels, such as the simplified procedure (see Applying ODR to dispute prevention and resolution in Chapter 3).

4.2.2. Revamping the simplified procedure

Latvia could consider reforming certain aspects of the simplified procedure to increase its use. This may include assessing the threshold for monetary claims, improving access to information, and automating certain procedure elements, among other potential changes. The following sections outline some recommendations to help Latvia optimise the simplified procedure.

Consider increasing the threshold for monetary claims

A potential area for improvement involves increasing the maximum value of claims eligible for the simplified procedure, which are currently capped at EUR 2 500. Increasing the allowable value of monetary claims would facilitate a broader use of the simplified procedure. This reform would potentially require amending Section 25019(2) of the Civil Procedure Law (CPL) (Government of Latvia, 1998[1]).

The higher value of monetary claims may not necessarily imply greater complexity of cases and require cassation review. A higher amount could also be justified both by the EU's simplified procedure that considers small claims as those under EUR 5 000 (see Simplified procedure) and Latvia's high inflation rate compared to other OECD countries (OECD, 2023[6]).

Improving access to information on the simplified procedure

The simplified procedure allows parties to be self-represented. Particularly in these cases, access to information in plain language is important to ensure a fair trial and access to justice for all (OECD, 2023[7]). In this regard, Latvia could consider improving its one-stop-shop platform to integrate clear guidelines as part of a justice section in the platform with comprehensive information on the simplified procedure. Guidelines could include applicability, requirements to file a claim under the simplified procedure and the step-by-step process. Taking the example of projects PARLe (the Platform to Aid in the Resolution of Litigation electronically, in Canada; see Chapter 3 and Box 4.6) has implemented, a chatbot would be useful to help people assess their legal and justice needs and understand if their case is eligible for the simplified procedure (see One-stop-shops in Chapter 3).

Consider automating certain aspects of the simplified procedure

Repetitive tasks representing significant workload are good candidates for automation, notably procedural acts that are not contradictory or do not require in-depth analysis of facts or law. Concretely, Latvia could consider automating the reconsideration of hearings; the granting of due date extensions; time-bound decisions after no response from parties; notifications to parties for fulfilling specific requirements, such as payment of charges, presentation of documents; or responding to information requests.

In specific cases, algorithms could identify missing requirements or elements in a file, leading to the refusal of a claim following the simplified procedure. Currently, the Civil Procedure Law (Section 132) provides 11 grounds for refusal of the simplified procedure. While some of them might require an in-depth analysis of the facts of the case (e.g. certain criteria to identify court jurisdiction), the identification of certain elements, such as the total amount of a claim or the monetary or maintenance nature of the claim (Section 250[19][2]), could easily be identified by AI. In this scenario, an automated decision rejecting the initiation of a claim could be issued, which would be subject to review by a judge upon the claimant's request under Section 132(3) (Government of Latvia, 1998[1]).

Providing further guidance on hearing options

Latvia could consider providing further guidance to parties and judges on whether and how to conduct or attend in-person or online hearings in simplified procedure when there is a court hearing. Fact-finding interviews suggested that judges would gladly welcome guidelines that could help them identify circumstances when online hearings are more suitable than in-person hearings. Moreover, it has been suggested that the CPL could provide an option for a court – *sua sponte* or based on a motivated request of the party – to set a hearing limited to the clarification of a specific issue (e.g. to hear witness statements on one particular issue where the court believes that the written evidence is insufficient). While clear guidance is recommended, final decisions on conducting hearings in person or on line should remain at judges' discretion.

Important aspects to be considered in such guidelines are the right to participate effectively, the integrity of witnesses and experts, and the presentation of evidence in hearings. Concretely, guidelines could offer guidance on pre-testing and walking parties through videoconference tools/platforms; monitoring the quality of image and sound to minimise technical incidents; preserving the public nature of hearings except for claims running under legal secrecy; and addressing the challenges and particular needs of vulnerable groups in the decision to have a remote hearing.

4.3. Warning procedure

The Warning Procedure is regulated in Sections 406^{1} through 406^{10} of the Civil Procedure Law and Regulations of the Cabinet of Ministers No. 792 Rules on the Forms to be Used in the Enforcement Notice Procedure (Government of Latvia, 2009[8]). The warning procedure is optional, in contrast to the simplified procedure, which can be a mandatory form of litigation in certain cases. According to the Court Administration, in 2019, out of 41 384 total applications received, 152 applications (0.37%) were submitted by a natural person, and the rest were submitted by legal entities (Government of Latvia, 2022[9]).

The warning procedure offers an option for creditors who do not want to engage in full-fledged litigation before a court. This procedure is applicable to monetary obligations with a clear performance date based on a documented agreement; and monetary obligations without a specified time, provided they are documented and related to the payment for the supply/purchase of goods or provision of services.

The warning procedure has specific characteristics. First, it does not involve an actual trial or hearing. Second, it is not a mandatory procedure [i.e. the creditor can opt between enforcing the debt through the

warning procedure (Torgāns, 2012[10]) or ordinary litigation]. Third, according to Latvian practitioners consulted throughout the assessment phase, the warning procedure is frequently employed by public utility providers (e.g. heat, water, gas, electricity) to collect unpaid fees and financial institutions (e.g. for loan collections). However, these sectors do not encompass the whole scope of the warning procedure. For example, landlords can use it to claim rent or employees to claim salary.

Exceptions apply to the warning procedure, prohibiting its use. These cases include:

1. for payments linked to a non-performed counter-performance (e.g. the seller cannot claim payment of price if the payment is dependent on the delivery of goods to the buyer and no goods have been delivered)
2. if the debtor's declared residence is unknown
3. if the debtor is a natural person and their declared place of residence is outside Latvia; or if the debtor is a legal person (e.g. a company or a public institution) and their statutory address is outside Latvia
4. if the requested contractual penalty is larger than 10% of the principal debt
5. if the claimed interest is larger than the principal debt
6. if the amount claimed exceeds EUR 15 000
7. for obligations that have to be paid in solidarity[1] by more than one person.

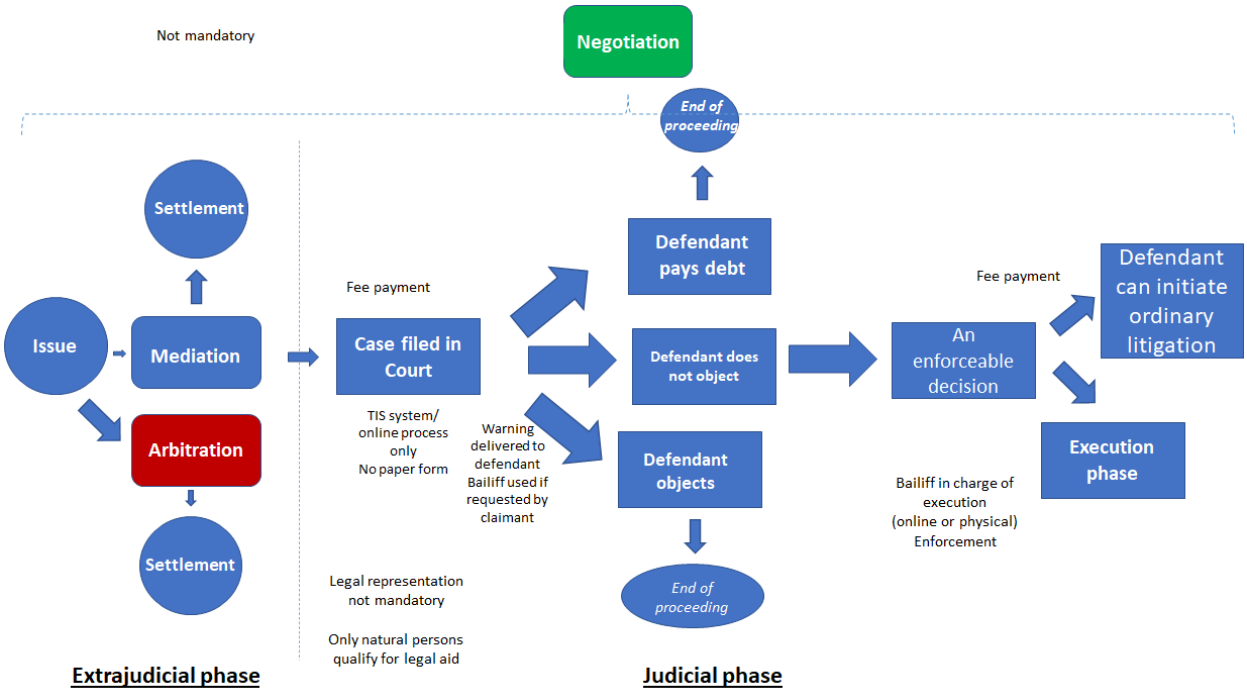
4.3.1. Pathways to the warning procedure

To trigger the warning procedure, the claimant (creditor) should initiate it via an online application through the e-case portal. The application[2] is submitted to the district court, where a district court judge reviews it concerning its formal compliance with the CPL. If the application does not provide the information required by law, the judge of the district court declines it, issuing a reasoned decision that is not subject to appeal (Government of Latvia, 1998[1]). The decision does not prevent the resubmission of future applications. If the requirements are met, the court issues a warning that, along with a reply form, is sent to the debtor (Government of Latvia, 2009[8]). In view of the technical nature of these steps, they are good candidates for potential automation (see Figure 4.2). The applicant can also opt for the bailiff to issue a warning to the debtor.

The application must include documents certifying payment of the state fee and related expenses. If the court accepts the creditor's application, the judge issues a warning[3] to the debtor, which the judge must sign through electronic signature. The warning package is issued to the debtor against a signature of receipt, which is returned to the court. If the applicant had indicated that the bailiff must issue the warning, then the court employs the bailiff or their assistant. In that case, the bailiff prepares an act confirming that the debtor received the documents or refused to receive them. This act is returned to the court. The applicant must compensate the bailiff expenses.

If it is impossible to deliver the warning to the debtor (against a signature) or, in case the bailiff was employed and failed to deliver the warning within a month or failed to submit the act confirming delivery/refusal to the court, the judge terminates the proceeding. The decision is communicated to the applicant electronically. This decision does not prevent the applicant from re-applying for the warning or using ordinary litigation. The already paid state fee and expenses related to the issuance of the warning are fully or partially offset from the state fee and issuance expenses in the new proceeding.

Figure 4.2. Mapping of the warning procedure



Source: Author's own design.

The debtor can respond to the warning on paper or electronically. If the debtor opposes the claim, the judge closes the procedure. The same applies if proof of payment accompanies the reply. If the debtor acknowledges the debt in part, then the judge makes a decision to enforce the obligation in that part but closes the case for the rest. If the debtor does not reply within 14 days, the judge, within 7 days, must take a decision on the enforcement of the obligation specified in the application and recovery of court expenses. The decision is effective immediately and has the force of an enforcement document. The decision is enforced as a judgment. Within three days, the decision is sent to the debtor. The decision serves as an enforcement document for the creditor.

