

ALTERNATIVE (OUT-OF-COURT) DISPUTE RESOLUTION BY ENERGY REGULATORY OFFICE OF THE CZECH REPUBLIC

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ERO AS AN ADR ENTITY

- **Legal basis:**
 - **Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR)**
 - **Act No 634/1992 Coll. on consumer protection**
 - **Energy act**
- **Two types of ADR at ERO:**
 - ADR for disputes between a consumer and a supplier – arbitration
 - ADR for disputes between a consumer and an intermediary – mediation
- **Performed by Department of dispute and approval proceedings („ADR Unit“)**

ADR FOR DISPUTES BETWEEN A CONSUMER AND A SUPPLIER

GENERAL REMARKS

- Non-exclusive jurisdiction – consumer's choice to file a complaint with ERO or civil court
- Full judicial „control“ – court can fully review the case, it's decision replaces ERO's decision
- No ERO's jurisdiction to decide on claims on damages or unjust enrichment

DISPUTES BETWEEN A CONSUMER AND A SUPPLIER

- Complainant (plaintiff) is **a consumer** (a natural person who is acting for purposes outside the scope of business or profession) or **entrepreneur – natural person**
- Defendant is **a licensee** (usually **a supplier**)
- Contract concerning electricity, gas or heat supply or distribution (usually a contract on bundled electricity or gas supply services)
- Procedural rules in the **Administrative Procedure Code**
- Procedure starts with **consumer** filing the complaint with ERO

DISPUTES BETWEEN A CONSUMER AND A SUPPLIER

1) Disputes between a consumer and a licensee concerning the fulfillment of an obligation arising from the supply or distribution contract

- to enforce an obligation arising from a contract if not duly and timely exercised
- decision imposes an obligation on the licensee to comply, to perform
- **Examples:** start the supply of electricity or gas if it has not started within the agreed time limit, do the final supply billing, send the overpayment from the supply bill

2) Disputes to determine whether and when the legal relationship between the consumer and the licensee has been created, continues or has been terminated

Examples:

- **Contract termination**
- **NOT:** validity or effectiveness of a contract, incorrectness of the rejection of a consumer claim/complaint, incorrect amount of advance payments (deposits), specific price of electricity or gas supply, absence of an obligation to pay a contractual penalty

ADR FOR DISPUTES BETWEEN A CONSUMER AND A SUPPLIER - PROCEDURE

- Proposal shall contain an identification of the parties to the dispute, a description of the case and a proposed claim + relevant documents (evidence)
- Filed proposal assessed by the ADR Unit → issues a decision
- Decision can be appealed → ERO's Council decides on the appeal
- Result of the procedure is a **binding (final and enforceable) decision**
- Decision can be challenged in court in civil litigation
- Only **complainant can** terminate the procedure before final decision by an **unilateral declaration**
- Legal set deadline for issuing a decision – 90 days / 120 days
- No fee, but ERO can award compensation of costs to the successful party

ADR FOR DISPUTES BETWEEN CONSUMER AND SUPPLIER – IN NUMBERS

YEAR	NUMBER OF CASES	NUMBER OF CASES FINISHED
2018	140	94
2019	72	33
2020	135	110
2021	138	107
2022	456	277

ADR FOR DISPUTES BETWEEN A CONSUMER AND AN INTERMEDIARY

ADR FOR DISPUTES BETWEEN A CONSUMER AND AN INTERMEDIARY

- Applicable for **disputes concerning the fulfillment of obligations arising from a contract with an intermediary in energy sectors**
- Since 2022, legal basis: Act on Consumer Protection (NO administrative procedure)
- **Mediation** – [official procedural rules](#) set by ERO
- Result of the procedure (if successful) is an **agreement** between both parties
 - The aim is to reach a settlement of the dispute through conciliation between the consumer and the intermediary, based on mutual communication through ERO
- **Consumer proposal**: a description of the facts, an indication of the claimed contractual right, relevant documents (evidence)
 - Submitted no later than 1 year after the day when the right was exercised for the first time

ADR FOR DISPUTES BETWEEN A CONSUMER AND AN INTERMEDIARY - PROCEDURE

- Filed proposal assessed by ADR Unit → rejected in case of defects
- Intermediary has an obligation to provide the ADR Unit with an opinion on the facts stated in the proposal and to cooperate
 - Possibility of a sanction for commitment of an administrative offence
- Aim of the procedure: **an agreement between the parties**
 - ERO can provide a non-binding legal opinion on the specific subject-matter
- Legal deadline – 90 days / 180 days
 - Termination of the proceedings by the **expiration of the time limit**
- No charge, each party bears its own costs

THANK YOU FOR YOUR ATTENTION

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