

# Better Regulation in the periphery of the legal system

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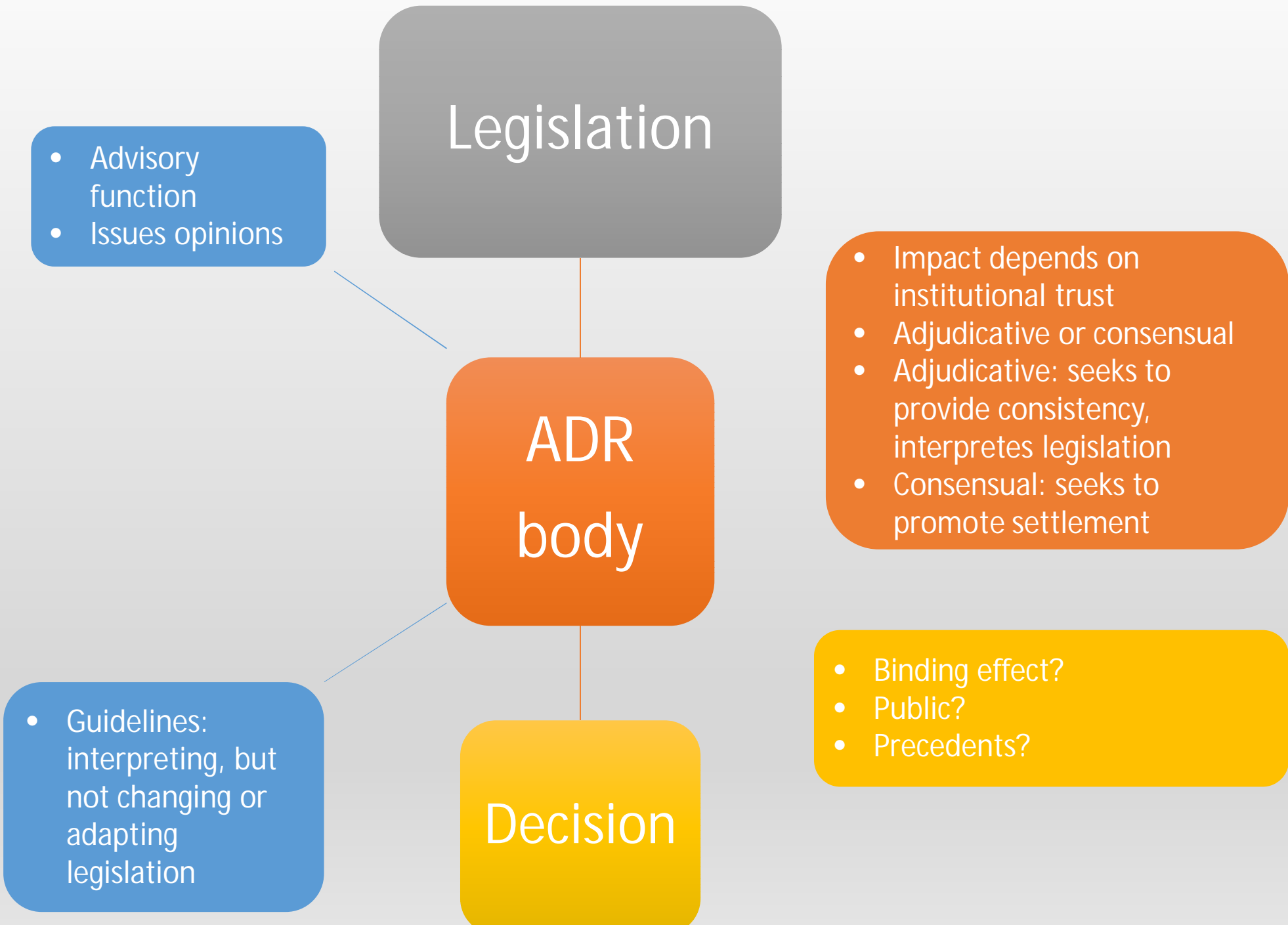
Legislation

Court

Decision

- Enjoys institutional trust
- Enforces substantive rights
- Provides consistency
- Treats same cases alike and different different
- Legitimation
- Transparency

- Binding effect on the parties
- Public
- Precedents



# Court – ADR body

- Apply the law enacted by the legislator
- Access – low costs
- Formality of the procedure; procedural guarantees
- Extent of impact: Guidelines and advisory function vs. authority
  - No direct effect on legislation
  - Impact depends on
    - Legislation
    - Activity
    - Institutional trust
    - Publicity
    - Legitimacy

## Examples

- Consumer Ombudsman (kuluttajaasiamies), Consumer Disputes Board (Kuluttajariitalautakunta)
- National Non-Discrimination and Equality Tribunal of Finland (Yhdenvertaisuus- ja tasa-arvolautakunta)

- Guidance
- Can change the regulatory instrument, but not the legislative framework
- Regulation/adaptation does not need to build upon decisions

Adaptation

Regulation

ADR body

- Interpretes regulatory instrument/legislation
- Adjudicative: consistency with regulatory instrument
- Preventive decision-making
- Consensual

- System internal control/compliance mechanism
- Adaptation mechanism

System internal control

Decision

- No binding effect outside the system
- Sanctions/compliance builds on system internal/system external pressure
- Public?

# What is required?

- Sufficient degree of concentration of participants
- Trust
- Transparency of the decision, the decision-making process, regulation
- Publicity
- Social pressure/media/other stakeholders
- Legitimation

# Examples

- Market Practice Board  
(Markkinatapalautakunta)
- The Board of Business Practice  
(Liiketapalautakunta)
- Non-financial reporting: EC  
Directive/Global Reporting Initiative