If the judge decides to close the procedure due to the performance of the obligation or the debtor's objection, the decision cannot be appealed. This decision is made by the judge manually. The decision and the reply by the debtor are communicated to the applicant. However, this does not prevent the creditor from bringing an action via ordinary litigation.

If the debtor does not agree with the decision on substance, they have three months from the day the decision was submitted to initiate ordinary litigation against the creditor and dispute the claim. When initiating the litigation, the debtor may also request that the court suspend the enforcement of the warning procedure decision. If it has already been enforced, then the debtor may request that the court secure the action. If the request to stay enforcement or to secure the action is satisfied, then it cannot be appealed and is effective immediately. If the court refuses these requests, the decision can be appealed by the debtor.

If the court has suspended the enforcement, the creditor can submit his/her own application requesting the repeal of the stay. The request must be motivated. If satisfied, the decision to repeal the suspension is effective immediately and cannot be appealed. If the creditor's application is rejected, the creditor can appeal it.

The standard category of expenses for the warning procedure is the state fee. The state fee is 2% of the debt. Thus, the maximum state fee is EUR 300. In addition, since January 2022 the applicant must pay EUR 4.00 for the issuance of the warning.[4] In the case the judge renders the decision, these expenses will be added to the claimed amount and included in the decision, thus being enforceable against the debtor. If the applicant has requested the court employ a bailiff, then the bailiff must be remunerated for the delivery of a warning (EUR 40 per address). These expenses will not be included in the decision and must be carried by the applicant as using a bailiff is not mandatory.

The use of ADR for disputes that qualify for the warning procedure is similar to other types of disputes within a certain ceiling. Rather than litigate, parties can choose to negotiate, proceed with mediation or arbitration, provided the issue is not a consumer dispute (see Advancing in digital transformation and Applying ODR to dispute prevention and resolution in Chapter 3 and Pathways to consumer claims). However, it is worth noting that these options might be less appealing than litigation. Costs associated with ADR; lack of swift transfer of cases from ADR institutions to courts; limited enforceability; and ADR's reputation in Latvia might have a dissuasive effect on parties, encouraging them to opt for litigation avenues, such as the warning procedure (see Advancing in digital transformation in Chapter 3).

4.3.2. Revamping the warning procedure

Looking ahead, Latvia could explore alternatives to optimise the warning procedure. Improvements could encompass reforms in the value limit for monetary claims; automation of processes and decisions; and the period to initiate an ordinary procedure following the closure of a warning procedure. The ensuing sections provide recommendations aimed at revamping the warning procedure in Latvia.

Consider increasing the value of monetary claims

In the current Latvian legal framework, the principal claim under the warning procedure must not exceed EUR 15 000. This cap can have several implications. For example, for financial institutions, the relatively low amount limits the use of the procedure to consumer loans, credit card loans, and leasing. Larger debts, notably "mortgage debts", may be excluded from the procedure due to their size. To maximise the use of the warning procedure, Latvia could consider amending the Civil Procedure Law to increase the value of monetary claims to at least EUR 25 000.

This proposal is supported by similar legal instruments. The European Order for Payment is an example of simplified procedure for cross-border monetary claims that does not have any restrictions regarding the size of the claim (European Union, 2008[11]) (see Box 4.3). Another similar example that could inspire Latvia to reform the cap for the warning procedure is the German procedure, which does not have any monetary cap (Government of Germany, 2008[12]).

Box 4.3. European Union: The European Order for Payment procedure

The European Order for Payment (EOP) is a simplified procedure for cross-border civil and commercial uncontested monetary claims. It is an optional procedure that provides a creditor with a fast means of repayment from a debtor who lives in another EU country. The procedure can be used for any sum of money that is due for payment at the date of the claim.

Applicants must fill out a standardised form available at the European e-Justice portal and send it to the competent court. The court issues the EOP within 30 days. The defendant has 30 days to lodge any statement of opposition to the EOP. After this period, the EOP becomes automatically enforceable. If the court rejects the defendant's application, the EOP remains in force. Conversely, if the court decides that the review is justified, the EOP becomes null and void.

The EOP provides a wide and efficient alternative to national procedures thanks to the absence of restrictions regarding the amount of the claim. Once issued, the EOP is recognised and enforceable in all EU countries except Denmark.

Source: European Union (2008[11]), *Regulation (EC) No. 1896/2006: European order for payment procedure*, https://eur-lex.europa.eu/EN/legal-content/summary/european-order-for-payment-procedure.html.

Consider reducing the period to initiate an ordinary procedure after a warning procedure

There is scope to reduce the three-month period to initiate ordinary litigation from the closure of the warning procedure with a positive decision to the creditor. This could help improve the efficiency of the process and increase legal certainty for the creditor. Given that the debtor had the opportunity to raise any objections during the warning procedure phase, reducing the period to initiate the ordinary procedure to two months seems reasonable and sufficient for the debtor to object to the claim. This change would require amending the Civil Procedure Law.

Improving e-signature and authentication

Fact-finding interviews revealed that one of the most time-consuming steps in the process of issuing the warning is the signing process by electronic signature in the TIS. Interviews suggested that the current e-signature process could be more cumbersome and time-consuming than a paper signature due to the e-signature system and authentication process.

This points to a need to improve the basic technology infrastructure to support the e-signature process. This includes securing servers, databases and network connections to facilitate the electronic signing and storage of documents. Likewise, the e-signature system should seamlessly integrate with the applications and platforms where electronic documents are created and managed. The system should be designed to accommodate a growing volume of signatures and documents as needs expand (see Leveraging digital technologies and data to transform dispute resolution in Chapter 1).

At present, judges need to insert their credentials for each decision requiring an electronic signature. This points to the need to streamline the authentication process. Latvia could consider requiring judges' credentials only once, allowing them to sign as many warnings as needed within a certain timeframe. Implementing an automated signing and sending process in the TIS and delegating this task to assistant judges would be recommended to streamline the signature process. This solution has been implemented in other countries, such as Germany, where, historically, court clerks are authorised to administer equivalent procedures. Improving e-signature and authentication processes would help increase the effectiveness of the warning procedure and reduce judges' workloads, leaving resources available for cases that require analytical work.

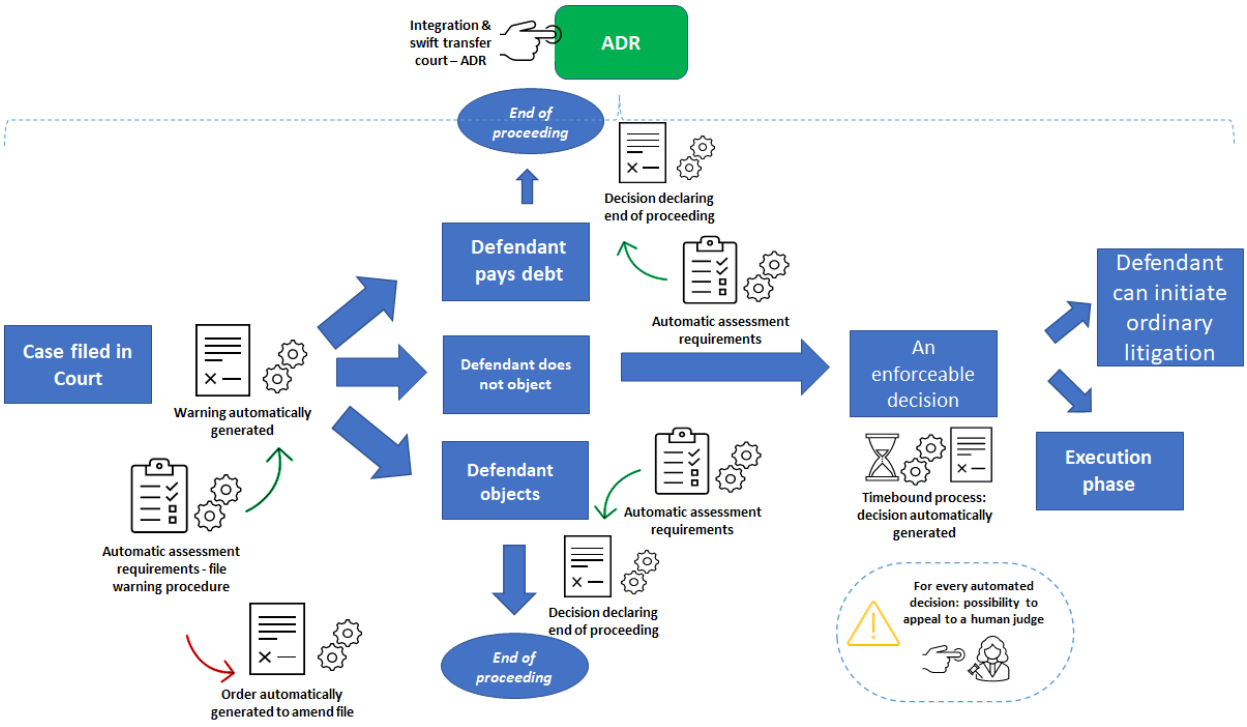
Some judges raised concerns about potential liability for the automatic signing of such warnings. However, it has to be considered that the automatic signing of the warnings themselves does not constitute a decision. The warning is the starting point in the process, and the first instance taken later by the judge's decision is not automatic and not final – it can be challenged in the court of appeal. Thus, in this case, AI or simply the use of algorithms would not be applied to core decisions of the warning procedure but rather to a very specific administrative task – signing and sending of the warning. Consequently, introducing automation would likely have low risks of potential negative impacts on unfair decisions or constraints in access to justice. Instead, the automation of signatures would contribute to diminishing administrative burdens for judges, speeding up processes and contributing to the smoothness of the warning procedure in Latvia.

Consider automating the warning procedure

The mapping of the warning procedure (see Figure 4.2) suggested it is a great candidate for automation. The warning procedure follows clear steps based on certain requirements that could be translated into simple rules. However, as the process currently stands, the warning procedure is time-consuming for justice officials and involves only the formal administration of justice.

Among the aspects eligible for automation, Latvia could consider automating time-bound processes. For example, the system could automatically generate a decision if the debtor does not take certain action within a timeframe. Similarly, it would be desirable to automate the review of the end of the procedure when the debt is paid or contested; or move forward with the process if the defendant does not object to the claim (see Figure 4.3).

Figure 4.3. Automating the warning procedure



Source: Author's own design.

Automation could also apply to decisions issuing the warning and enforceable decisions for execution, as they are reasoned on clear formal requirements in the Civil Procedure Law and Regulations of the Cabinet of Ministers No. 792 Rules. A similar approach is in place in Germany, where the warning is generated automatically as an official court document (see Box 4.4). Automating these aspects would help the Latvian justice system reallocate and optimise its limited resources with administrative assignments, such as rubberstamp orders, towards more analytical tasks.

