

Legal Regulation & Education: Doing the Right Thing?

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Online dispute resolution in the context of the EU compared to Saudi regulations

In the current era of the revolution in information and telecommunication technology, and with the rapid growth in e-commerce which is based on the speed of the conclusion of contracts, naturally many disputes can arise between parties. This will require them to seek solutions to the problems they encounter, either through litigation or alternative dispute resolution such as arbitration or mediation. However, the slow pace of litigation is not consistent with the rapid pace of e-commerce, which has led to the emergence of online dispute resolution (ODR) due to the speed of issuing a ruling, and due to the ease of procedures, where the exchange of documents and evidence occurs online without requiring the physical presence of the parties. Also, it is possible to communicate via the Internet either by asynchronous communication such as email, or by synchronous means such as video conferencing. Another advantage of ODR is that it can overcome the conflict of laws dilemma in litigation, due to the fact that many e-commerce transactions are regarded as being cross-border. Furthermore, it may reduce the cost of litigation particularly as it avoids the need to travel and accommodation expenses, which is commensurate with the low-value of many e-commerce transactions that cannot bear the expenses of litigation or even traditional arbitration.

In fact, due to many of the advantages of ODR, on the 21st of May 2013, the EU parliament approved a new Directive on consumer alternative dispute resolution (ADR) as well as approving regulations on online dispute resolution for consumer disputes. The aim is to build trust and improve confidence in online transactions for buying and selling online throughout the EU. This aim is clearly set out in Recital 4 of the directive which states it will: "ensure access to simple, efficient, fast and low-cost ways of resolving domestic and cross-border disputes which arise from sales or service contracts should benefit consumers and therefore boost their confidence in the market. That access should apply to online as well as to offline transactions, and is particularly important when consumers shop across borders."

On the other hand, In light of economic developments and the subsequent legislative changes taking place in the Kingdom of Saudi Arabia, Saudi Arabia issued a new Saudi arbitration law in 2012 as a substitute for the Arbitration Act 1982. This is in line with the economic developments witnessed by Saudi Arabia. In addition, the new law is in line with the UNCITRAL Model Law, so as to achieve the objective of the issuance, and to avoid defects. The Arbitration Act was thus repealed, and the new law deals with all stages of arbitration proceedings; what is worthy of attention is the recognition of the law of arbitration through electronic communications.

The purpose of this paper is to analyse the EU approach to online dispute resolution and to compare this with Saudi arbitration law, which seeks to reflect the best practices of the EU Directive on consumer ADR as well as regulations on consumer ODR. These could, to some extent, be used by legislative authorities in Saudi Arabia to improve legislation and overcome any weaknesses.