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Disputes in the Digital era : the evolution of dispute resolution Thesis defended by Mr Zissis Lekkas, under the supervision of ATTAL MICHEL IRDEIC

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Disputes in the Digital era : the evolution of dispute resolution and the model ODR system

A b s t r a c t :

The subject of the thesis is Online Dispute Resolution (ODR) and the aim of the thesis is to propose a model ODR system based on the experience of the dispute resolution movement. ODR is not an isolated phenomenon of recent times but a result of the evolution of disputes and dispute resolution. Initially, disputes occurred between parties with geographical proximity and for which traditional courts were the principal way of resolution. However, as people started to travel further distances and communicate from afar, disputes evolved as they increased in number, became more complex and increasingly cross border. Dispute resolution evolved in parallel and Alternative Dispute Resolution (ADR) was employed. However, disputes evolved once more when the world entered into the digital era. Not only disputes became yet again increasingly cross-border, but new disputes appeared that arose solely in cyberspace. In order to satisfy the requirements of the digital era, dispute resolution brought forth the concept of ODR. ODR arose from the combination of ADR and the Information and Communication Technology (ICT) of the digital era. Alternative means of dispute resolution were transferred to the virtual world and gave birth to Online Dispute Resolution. ADR and ODR are examined extensively, and the examination includes their concepts, their origin, the main forms of negotiation, mediation and arbitration and their online equivalents, as well as their advantages and drawbacks. The thesis illustrates the evolution of disputes and dispute resolution from the "analog" era, when dispute resolution was face to face, to the "digital" era, when disputes are resolved in cyberspace. It demonstrates that ODR is a necessity of the digital era but also that it has the potential to be a revolutionary, effective and successful way to resolve disputes; a way that will be the future of dispute resolution. Based on the experience accumulated by examining the evolution of dispute resolution and based on the conclusions drawn, the thesis formulates a proposal for the ODR system. The thesis describes the ODR system, from its three step process and the necessity of online arbitration, to the ODR network, the regulation of the ODR system, the technological architecture of ODR providers, their funding, as well as the necessary steps of creating awareness and trust so that ODR fulfils its fullest potential.