Box 4.4. Germany: Automated order for payment procedure

EU countries started implementing the EOP Regulation in 2008. The implementation process across EU countries has shown a spectrum of progress. Some countries have embraced it effectively into their legal frameworks, streamlining cross-border debt recovery. Automation has played a pivotal role in this process, enhancing the efficiency and accuracy of procedures. This is the case for Germany.

Differently from other countries, in Germany, order for payment procedures are automated in all federal states. Applications can either be made on pre-printed paper forms or by electronic data exchange, following the principle of digital by design and an omni-channel approach. A number of service providers offer software programs for the electronic filing of applications in automated order for payment procedures. In some local courts, it is also possible to make online applications. For those wishing to file the order for payment in paper, pre-printed paper forms can be purchased in stationers' shops.

Source: European Union (2022[13]), *European payment order: Germany*, https://e-justice.europa.eu/41/EN/european_payment_order?GERMANY&member=1.

To support judges and justice civil servants, information extraction and searchable databases would be useful to enable the generation of template decisions populated with relevant information about a case. Having a unified system for submitting the warning is another important aspect to be taken into account to revamp the warning procedure and support the daily work of judges and justice civil servants. The mapping of the warning procedure revealed that there is currently no option to send the warning via the Latvija.lv system, and the response does not come back within the unified system. Further integration of systems would be desirable (see Pathways and the seamless transfer of information and cases in Chapter 3).

Assessing the use of AI

As the use of AI in the justice system becomes more prevalent and no longer uncommon, automation and the use of AI would need to be considered together with adjustments in the Civil Procedure Law and Regulations of the Cabinet of Ministers No. 792. Specific considerations would need to be taken into account in light of Latvia's legal and societal contexts (see Managing technological advances and Pillar 3: Ethics and safeguards in Chapter 2).

Some stakeholders have raised concerns that the introduction of automation in the warning procedure could potentially conflict with the right to access to justice, specifically access to court guaranteed by Article 92 of the Latvian Constitution. However, it is important to highlight that a number of considerations can justify the automation of the warning procedure. First, as explained earlier in this section, the warning procedure is an optional avenue of litigation (see Warning procedure). In addition, the decision issued by the court while issuing a warning is not final, as the debtor preserves the right to initiate the ordinary procedure against the creditor and challenge the validity or enforceability of the debt. Finally, similar automated procedures are already implemented in other EU countries, such as Germany (see Box 4.4).

Notably, the mapping of the warning procedure and the broader scene of digital transformation of justice in Latvia pointed to the need to secure digital infrastructure to support AI implementation, including reliable Internet connectivity and technology accessibility. This could be accompanied by adequate training on the use and interpretation of AI-assisted decisions to justice civil servants, continuously strengthening general understanding of the latest best practices, regulatory developments and guidance, including the EU Artificial Intelligence Act (see Box 2.8 in Chapter 2). These efforts should be well-coordinated with justice, digital transformation and broader national strategies (see Chapter 1 and Strategic approach to dispute resolution in Chapter 2).

Consider introducing other functionalities

Fact-finding interviews brought to the surface technical aspects that could be improved in TIS and the e-case platform and portal in the context of the warning procedure. Stakeholders mentioned technical aspects that could be improved, such as the size allowed for attachments; a resubmission option for the same document several times; and difficulties with following the latest updates of court cases in TIS. It is worth noting that most of these issues reflect pitfalls in Latvia's broader digital and data governance model highlighted throughout this report (see Data governance and its strategic use in Chapter 2 and Advancing in digital transformation in Chapter 3).

Interviews and service mapping of the warning procedure also suggested other technical issues in the use of the TIS system. Staff must manually verify the name/surname of the debtor and his/her address, as the system is not connected to the Register of Natural Persons. This becomes particularly problematic if the debtor has a common surname or the creditor has incorrectly indicated the name/surname or address. The problem could be solved if, at the stage of application, the system could automatically connect the information provided by the creditor with the information available in registers. This would avoid wrong surnames or errors in debtors' addresses.

Likewise, currently, courts have to manually verify that the state fee is paid as creditors attach proof of payment to their application. Latvia could consider incorporating a payment option within the online application. The warning itself, the template for the response by the debtor and the decision of enforcement of the claim could be generated automatically from the information provided to the system.

There is scope to achieve greater efficiency in notifying the debtor by introducing notifications via electronic means, in line with good practices in other OECD countries (see Box 4.5). Expanding communications with parties and/or their legal representatives through online channels could bring several improvements, such as facilitating and reducing costs and decreasing the time usually spent to notify them. Reforms in this regard need to be assessed against the backdrop of the Constitutional Law that requires the duly receipt of the warning provided by the debtor.

Box 4.5. Norway: Improving communication between citizens and the government through digital mail

Norway has embraced the widespread use of digital communication between citizens and the government. This commitment to fostering digital communication in the delivery of public services is not just a preference but a legally enshrined requirement in Norwegian law. The primary goal of this initiative is to enhance the efficiency and effectiveness of public services by streamlining interactions and redirecting public resources more effectively.

A significant aspect of this digital transformation is the establishment of the digital mailbox as the default mode of communication between citizens and government authorities. Once the government has a citizen's digital contact information (such as an ID-porten log-in, phone number or email address), all official communications are automatically directed to a secure digital mailbox. To ensure citizens are promptly informed about new messages, notifications are also sent via SMS or personal e-mail. Importantly, citizens retain the option to "opt out" of digital communication if they prefer to receive traditional paper letters.

This innovative approach not only reflects Norway's commitment to modernising its public services but also underscores its dedication to making interactions with the government as convenient and efficient as possible for its citizens.

Source: Government of Norway (2022[14]), *Digital communication*, https://www.norge.no/en/digital-citizen/digital-communication.

4.4. Consumer claims

Consumer disputes arise from consumer law and encompass conflicts between a person who has acquired goods or services from another person or entity acting within their economic or professional capacity (Vītoliņa, 2015[15]). In practice, consumer disputes pertain to conflicts involving the quality of goods or services, delays in performance by traders or service providers or unfair contractual terms.

Unlike the previous two types of claims – simplified procedures and warning procedures – consumer cases do not fall into a separate category of civil litigation, without any specific rules specified in the CPL. Nevertheless, these disputes have certain particularities prior to litigation, most of them foreseen in the Consumer Rights Protection Law.

4.4.1. Pathways to consumer claims

The Consumer Rights Protection Law specifies that all disputes between the trader/service provider and the consumer must be resolved amicably through negotiations before attempting a solution through one of the dispute resolution mechanisms, as detailed in the following sections. In the case of cross-border conflicts, claimants need to go through the European Consumer Centres Network (European Union, 2022[16]).

If the parties cannot resolve the dispute amicably, the consumer must submit an electronic or paper-based submission to the trader/service provider indicating the dispute, accompanied by copies of documents confirming the transaction and, if possible, copies justifying the submission.

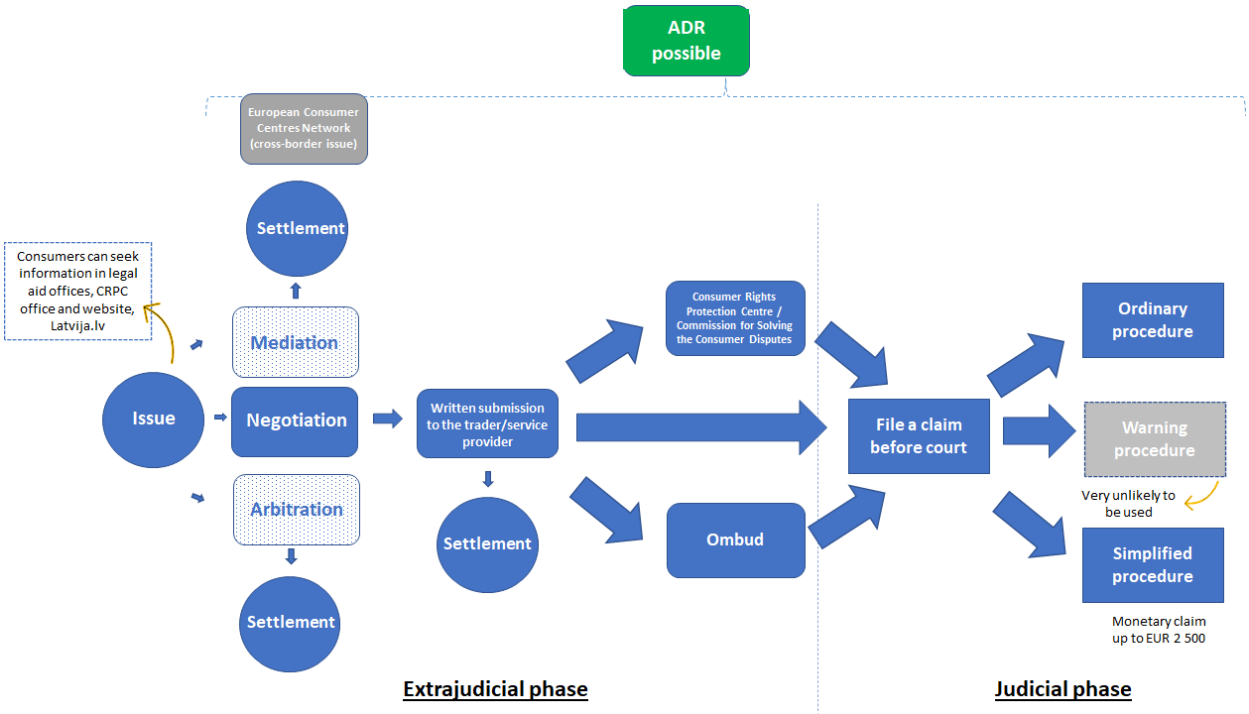
Upon receipt of the written submission, the trader/service provider may:

1. Request that the consumer present or hand over the disputed goods, after which a written response must be provided within 15 working days.
2. Provide no reply, which will be treated as a rejection of the claim.
3. Provide a justified rejection of the claim (within 15 days).
4. Offer an alternative solution to the dispute if they believe the claim is not unfounded (within 15 days). If the offered solution satisfies the consumer, the dispute is considered resolved.

If the trader/service provider rejects the claim or if the offered solution are not satisfactory, the consumer may apply to the Consumer Rights Protection Centre (CRPC), which ultimately can lead to the Consumer Dispute Resolution Commission (CDRC); apply to the sectoral out-of-court solver (ombud) in the relevant industry if such an ombud exists; seek ADR mechanisms; or file a claim before the court – simplified, warning or ordinary procedure – depending on the value of the claim.

Consumers can access information about their rights and available dispute resolution options through Legal Aid Offices, Latvia's comprehensive one-stop-shop platform Latvija.lv (see One-stop-shops in Chapter 3), the CRPC or their websites (see Consumer Rights Protection Centre and Consumer Dispute Resolution Commission) (see Figure 4.4).

Figure 4.4. Mapping of consumer claims



Source: Author's own design.

Consumer Rights Protection Centre and Consumer Dispute Resolution Commission

The Consumer Rights Protection Centre (CRPC) is the civil authority under the Ministry of Economics, responsible for enforcing the protection of consumer rights and their interests (Government of Latvia, 2023[17]). The CRPC offers free service to consumers and handles conflicts between consumers and traders related to the delivery of goods or services, including public transport. The centre enjoys recognition among businesses and citizens in Latvia.

Among its main competences, the CRPC provides legal advice and assistance to address consumer complaints involving violations of consumer rights. Support may include helping consumers negotiate with traders or service providers. In practice, fact-finding interviews revealed that CRPC usually does not handle cases when a specific industry has a designated out-of-court dispute resolution body. For example, if a consumer engages in a dispute with a bank or insurer, they are directed to use special ombud schemes for these sectors. Consequently, such disputes cannot be resolved through the CRPC.

There are several limitations to the CRPC's competence. The centre is only competent for disputes related to consumer protection law. For conflicts and parts of conflict that fall beyond consumer protection law, consumers need to seek recourse through the courts. This scenario arises, for instance, when a consumer claims damages based on legal grounds unrelated to consumer protection law. Moreover, the CRPC's jurisdiction is further delimited by specific exclusions, particularly in the realms of cosmetics, chemicals and housing. In such situations, consumers must approach other relevant bodies for assistance.

The avenue of conflict resolution through the CRPC offers a two-step procedure. The first step takes place with the CRPC itself. The CDRC manages the second step. The CRPC serves as the secretariat for the CDRC. Both consumers and traders can avail the complaint procedures free of charge for both steps, including the resolution offered by the commission.

The first step at the CRPC is commenced by the consumer submitting a claim. While claims can also be submitted through the EU ODR Platform (see Box 4.6), this accounts for only about two cases per year. The CRPC contacts the trader. As mentioned above, consumers are required to engage with the trader directly in bilateral attempts to resolve the dispute before approaching the centre. Consequently, the CRPC deals with cases that cannot be resolved bilaterally. This includes cases when traders did not answer consumers' bilateral attempts to resolve the conflict. When consumers have not contacted the trader before approaching the centre, the CRPC guides them to engage with the trader first. The centre also rejects cases if they lack the expertise to handle them. In summary, it is primarily the consumers' responsibility to identify the appropriate ombud scheme. If the consumer addresses the wrong ombud scheme, the CRPC provides support in the form of sign posting. The CRPC estimates receiving around 3 000 consumer complaints annually.

If the case is admissible, the centre first examines the consumer's claim and, if necessary, explains their rights. The centre contacts the trader as necessary and attempts to facilitate a resolution through a discussion with the trader if deemed appropriate. If the complaint remains unresolved at this first stage, the centre can transfer the case[5] to the CDRC upon the consumer's request. The CDRC is an independent collegial decision-making body with the authority to settle a dispute between consumers and sellers or service providers (Government of Latvia, 2021[18]). The commission assesses the case based on the consumer's written submission and the explanations provided by the trader or service provider, with a hearing organised as needed. The commission issues a decision within 90 days from the date of document receipt.

In the past, the CDRC issued decisions approximately 150 times per year. However, during the first 6 months of 2022, this was the case for around 150 complaints, resulting in an estimated 300 cases for the year. Overall, in relation to Latvia's entire population, a range of 150 to 300 cases within a general ombud scheme appears relatively low and raises the concern that many consumers may not find formal dispute resolution accessible for lower-value disputes.

The CDRC's competence also presents some limitations. Excluded from its jurisdiction are disputes (Government of Latvia, 1999[19]) that:

1. are insignificant or vexatious
2. concern the price of goods or services that do not exceed EUR 20 or exceed EUR 14 000
3. are about legal services
4. are about healthcare services
5. are about the use of residential premises and related areas
6. are about insurance services for vehicle owners
7. are simultaneously examined by a court or another out-of-court dispute resolution body (ombud)
8. whose examination would significantly disrupt the efficient operation of the CDRC.

The CDRC makes decisions through a majority vote. The CDRC could also decide that expenses for expert examination should be reimbursed to the consumer by the trader or service provider if the consumer prevails, the case is settled, or the consumer is satisfied with the solution offered by the trader or service provider. The decision may also propose its own remedy if the consumer's claim is disproportionate or does not conform to the law. The CDRC can also terminate the dispute if the consumer's claim is unjustified. Regardless of its content, the decision must be well-founded.

The decision is not binding; it only serves as a recommendation and is not subject to any appeals. This decision should be implemented within 30 days. It is estimated that 50-60% of traders do not comply with the decisions. The only consequence is that the CRPC publishes the names of traders or service providers that do not comply with their decisions on their website. This means the decision cannot be used to request

enforcement documents from the state judiciary. Therefore, if the trader or service provider does not comply with the decision issued by the CRPC, the consumer must initiate litigation, and the CDRC decision will be just a fact to be considered by the court. This is a strong incentive for traders to follow the commission's decision.

The communication channels used by the CRPC and the CDRC are mainly e-mail and paper post. Currently, both institutions do not use any platforms to manage their internal and external communications. For example, Latvia could be inspired by international initiatives in the European Union and Canada to improve consumer ODR processes and services (see Box 4.6).

Box 4.6. Consumer ODR platforms

The EU ODR platform

The European Union Online Dispute Resolution (EU ODR) platform offers consumers and traders/service providers an online tool through which they can resolve consumer issues out of court. The platform is accessible to consumers who face disputes related to products and services purchased from online retailers or traders. It facilitates direct discussion and resolution between the parties involved or through a dispute resolution body associated with the platform. This platform is available to consumers and traders based in the European Union, Iceland, Liechtenstein and Norway. Additionally, traders can use the platform to address disputes with consumers residing in Belgium, Germany, Luxembourg and Poland by involving an approved dispute resolution body. Parties can submit their claims directly on the platform from any type of device and in all EU languages, Icelandic and Norwegian.

EU regulations oblige online traders to provide an e-mail address and an easily accessible link to the ODR platform. Consumers can contact traders through this platform. Traders are notified about the request and have two options:

1. Accept to engage with consumers through the platform to attempt direct resolution of the dispute within a maximum of 90 days. In this case, the platform facilitates scheduling meetings and exchanging messages and documents.
2. Refuse the request. If the consumer does not withdraw from the process within 90 days, parties can opt to submit their dispute to a dispute resolution body. They have 30 days to agree on a competent dispute resolution body. Otherwise, they explore different dispute resolution mechanisms.

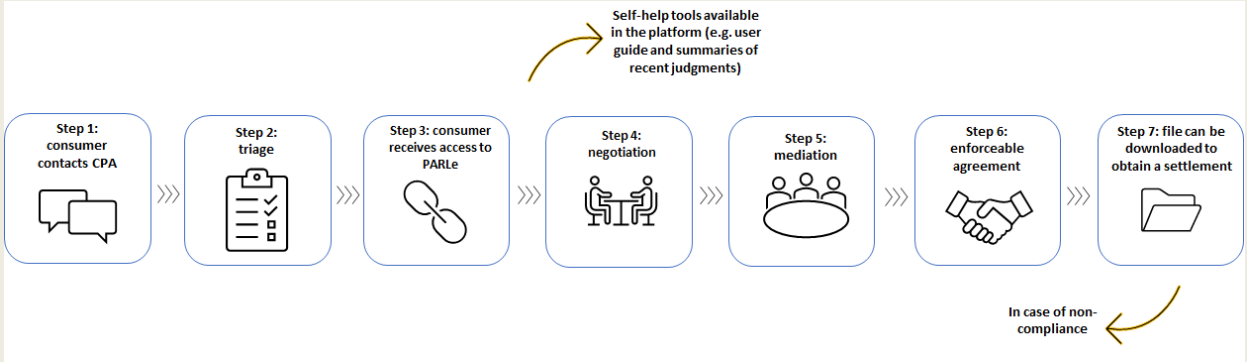
The platform serves as a central access point to all ADR bodies in Europe, proving a valuable tool when traders and consumers are located in different European countries. The EU ODR platform provides an easy and accessible tool to solve disputes on line. It is an innovative tool that helps consumers and traders save time and money with cumbersome judicial procedures. The platform contributes to enhancing trust in Europe's Digital Single Market, fostering online marketplaces and promoting cross-border trade within the European Union.

Canada: ODR platform for Quebec's Consumer Protection Agency

In Quebec, the Consumer Protection Agency (CPA) offers a free and impartial ODR platform designed to solve conflicts between consumers and traders. Since 2016, PARLe has been the platform of choice when the CPA decided to implement an ODR mechanism in Quebec. PARLe provides a swift and complimentary online service for resolving low-intensity disputes related to consumer protection.

Because of its modularity, PARLe has been tailored to support the CPA in implementing an ODR platform as part of the strategic objectives for 2014-18 in collaboration with the Canadian Ministry of Justice. Consumers who wish to initiate a settlement process through "PARLe consommation" should first contact

the CPA. If they satisfy the terms and conditions of use, an agency officer will send them an e-mail with a link to the platform and some information to assist them in the process. To access the platform, consumers need to fulfil two conditions: 1) involvement in a civil dispute; and 2) the other party being a participating merchant. Once these conditions are met, consumers can open an account on the platform and create a file to submit a proposal to the other party. The platform provides a user guide and summaries of recent judgments to help consumers build and substantiate their proposed solution. Merchants can either accept the proposal or provide a counterproposal. The parties can request a certified mediator once a proposal and a counterproposal have been submitted. A mediator will automatically be appointed to settle the dispute if no solution has been found after 20 days of negotiation. The platform offers the possibility to download the agreement document, which can later be used to finalise the settlement when filing a claim.



PARLe has already managed over 5 000 cases for the CPA, with a success rate of 70% of cases reaching an agreement (45% at the negotiation stage and 25% at the mediation stage). PARLe's success in consumer protection is evident in various aspects. While cases can take up to 1.5 years to reach trial in Quebec, with PARLe agreements, settlements have been reached on average within 28 days at nearly 7% of the cost. Customer and merchant satisfaction rates with the PARLe platform are also remarkably high, with almost 90% expressing satisfaction at the CPA.

Source: European Commission (2023[20]), *Find a solution to your consumer problem*, https://ec.europa.eu/consumers/odr/main/index.cfm?event=main.home2.show&lng=EN; Office de la Protection du Consommateur (2022[21]), *What is PARLe consommation?*, htttps://www.opc.gouv.qc.ca/a-propos/parle/description/; Cyberjustice (2022[22]), *PARLe: Transform the Court Experience with Online Dispute Resolution*, https://cyberjustice.openum.ca/files/sites/102/Livret_LABOCJ_PARLe_demilettre_GN-1-Corrige%CC%81-2.pdf.

Latvia could consider whether the current two-step procedure, as offered by the CRPC in combination with the CDRC, provides easy access to effective dispute resolution. An advantage of this two-step procedure is that it ensures that consumers are informed about their legal position before they start the conciliation procedure. A drawback might be that consumers might not perceive a straight and low-barrier route to dispute resolution, as they first need to go through the procedure with the CRPC before they reach the dispute resolution stage with the CDRC. Fact-finding interviews and data collected suggest that less than 10% of complaints reach the CDRC. This may raise questions on whether the current two-step procedure offers swift dispute resolution access. It is, therefore, recommended to reconsider the two-step procedure in developing approaches in which consumers have a clear and easy pathway to an ombud procedure (see Revamping consumer dispute resolution mechanisms).

Ombud schemes in consumer-trader disputes

Ombud schemes are a free and accessible avenue for citizens or consumers seeking remedies as recipients of public and/or private sector goods or services. They are also referred to as "ombuds" or conciliation schemes. Ombud schemes are procedures in which parties present their facts and opinions to

an ombud, who shares the communication with the other party. This approach reduces the amount of cases brought before the courts, as parties often find resolution through the ombud process without the need for litigation.

In recent years, there has been a substantial increase in complaints filed with ombuds, alongside a significant focus from policy makers on the development of effective dispute resolution systems for consumer-trader disputes. Two main factors drive the adoption of ombud schemes for consumer-trade disputes. The first factor is the realisation that existing dispute resolution mechanisms often fail to address the dispute needs of consumers and traders. In particular, court litigation and mediation can prove too expensive and time-consuming for small, online transactions. For instance, transactions valued below EUR 100 seldom prompt consumers to pursue full court proceedings or engage in prolonged discussions with the trader (Bradford, Creutzfeldt and Steffek, 2022[23]).

Second, ombud schemes are rooted in the recognition that the growth of online commerce needs the presence of attractive ODR mechanisms. Based on the principle of "fitting the forum to the fuss" (Sander and Goldberg, 1994[24]), online ombud schemes align well with the nature of online consumer-trader transactions. The swift procedure fits well with the parties' interest in quick and efficient transactions. Where the parties fail to reach a resolution within a given timeframe (e.g. within a month from the presentation of all information), the ombud issues a recommendation that usually is not binding. Despite not being mandatory, the recommendation is often accepted as parties consider the ombud a fair procedure. Alternatively, if both parties agree, the ombud can be granted the authority to transform the recommendation into an enforceable instrument. In some instances, legislatures may empower ombud schemes to issue binding recommendations. For example, certain ombud schemes can make recommendations binding on traders (but not on consumers) for cases below a certain threshold (e.g. under EUR 500). This is the case of the United Kingdom (see Box 4.7). If a consumer accepts the UK Financial Ombudsman Service's decision, it becomes binding on business (Financial Ombudsman Service, 2022[25]).

Box 4.7. Ombud schemes with binding decisions

Germany: The German Conciliation Body

The German Conciliation Body (Söp) is an independent and neutral consumer dispute resolution institution. It is an alternative to courts for individual disputes between travellers and companies. Söp is competent for disputes involving companies that participate in the conciliation procedure. This concerns almost 100% of long-distance travel companies relevant to Germany. Complaints are free of charge.

Söp submits a written conciliation proposal after legal assessment and the examination of facts. If parties agree with the conciliation recommendation, the document becomes legally binding. At any stage of the conciliation procedure, the complainants can bring the case to court.

United Kingdom: The Financial Ombudsman Service

The UK Financial Ombudsman Service is a free and independent ADR service that settles complaints between consumers and businesses providing financial services. The ombud is competent for complaints against businesses that provide retail financial products and services in or from the United Kingdom. It provides an informal alternative to court services with binding decisions for businesses.

Consumers must complain directly to the financial business before contacting the Financial Ombudsman Service. The financial business has eight weeks to provide a final answer to the plaintiff. If not satisfied with the final response from the business, customers can submit their complaint to the Financial Ombudsman Service within six months. The website provides an online tool to check the

eligibility of the dispute. Consumers can then fill out an online complaint form. Both parties can provide evidence. Consumers can withdraw from the process at any stage before the final decision is issued. The decision becomes legally binding to the business once accepted by the consumer. Businesses cannot withdraw from the process and must comply with the final decision.

Source: Schlichtungsstelle für den öffentlichen Personenverkehr e.V. (2023[26]), *The conciliation procedure*, https://soep-online.de/en/the-conciliation-procedure/; Financial Ombudsman Service (2022[25]), *How we make decisions*, https://www.financial-ombudsman.org.uk/who-we-are/make-decisions.

Ombud proceedings enable parties to present their views and submit documents. Usually, this happens on line through entering information in online platforms or by e-mail. In most cases, users also have the option to send statements and documents by paper post. However, in practice, electronic means of communication are more commonly used. Generally, the ombud scheme can also be contacted by phone, mostly for inquiries about the procedure. Most ombud schemes have set up procedural and cost rules within the legal framework of their establishment. These rules usually allow the ombud scheme to use various dispute resolution mechanisms, including conciliation and mediation. Cases can be decided with or without a hearing, including the examination of witnesses. In practice, hearings are typically rare. Usually, fact finding and decision making in an ombud scheme are more straightforward than in a court proceeding.

The reason for having a more simplified and faster procedure, usually without requiring collecting evidence or hearing witnesses, is that ombud proceedings are designed to solve cases that are less complex and of lower value. Against this background, ombud schemes should not be seen as inferior alternatives to court proceedings. Instead, they are a valuable means of resolving conflicts for specific types of cases (e.g. cases with lower values, such as below EUR 5 000, EUR 10 000 or EUR 20 000), in which parties often prefer a swift resolution over a lengthier and costly court proceeding. Ombud proceedings are effective both in online and in-person transactions with these characteristics. In other words, there is no need to limit ombud schemes to online transactions.

Over the past decade, there has been an increase in online ombud proceedings (European Union, 2013[27]; 2013[28]). The introduction of online ombuds aligns well with a justice environment that needs to manage a high number of lower-value conflicts based, in particular, but not exclusively, on online transactions. Other dispute resolution mechanisms, such as court proceedings and mediation, often lack a suitable framework for these disputes. Court proceedings are often too expensive for such low-value claims, and parties often have little interest in extensive discussions with the opposing party, as offered by mediation.

Numerous jurisdictions have established legislative frameworks to ensure the quality, fairness and efficiency of conciliation bodies and ombud schemes. A prominent example is the EU Directive on Consumer ADR (European Union, 2013[28]) in conjunction with the EU Regulation on Consumer ODR (European Union, 2013[27]). This set of documents paves the way for independent, impartial, transparent, effective, fast and fair online out-of-court dispute resolution between consumers and traders. It also provides a common ground for operating ombud schemes and other ADR bodies in the European Union. These frameworks are also important to foster collaboration and exchange of best practices of cross-border and domestic disputes in the region.

Finally, providers of ombud schemes have managed to offer attractive dispute resolution platforms that are transparent and user-centred. For example, they offer easy-to-use online forms that are understandable for non-experts. Services provided by ombud schemes are generally affordable and often, free for consumers. They also allow parties to stay updated on case developments by making all relevant information accessible on the platform. Examples of attractive and user-centred online platforms are the Söp (Schlichtungsstelle für den öffentlichen Personenverkehr e.V.), the Federal German Conciliation Body in Germany, the UK Financial Ombudsman Service in the United Kingdom (see Box 4.7), the Financial

Markets Authority (Autorité des marchés financiers) and the Mediator of Consumption (Médiateur de la consomation) in France (see Box 4.8).

Box 4.8. Enhancing ombuds through simplified platforms

In France, consumer ombuds are required to provide an online channel for users to submit their disputes. The ombuds of the Financial Markets Authority (Autorité des marchés financiers, AMF) is one of the various French consumer ombuds. The AMF is a free service competent for financial disputes involving a financial intermediary or an issuer. The AMF's platform provides tools to facilitate users' submission and case management. The platform includes an admissibility assessment tool to help consumers address their litigation to the appropriate body. If the request is admissible, users can complete an online form and provide supporting documents directly. The platform also enables users to follow the progress of the claim using a personal mediation file number.

Other ombuds also offer user-centred dispute resolution platforms facilitated by online tools. The German Conciliation Body (Söp) provides a detailed online form to assess the admissibility of conciliation requests and submit requests with the same tool. The General Conciliation Body (Universalschlichtungsstelle) website also makes it possible to submit applications on line. Consumers can access their online personal space to follow up and monitor the progress of their requests. In the United Kingdom, the Financial Ombudsman Service provides an online tool to check the eligibility of a dispute. If eligible, consumers can fill out an online complaint form and upload evidence files to support their claims.

Source: Autorité des marchés financiers (Autorité des marchés financiers, 2023[29]), *Le Médiateur de l'AMF (The AMF Ombudsman)*, https://www.amf-france.org/fr/le-mediateur; Schlichtungsstelle für den öffentlichen Personenverkehr e.V. (2023[26]), *Your conciliation request*, https://soep-online.de/en/your-conciliation-request/; German Federal Ombud Scheme (2023[30]), *Welcome to the website of the Universalschlichtungsstelle (General Conciliation Body)*, https://www.verbraucher-schlichter.de/english/english-version; Financial Ombudsman Service (2022[31]), *Make a complaint*, https://www.financial-ombudsman.org.uk/make-complaint.

As part of its efforts to enhance dispute resolution mechanisms in the country, Latvia could consider expanding and modernising its consumer-trader dispute resolution by reforming its ombud scheme. This concerns both the nationwide setting of the ombud ecosystem and the organisation of individual ombud schemes.

Regarding the nationwide ombud scheme setting, Latvia could consider providing a framework that enables all consumers to effectively resolve their disputes with traders. This framework could aim to minimise entry barriers, making it simple for consumers to initiate and engage in ombud proceedings.

An important starting point for facilitating access to dispute resolution concerns the initiation of the process. Currently, consumers need to find out which body to address and, in the case of the CRPC, navigate a two-step procedure to dispute resolution. It might be worthwhile to consider setting up a one-stop-shop platform for all consumer-trader disputes or, alternatively, through e-case portal (Elieta.lv). Such a platform would not require collectivising all existing dispute resolution bodies into one institution. Instead, the single-entry platform could distribute incoming complaints to the competent bodies, mainly utilising algorithms. For the remaining cases, human caseworkers could handle the distribution. Such a single-entry point would benefit consumers, eliminating the uncertainty of addressing the wrong body. In addition, the application to the single-entry point could be used to suspend the time limitation of claims, offering consumers assurance while attempting ADR.

Further potential can be tapped by providing a comprehensive array of options, ensuring easy access to an ombud scheme for any consumer-trader dispute that might be encountered. Currently, there are various limitations and restrictions in place. There are some specialised ombud schemes for banking and

insurance disputes and a more general consumer dispute resolution offered by the CRPC in combination with the CDRC. However, these specialised schemes do not cover many legal and justice needs, and the competence of the CRPC/CDRC is limited in many aspects. Altogether, this means that consumers currently only have limited access to effective consumer-trader dispute resolution for low-value claims. It is, therefore, recommended to ensure a comprehensive ombud offering.

There are a number of alternatives to achieve this (see Revamping consumer dispute resolution mechanisms). One approach is to incentivise the creation of industry-specific ombud schemes (see Box 4.9). Simultaneously, another viable approach could be to create a general ombud scheme that is competent for all disputes that lack a specialised ombud scheme. Germany, for example, has opted to create a universal ombud scheme. The General Conciliation Body is competent for almost all consumer-trader disputes unless a higher-priority ombud scheme exists (Universalschlichtungsstelle des Bundes, 2022[32]) (see Box 4.9).

Box 4.9. Germany: Federal ombud schemes and the German General Conciliation Body (Universalschlichtungsstelle)

The German General Conciliation Body is an independent, neutral, universal ombud scheme competent for all disputes involving a consumer contract unless a specific ADR body has a priority competence to settle the dispute. It offers a broader opportunity for consumers to resolve their cases out of court.

The dispute must involve a trader based in Germany and a consumer residing in the European Union, Iceland, Liechtenstein or Norway, and bringing the case on a voluntary basis. Certain types of disputes are excluded from the General Conciliation Body's competence, such as those concerning employment contracts, deriving from contracts on non-economic services of general interest, healthcare services or further and higher education by public service providers.

The consumer can fill out the complaint on line, directly on their website, by e-mail or by letter in German, English or French. The procedure is exempt of charges for the consumer, while the trader must pay a fee based on the General Conciliation Body's regulation. Thus, the General Conciliation Body offers a flexible, faster, less expensive alternative to court procedures.

Source: Universalschlichtungsstelle des Bundes (2022[32]), *About us*, https://www.verbraucher-schlichter.de/english/english-version.

To facilitate access to dispute resolution, it would be beneficial to allow ombuds the authority to render decisions on an entire case rather than confining it solely to matters of consumer protection law. This approach is followed in certain other jurisdictions, such as in Germany. There appears to be no compelling reason to limit the competence of ombuds to consumer protection law in Latvia. The rationale is that, in particular, both parties can still litigate the conflict in court if they are not satisfied with the decision of the ombud (whether this concerns consumer protection or any other area of law). To this end, Latvia may consider allowing the CDRC to decide the cases encompassing all areas of law.

A further improvement is re-evaluating the governance of ombud schemes. Generally, it is best practice to ensure the neutrality of these justice institutions (see Revamping consumer dispute resolution mechanisms). The credibility of ombud schemes could be at risk when either the consumer or the trader has concerns about the neutrality of the process and the outcomes. Against this background, it is recommended to prevent conflicts of interest that might cast doubts on the impartiality of decision making. For example, consumers might be concerned about the neutrality of the CDRC due to its members currently being delegated by trader associations. This could lead consumers to question whether a fair decision can be expected when those making the decision are appointed by an association representing the opposing party.

Sectoral out-of-court dispute resolution mechanisms in relevant industries

Consumers can also benefit from sectoral out-of-court dispute resolution mechanisms. Industries can create their own ombuds for consumer disputes, facilitated by sectoral associations. For instance, the Finance Latvia Association has its own designated ombud for disputes involving commercial banks, while the Latvian Insurers Association has an ombud for disputes with insurance companies, except those arising from civil liability insurance for motor vehicle owners. In addition, each ombud can define the scope of its competence for specific types of cases. Submitting a complaint with the ombud is not a precondition for litigation; consumers can bypass this step and directly approach a court. These schemes must be registered with the CRPC.

Out-of-court consumer dispute resolution bodies and procedures adhere to a set of common standards and uniform requirements outlined in the specific regulation known as the Law on Out-of-Court Consumer Dispute Resolution Bodies (Government of Latvia, 2015[33]). This framework helps ensure that Latvian consumers can exert and protect their rights through impartial, transparent, efficient and equitable sectoral out-of-court dispute resolution.

When consumers opt for sectoral out-of-court dispute resolution, ombuds may impose a solution, akin to a quasi-court; propose a solution, similar to a conciliator; or bring parties together to facilitate a settlement, similar to a mediator.

Decisions are not binding on the parties unless they were informed beforehand and provided written consent (Government of Latvia, 2015[33]). If a decision is not imposed from the outset, then it is not binding *a fortiori* unless both parties agree to the proposed solution or reach a settlement. These ombuds determine their own fees. For instance, the Latvian Insurers Association's ombud requires consumers to pay a security deposit, ranging from EUR 30 to EUR 250, based on the claim's value. The Finance Latvia Association has a flat-rate deposit of EUR 20. The deposits are refunded if the consumer's case is successful.

Interviews with stakeholders clarified that the current structure of industry ombuds is similar in their procedures to the CRPC, and they function as quasi-courts. Each ombud has its own procedural rules, but decisions are typically made based on submitted documents without a hearing, unless needed. These ombuds also encounter challenges related to non-compliance with their decisions. Moreover, consumers seem to be inactive in using ombud services. Both for the CRPC and ombuds, non-compliance entails consumers initiating litigation after resorting to these alternative procedures. Given the generally modest value of consumer claims, this might discourage consumers from pursuing dispute settlement procedures.

If consumer claims were selected for automation, many of the conclusions pertaining to requirements for automated decision making and potential integration of AI, outlined in previous sections on simplified procedures and warning procedures, would be applicable.

Interviews with users' services and the mapping of consumer claims suggested that the parties would greatly benefit from linking the CRPC and sectoral ombuds' platforms to the court. Such an approach could also be beneficial from a consumer protection standpoint, as it would offer consumers more convenient access to comprehensive information about all available ODR options. This would require creating a unified online platform or a dedicated section within the existing TIS or e-case portal for ADR tools.

According to available information, a major issue that arises in many countries, as well as in Latvia, is lack of trader interest in the establishment and participation in ombud proceedings. Some European member states have reacted to this by mandating trader participation either in general or at least for certain industries. Germany, for example, has mandated trader participation in the electricity and gas industry. Portugal goes even further in mandating trader participation for cases with a value under EUR 5 000 if the consumer opts for ADR. There are, however, also downsides to mandated trader participation. In particular, traders often participate because they must, not because they see the value of dispute resolution. Other approaches, therefore, aim to create an environment in which traders participate in ADR

from their own initiative. A nationwide ombud scheme, for example, may incentivise traders to consider whether such a scheme is attractive and whether an industry-specific scheme might make sense.

Other ADR mechanisms

In addition to the procedures discussed above, consumer disputes can be resolved through other ADR mechanisms. As a starting point, parties are encouraged to negotiate for amicable dispute resolution, as stipulated by the Law on Protection of Consumer Rights. Another option is mediation, provided both parties consent to proceed with this mechanism. However, as previously mentioned (see Mediation in Latvia in Chapter 3), mediation is rarely used for the reasons outlined earlier, which encompass:

1. limited enforceability of mediation agreements (see Enforcement of decisions in Chapter 3)
2. substantial costs associated with mediation for small consumer disputes
3. unsuitability of mediation for cases where future relations between parties are not desired.

In the case of arbitration, this specific form of ADR is only nominally available for consumer disputes. The validity of an arbitration agreement requires prior discussion of the arbitration clause with consumers. In practice, it is important that the trader proves that the clause was discussed and mutually agreed upon by consumers, which may be difficult to achieve in practice. Therefore, arbitration is rarely used for consumer disputes.

Court litigation options

Bringing a consumer claim to court requires prior communication between the trader/service provider and the consumer as a precondition for the latter to initiate simplified or ordinary litigation, depending on the nature of the claim. For monetary claims up to EUR 2 500, consumers should opt for the simplified procedure. If beyond this limit, the ordinary procedure applies (see Simplified procedure).

Similarly, initiating the warning procedure requires an exchange between the consumer and the trader/service provider, even though the consumer is less likely to opt for this pathway. The warning procedure remains largely a theoretical option because it is available only for payment claims under time-limited contracts or contracts for payment for goods/services. Consumers rarely would have a payment claim under a contract. At the very best, consumers may have claims for compensation for damage not covered by the warning procedure or entirely different claims, such as contract withdrawal, goods repair or replacement. Possibly, it could be useful under insurance contracts if the contract provides that an insurer must pay compensation before a certain date. Stakeholders revealed that clients hardly ever use it against banks.

For cases utilising the simplified procedure in court, the primary expenses are the state fee, generally calculated based on the amount.[6] With ordinary litigation, the state fee varies depending on the claims brought by the consumer.[7] If the claim involves contract termination with the trader or service provider, the value of the contract is the baseline for the fee.[8]

Legal assistance costs incurred before litigation typically are not reimbursed unless covered in the notion of damages. Throughout the initial and appellate instances of court proceedings, any person can represent the claimant unless the claim surpasses EUR 150 000. Only an attorney can act as a representative in the cassation instance, which does not apply to the simplified procedure. The expenses for representation can only be claimed from the losing party if the representative was an attorney. The right to claim attorney fee compensation depends upon the size of the claim. For claims up to EUR 8 500, the claimant can receive compensation for actual expenses, capped at 30% of the satisfied claim.

Currently, Latvian civil procedure lacks a specific procedure for consumer cases. A potential approach would be to model a procedure based on the simplified procedure. Typically, such a procedure would take

place on the basis of the exchange of documents without a hearing. A hearing would occur only when a party convinces the court that an online or in-person hearing is essential for equitable dispute resolution. As recommended for the simplified procedure (see Revamping the simplified procedure), the party should be able to decide in its request whether it asks the court to have an online or in-person hearing. The latter solution could be beneficial in the rare cases requiring extensive evidence evaluation in consumer disputes.

4.4.2. Revamping consumer dispute resolution mechanisms

Consider rendering binding certain types of decisions applying to consumer claims

Fact-finding missions confirmed that the rate of non-compliance by traders/service providers is comparatively high (see Consumer Rights Protection Centre and Consumer Dispute Resolution Commission). Past experience from the German Federal Ombuds Scheme indicates that the better the ADR procedure is in terms of just process, the higher the chances of complying with the agreement. Research from a variety of contexts tends to show that procedural justice is a significant predictor of outcomes such as trust, legitimacy, readiness to accept outcomes of ADR and, thus, decision acceptance or compliance (Bradford, Creutzfeldt and Steffek, 2022[23]). Lawfulness, duty to obey and procedural justice are important aspects of compliance and are linked to the perception of costs, time to process cases, treatment from the ombuds staff and amicable solutions.

To address these issues, Latvia could consider the introduction of binding decisions for certain types of consumer claims (e.g. in the context of banking and insurance), particularly because dispute settlement before the CRPC is faster and bears no financial burden to consumers. Such a decision would still be subject to judicial review. This may require identifying the type of disputes for which decisions should be binding. This concerns the types of claims (e.g. banking, insurance-related claims) and the value cap of the dispute (e.g. whether there is maximum value for the binding nature of decisions). It may also be considered for the ombud to have the possibility to declare those agreements binding that the parties have consensually agreed.

Amending the nature of certain decisions would require determining their exact binding nature. In particular, it would be important to determine whether the decision should be binding for both parties or only for business. Latvia could potentially consider amending the Consumer Rights Protection Law, specifying that decisions of the CRPC (or other relevant body) are binding. For other specific ombud schemes, the decision on issuing binding decisions could be discussed and agreed upon beforehand with ombud members. Lastly, making certain types of decision binding would require amending the Civil and Administrative Procedure Laws to specify how binding decisions of the CRPC and sectoral ombuds can be, how these decisions can be reviewed before the court, and foresee the writ of execution on the basis of an ADR decision.

Continue reinforcing public trust in ombud schemes

Latvia should continue working towards the reinforcement of public trust in ombud schemes. Particular attention could be given to issues related to conflicts of interest. Neutrality could be at risk when either the consumer or the trader has concerns about the impartiality of the process and its outcomes.

To address this issue, Latvia could consider the implementation of policies and expanding existing initiatives aimed at ensuring the neutrality and competence of decision making in ombud proceedings as a high priority.

Consider introducing a single-entry point to ombuds for consumer-trader disputes

Currently, sectoral ombuds' platforms/ADR procedures are run separately by each of the sectors by technical solutions of the sector's choice. In most cases, there is an option to submit documents digitally. It is not uncommon that sometimes parties are not fully satisfied with the ombud's decision and choose to bring the action before the court. In such a situation, it would mean that parties need to resubmit the documents and proof to the court one more time. The courts do not have direct access to the pre-court dispute materials and only have access to the materials submitted with the claim by choice of the parties. Linkage with the court system would mean that courts would be able to consult with the whole spectrum of documents and decisions previously submitted to the ombud's platform. For parties, that would mean less resources spent resubmitting documents and information.

To facilitate access and the uptake of ombuds, Latvia could consider introducing a single-entry point (e.g. through a one-stop-shop/Latvia e-case portal) for all consumer-trader disputes to help centralise and distribute incoming complaints to competent bodies. This would help strengthen the accessibility of ombud schemes for consumer-trader disputes through the provision of a comprehensive offer to consumers.

A first step would be to determine whether to operationalise centralisation through a common entry platform (e.g. e-case portal) under which different dispute resolution providers could continue to exist separately (i.e. the platform is the entry point but then distributes the cases) or, in addition, to centralise consumer dispute resolution in one body. To implement this, Latvia would need to update the procedural and associated laws to allow for the single-entry point and reform them in case a more comprehensive integration is aimed for. Likewise, there would be a need to integrate pathways/linkages between e-case platform/one-stop-shops and Latvija.lv platforms by improving information and access from one platform to the other to increase visibility and access to the one-stop-shop platform. This would require discussion with the Ministry of Environmental Protection and Regional Development on Latvija.lv and the e-case platforms.

It would also be recommended to establish a platform structure that facilitates communication and information between dispute resolution mechanisms and parties. For example, a platform allows greater transparency as users can log in at all times to check the progress of their case. That would also ensure that their documents are uploaded and received by the organisation and are not affected by possible human errors and e-mail server failures. Fact-finding interviews revealed that another aspect to consider for implementation alongside the platform is online authentication by using e-ID and other types of online authentication means (such as authentication mechanisms provided by banks).

Consider linking the CRPC and sectoral ombuds' platforms to court systems

The analysis of pathways of consumer claims and interviews indicate that linking the CRPC and sectoral ombuds' platforms and the court could yield substantial advantages in terms of effectiveness and usability. This strategic alignment could also enhance consumer protection by facilitating more streamlined access to comprehensive information regarding all possible ODR avenues. This would require creating a joint platform or dedicating a separate section to the ADR tools in the existing TIS.

From a legal and regulatory perspective, Latvia would need to consider reforming laws governing the institutions involved, notably the Law on the State Platform for Processes in the Electronic Environment, the Cabinet of Ministers Regulation No. 618 "Rules of the Court Information System", the Civil Procedure Law, the Consumer Rights Protection Law and the Law on Out-Of-Court Consumer Dispute Resolution Bodies.

Consider expanding and modernising the ombud ecosystem and the individual ombud schemes

As part of its efforts to enhance dispute resolution mechanisms in the country, Latvia could consider expanding and modernising its consumer-trader dispute resolution by reforming its ombud scheme. This concerns both the nationwide setting of the ombud ecosystem and the organisation of individual ombud schemes. In this regard, Latvia could develop a framework that offers the possibility for all consumers to effectively solve their disputes with traders in order for consumers to initiate and conduct ombud proceedings. Likewise, the country could explore whether the current two-tier system of consumer complaints should be replaced by a one-tier ombud procedure for consumers.

Consider expanding the ombuds' competence beyond consumer protection law

The mapping of consumer claims suggested that currently, in Latvia, specialised schemes do not cover many legal and justice needs, and the competence of specialised ombuds and CRPC/CDRC is limited in many aspects. It is, therefore, recommended to ensure a comprehensive ombud offering in the country.

In this regard, Latvia could consider allowing ombuds to decide a case in its entirety, not limiting their competency to consumer protection law. This would encourage the use of dispute resolution in Latvia. Expanding the ombuds' competence would require identifying the expertise needed in ombuds and creating a poll of candidates to address ombuds' capacity and expertise needs. Likewise, Latvia may need to identify which types of claims ombuds could expand their competency (e.g. labour, health services).

References

Arbitration Court of Latvian Chamber of Commerce and Industry (2023), *About the LCCI*, https://www.ltrk.lv/en/node/30. [2]

Association of Latvian Commercial Banks (2022), *Regulations on the Expenses of the Arbitration Court of the Association of Latvian Commercial Banks*, http://www.fstiesa.lv/lv/skirejtiesa/izdevumi.html. [34]

Autorité des marchés financiers (2023), *Le Médiateur de l'AMF (The AMF Ombudsman)*, https://www.amf-france.org/fr/le-mediateur (accessed on 22 November 2022). [29]

Bradford, B., N. Creutzfeldt and F. Steffek (2022), "Thinking holistically about procedural justice in alternative dispute resolution: A case study of the German Federal Ombudsman Scheme", *Law & Social Inquiry*, Vol. 48/3, pp. 748-779, https://doi.org/10.1017/lsi.2022.55. [23]

CyberJustice (2022), *PARLe: Transform the Court Experience with Online Dispute Resolution*, https://cyberjustice.openum.ca/files/sites/102/Livret_LABOCJ_PARLe_demilettre_GN-1-Corrige%CC%81-2.pdf. [22]

European Commission (2023), "Find a solution to your consumer problem", *Online Dispute Resolution*, https://ec.europa.eu/consumers/odr/main/index.cfm?event=main.home2.show&lng=EN (accessed on 22 November 2022). [20]

European Union (2022), *European Consumer Centres Network - ECC Net*, https://ec.europa.eu/info/live-work-travel-eu/consumer-rights-and-complaints/resolve-your-consumer-complaint/european-consumer-centres-network-ecc-net_en (accessed on 18 November 2022). [16]

European Union (2022), *European payment order: Germany*, https://e-justice.europa.eu/41/EN/european_payment_order?GERMANY&member=1. [13]

European Union (2022), *Small claims: The European Small Claims procedure is designed to simplify and speed up cross-border claims of up to €5000*, https://e-justice.europa.eu/42/EN/small_claims?init=true. [5]

European Union (2013), *Directive on Consumer ADR (Directive 2013/11/EU)*, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013L0011 (accessed on 21 November 2022). [28]

European Union (2013), *Regulation on Consumer ODR (Regulation (EU) No 524/2013)*, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R0524 (accessed on 21 November 2022). [27]

European Union (2008), *Regulation (EC) No 1896/2006: European Order for Payment Procedure*, https://eur-lex.europa.eu/EN/legal-content/summary/european-order-for-payment-procedure.html. [11]

European Union (2007), *Treaty of Lisbon*, https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=OJ%3AC%3A2007%3A306%3ATOC. [3]

European Union (2002), *Treaty of Rome*, https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:12002E/TXT. [4]

Financial Ombudsman Service (2022), *Make a complaint*, https://www.financial-ombudsman.org.uk/make-complaint (accessed on 15 December 2022). [31]

Financial Ombudsman Service (2022), *Who we are*, https://www.financial-ombudsman.org.uk/who-we-are/make-decisions (accessed on 21 November 2022). [25]

German Federal Ombud Scheme (2023), *Welcome to the website of the Universalschlichtungsstelle (General Conciliation Body)*. [30]

Government of Germany (2008), *The German Order for Payment Procedure (Mahnverfahren)*, https://www.iuscomp.org/gla/literature/sijanski.htm. [12]

Government of Latvia (2023), *Consumer Rights Protection Centre*, https://registri.ptac.gov.lv/en/content/functions (accessed on 22 November 2022). [17]

Government of Latvia (2022), *Compulsory Enforcement of Obligations in Warning Procedure: A technologically neutral, electronic process that facilitates the circulation of electronic documents in civil proceedings*. [9]

Government of Latvia (2021), *Consumer Dispute Resolution Commission*, https://www.ptac.gov.lv/en/consumer-dispute-resolution-commission-0 (accessed on 22 November 2022). [18]

Government of Latvia (2015), *Law On Out-Of-Court Consumer Dispute Resolution Bodies*, https://likumi.lv/ta/en/en/id/275063 (accessed on 22 November 2022). [33]

Government of Latvia (2009), *Regulations of the Cabinet of Ministers No. 792 - Rules on the Forms to be Used in the Enforcement Notice Procedure*, https://likumi.lv/ta/id/195361-noteikumi-par-saistibu-piespiedu-izpildisanas-bridinajuma-kartiba-izmantojamam-veidlapam. [8]

Government of Latvia (1999), *Consumer Rights Protection Law*, https://likumi.lv/ta/en/en/id/23309. [19]

Government of Latvia (1998), *Civil Procedure Law*, https://likumi.lv/ta/en/en/id/50500. [1]

Government of Norway (2022), *Digital Communication*, https://www.norge.no/en/digital-citizen/digital-communication. [14]

OECD (2023), *Consumer price indices (CPIs) - Complete database*, https://stats.oecd.org/Index.aspx?DataSetCode=PRICES_CPI. [6]

OECD (2023), *Recommendation of the Council on Access to Justice and People-Centred Justice Systems*, https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0498. [7]

Office de la Protection du Consommateur (2022), *What is PARLe consommation?*, http://htttps://www.opc.gouv.qc.ca/a-propos/parle/description/ (accessed on 5 December 2022). [21]

Sander, F. and S. Goldberg (1994), “Fitting the forum to the fuss: A user-friendly guide to selecting an ADR procedure”, *Negotiation Journal*, Vol. 10/1, pp. 49-68, https://doi.org/10.1007/BF02183377. [24]

Schlichtungsstelle für den öffentlichen Personenverkehr e.V. (2023), *The conciliation procedure*, https://soep-online.de/en/the-conciliation-procedure/ (accessed on 22 November 2022). [26]

Torgāns, K. (2012), *Civilprocesa likuma komentāri [Commentaries on the Civil Procedure Law]*. [10]

Universalschlichtungsstelle des Bundes (2022), *About us*, https://www.verbraucher-schlichter.de/english/english-version (accessed on 18 November 2022). [32]

Vītoliņa, B. (2015), *Fundamentals of Consumer Rights Protection*. [15]

Notes

1. Solidarity means that two or more debtors have joint and several liability.

2. When filling the application, the applicant must provide: 1) information about themselves and confirm availability to communicate with the court through the online platform; 2) information about the debtor (e.g. name, surname, address); 3) information about the legal representative, if applicable; 4) information about the obligation, including relevant documents (e.g. contract) that justify the debt and time period of performance; 5) the credit institution/account for payment; 6) amount claimed, calculations of the amount, penalties, interest and court expenses; 7) a declaration acknowledging that the claim is not dependent on any correlative performance or that correlative performance has been carried out; 8) a request to the court to issue a warning to the debtor; 9) a request to decide on the enforcement of payment obligation and recovery of court expenses; 10) a declaration that states the veracity of documents and information, acknowledging liability in case of false statements.

3. The warning indicates: 1) its unique number and court name; 2) information about the applicant, obligation, identification of the document that justifies the obligation, time limit for payment of the obligation, claimed sum and its calculation, information about the bank account for payment (if there is one); 3) information about the debtor; 4) indication that the court has not examined whether the claim is justified; 5) a proposal that the debtor pays the debt within 14 days after the issuance of the warning (notifying the court thereof) or submits any objections to the court; 6) that the obligation specified in the warning will be transferred for enforcement if within the specified 14 days objections or evidence on payment is not submitted.

4. These rates correspond to November 2022. The applicant can calculate expenses using the calculator available at manas.tiesas.lv.

5. In accordance with Section 267(2) of the Consumer Rights Protection Law, the submission should include name, surname, address, contract information, information about the trader or service provider, essence of the dispute, claims and their justification, information about previous steps taken to reach an agreement with the trader or service provider, and confirmation that the dispute is not being examined by any ombud or court. The submission must be accompanied by attached documents that support the submission. If the submission is submitted via e-mail, no signature is required.

6. If the principal claim (without interest and contractual penalties) is EUR 2 134 or less, then the claimant must pay 15% of the sum, but no less than EUR 70. So, for such claims, the lowest amount would be EUR 70, while the highest would be EUR 320. If the principal claim is between

EUR 2 135 and EUR 7 114, then the state duty is EUR 320 plus 4% for sums above EUR 2 134. Since the maximum amount subject to the simplified procedure is EUR 2 500, the highest state fee will be EUR 334.64 (EUR 320 + EUR 14.64). In the judgment the court will require the defendant to fully or partially compensate the state fee if the claim has been fully or partially satisfied.

7. If the consumer claims money (e.g. compensation of damages), then the calculation is: 1) the claim up to EUR 2 134, the fee is 15% of the claim, but no less than EUR 70; 2) if the claim is above EUR 2 134 but does not exceed EUR 7 114, the fee is EUR 320 + 4% of the sum above EUR 2 134; 3) if the claim is above EUR 7 115 but does not exceed EUR 28 457, the fee is EUR 520 + 3.2% of the sum above EUR 7 114; 4) if the claim is above EUR 28 458 but does not exceed EUR 142 287, the fee is EUR 1 200 + 1.6% of the sum above EUR 28 457; 5) if the claim is above EUR 142 288 but does not exceed EUR 711 435, the fee is EUR 3 025 + 1% of the sum above EUR 142 287; 6) if the claim is above EUR 711 435, the fee is EUR 8 715 + 0.6% of the sum above EUR 711 434.

8. For instance, if the contract price is EUR 3 000, then the fee will be EUR 320 + 4% of the sum above EUR 2 134. It is unclear how to value claims for the replacement or repair of goods. If they are regarded as claims with no monetary value, then the fee will be EUR 70.

Annex A. Service mapping methodology

Areas of focus

The service mapping focused on three specific areas of justice claims before and after a justice claim officially starts at court:

1. **Simplified procedure**: Refers to claims up to EUR 2 500, with a particular focus on debtor claims.
2. **Warning procedure**: Focuses on warning procedures (Part 50.1 of Civil Procedure Law). This procedure works for smaller claims and depends on the debtor's acknowledgement of the debt or inactivity. Basically, the court rules for the creditor if the debtor does not object to the claim.
3. **Consumer claims**: The scope of this third area was decided by the Latvian government, building on insights gathered from a survey and focus group session with business representatives. For the purpose of this report, consumer claims arise from consumer law and encompass conflicts between a person who has acquired goods or services from another person or entity acting within their economic or professional capacity.

The "how"

The OECD conducted a workshop that aimed to help the Latvian government identify a third type of case relevant to the Latvian context to be mapped and apply the OECD Online Dispute Resolution Framework (OECD ODR Framework). To make this exercise efficient, a questionnaire was circulated in advance of the meeting to gather business views and nurture the discussions during the workshop. The tool used was Microsoft Forms.

A questionnaire with potential questions to be asked during the focus group workshop was also circulated to businesses so they could reflect and be prepared for the workshop. Businesses were encouraged to share any relevant documents before or after the meeting. The workshop was also intended to be a good opportunity to capture some of the businesses' impressions and needs on alternative dispute resolution (ADR), with a focus on online dispute resolution (ODR), prior to fact-finding interviews.

After careful consideration, the Latvian government decided on consumer claims and communicated to the OECD Secretariat following the workshop. The legal, institutional and user perspective lens, described below, was carried out once the Latvian government communicated its decision on the third area of focus.

Lens

As mentioned above, in addition to the application of the OECD ODR Framework, the assessment focused on three priority areas: simplified and warning procedures and consumer claims. The assessment looked into legal and institutional frameworks, the use of digital tools, as well as processes and service delivery, applying both the institutional and users' (people and business) perspectives.

Table A A.1. Mapping methodology at a glance

	Methodology	Institutional	Users
Simplified procedure	Legal/institutional	Latvia/Local consultants	OECD
Warning procedure	Processes/services	Latvia	OECD
Consumer claims	Digital	Latvia	OECD

The mapping made it possible to explore the possibility of introducing ODR in the three areas of focus, identifying specific bottlenecks and opportunities in the use of digital technologies and data to streamline processes and develop a more user-friendly justice pathway.

Institutional perspective

The Court Administration offered to prepare descriptive notes, covering all three types of cases and applying all three lenses, building on their in-house knowledge. Three sessions, each dedicated to a specific area of focus, were carried out to discuss the notes and allowed local consultants and the OECD team to ask questions. Written notes synthesised the key findings from the institutional perspective.

Building on the notes, the OECD team organised over 20 fact-finding interviews with key institutions to deepen understanding of the institutional perspective and compare it with the users' views and experiences. Moreover, local consultants conducted additional research and complemented the institutional mapping with relevant information.

Users' perspective

With the help of the Latvian government, groups of users – public institutions (justice officials such as judges and officers) and people/businesses (business associations, lawyers, mediation centres, chamber of commerce, investment council, legal aid office) – contributed to the activities on user perspective for processes and services. This work was led by the OECD team alongside international experts and local consultants. In addition, the Court Administration helped identify a group of users (based on service providers' data for each area of focus) consulted through a survey as well as focus group discussion to gather first-hand evidence.

The OECD identified promising practices and opportunities to simplify and use digital technologies and data for enhanced user experience with ODR. The analysis integrated perspectives and compared experiences of various groups, including average claimants and vulnerable segments of the population.

Legal/institutional analysis

Institutional perspective – the "how"

Desk research and analysis of relevant legal acts were conducted to explore the legal basis and procedure for each specific type of case. The analysis covered civil procedure, commercial and consumer protection laws and Cabinet of Ministers regulations, among other relevant legal instruments.

This exercise also looked into the role of institutions involved in the dispute resolution process and services provided. The institutional analysis also sought to highlight the existing co-ordination mechanisms, internal processes, interoperability of systems and data exchange protocols across different stakeholders. The mapping prepared by the Latvian government was complemented by fact-finding interviews that ensured the analysis of all relevant points. The analysis identified procedural limits, institutional bottlenecks and opportunities to introduce and further enhance the use of ODR and other digital tools.

Users' perspective – the "how"

The legal/institutional analysis from a user's perspective sought to identify whether users (people and businesses) are capable, and how, of understanding pathways to justice, notably ADR and ODR.

With the support of local consultants and the Court Administration, the OECD identified a list of interviewees (lawyers, mediation centres, legal aid, legal clinics), prepared a draft list of questions and organised fact-finding interviews to explore, among others, how users perceived the clarity of laws and procedures, what their experiences were with public institutions and what support and guidance was offered.

Additional desk research and information from the Latvian government identified guidelines, communication campaigns and methods adopted to inform the population in a clear and accessible manner about their rights and justice pathways through digital and non-digital means.

Processes and services

Institutional perspective – the "how"

A thorough mapping of processes and services was produced considering internal processes and services.

Users' perspective – the "how"

Fact-finding interviews following a "customer journey" method were organised to assess people's and businesses' capacity to address their legal and justice needs.

The mapping of the users' perspective in the processes and services engaged a diverse group of interviewees (as above, lawyers, mediation centres, legal aid, legal clinics, etc. and services "close" to people, representing their interests, etc.) to understand the pathways to resolving disputes from accessing services (analogue or digital), courts and enforcement.

Digital (applied throughout the analysis/mapping)

Institutional perspective – the "how"

Desk research and information from Latvian counterparts led to a better understanding of the state of play of digitalisation in the Latvian justice sector.

Fact-finding interviews with institutions helped identify opportunities and challenges in the usage of digital technologies and data at the institutional level and in processes and service delivery. Drawing on the findings, the team identified how digital technologies and data could be used to improve services and processes from an institutional perspective.

Users' perspective – the "how"

Focus group discussions and fact-finding interviews shed light on users' levels of digital skills, accessibility to digital services and their needs.

Developing Effective Online Dispute Resolution in Latvia

This report assesses the use of online dispute resolution (ODR) in Latvia. It looks at the country's efforts to modernise its justice system and develop dispute resolution mechanisms, identifies areas for improvement in line with the OECD ODR Framework, and provides examples of the application of ODR in other countries. The assessment is enriched by the application of the OECD ODR Framework to three specific types of claims – simplified and warning procedures, and consumer claims. It provides recommendations for successfully implementing ODR in Latvia and broadly modernising the justice sector to ensure better access to justice for all.

Funded by
the European Union

PRINT ISBN 978-92-64-82009-8
PDF ISBN 978-92-64-58288-0

9 789264 820098