



2023/0376(COD)

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AMENDMENTS

13 - 40

Draft opinion

Cláudia Monteiro de Aguiar

(PE758.110v01-00)

Amending Directive 2013/11/EU on alternative dispute resolution for consumer disputes, as well as Directives (EU) 2015/2302, (EU) 2019/2161 and (EU) 2020/1828

Proposal for a directive

(COM(2023)0649 – C9-0384/2023 – 2023/0376(COD))

Amendment 13
Ciarán Cuffe

Proposal for a directive
Recital 2 a (new)

Text proposed by the Commission

Amendment

(2 a) To enable this Directive to reach its full potential and deliver for consumers, the participation of traders in the transport and tourism sectors should become mandatory, as these are two sectors where there is a high number of complaints by consumers. This should however not prevent parties from exercising their rights to access the judicial system. In Member States where national law makes the participation in such procedures voluntary, traders choosing not to participate should still be required to provide an explanation for this decision and make it publicly available.

Or. en

Amendment 14
Petar Vitanov

Proposal for a directive
Recital 2 a (new)

Text proposed by the Commission

Amendment

(2 a) In order to reach its full potential and deliver for consumers, this Directive should require the participation of traders to be mandatory in sectors dealing with a high number of consumer complaints, such as transport and tourism sectors, provided that it does not prevent the parties from exercising their right of access to the judicial system. Indeed, several studies have highlighted that transport and tourism sector are dealing with a high number of consumer complaints, especially in the field of air

passengers rights.

Or. en

Amendment 15
Petar Vitanov

Proposal for a directive
Recital 2 b (new)

Text proposed by the Commission

Amendment

(2 b) ADR bodies should make publicly available the list of those actors who systematically and without justification refuse to comply with the outcomes of ADR procedures. Furthermore, Member States shall ensure that, where they do not comply with the outcome of an ADR procedure, irrespective of whether the outcome of that procedure is binding, traders are required to provide the other parties to the ADR procedure with written explanation.

Or. en

Amendment 16
Ondřej Kovařík, Jan-Christoph Oetjen

Proposal for a directive
Recital 4 a (new)

Text proposed by the Commission

Amendment

(4 a) Given the evolving landscape of Alternative Dispute Resolution (ADR) systems across the EU, transport and tourism traders face challenges in cross-border disputes. Barriers, including language issues, procedural complexity, and associated costs, hinder consumer and trader engagement in ADR. Addressing these challenges is crucial to create a more accessible, coherent and effective cross-border ADR framework, fostering trust and cooperation among consumers and traders.

Amendment 17
Ciarán Cuffe

Proposal for a directive
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6 a) It should be noted that not all ADR entities have the expertise to deal with non-contractual matters, in particular unfair commercial practices and terms. Therefore, procedures of ADR entities in this area should be limited to unfair commercial practices and terms with a personal scope, and hence only cover matters where a damage or loss, material or immaterial, has occurred to the consumer directly. In addition, only ADR entities that can demonstrate necessary expertise in the relevant area, covering the relevant economic sector in its entirety, such as a sectorial ombudsman, should be empowered to take on such procedures. Moreover, the entity should be able to demonstrate a high level of independence as well as sufficient resources, funding, and capacity and apply the applicable law, not fairness, in such cases. The principle of confidentiality of ADR procedures should not apply in these procedures. At the start of any such procedure, the ADR entity should inform the responsible national consumer protection authority or other relevant market regulators about the unfair practice brought to its attention and should keep them informed on a regular basis until the procedure has been closed.

Or. en

Amendment 18
Petar Vitanov

**Proposal for a directive
Recital 10 a (new)**

Text proposed by the Commission

Amendment

(10 a) In order to enhance the trust of consumers and traders in ADR and to increase their participation in ADR procedures, notably in the sectors of transport and tourism, it is fundamental to ensure that the functioning and the work of consumer ADR entities are of good quality. To this end, the expertise of the ADR entity staff shall be developed. Therefore, staff participating in ADR procedures shall be required to undergo mandatory annual training to ensure that their existing knowledge is kept up to date and in line with recent digital advancements.

Or. en

**Amendment 19
Cláudia Monteiro de Aguiar**

**Proposal for a directive
Recital 11**

Text proposed by the Commission

Amendment

Member States should also enable ADR entities to bundle similar cases against a specific trader, to make ADR outcomes consistent for consumers subjected to the same illegal practice, and more cost-efficient for ADR entities and for traders. Consumers should be informed accordingly and should be given the opportunity to refuse from having their dispute bundled.

(11) Member States should also enable ADR entities to bundle similar cases against a specific trader, to make ADR outcomes consistent for consumers subjected to the same illegal practice, and more cost-efficient for ADR entities and for traders. Consumers ***and traders*** should be informed accordingly and should be given the opportunity to refuse from having their dispute bundled.

Or. en

**Amendment 20
Ciarán Cuffe**

Proposal for a directive
Recital 13

Text proposed by the Commission

Under Directive 2013/11/EU, Member States may introduce national legislation to make trader participation in ADR compulsory in sectors they deem fit, in addition to sector-specific Union legislation which provides for mandatory participation of traders in ADR. To encourage traders' participation in the ADR procedures and to ensure due and swift ADR procedures, traders should be required, especially in cases where their participation is not compulsory, to respond within a specific period to enquiries made by ADR entities on whether they intend to participate to the proposed procedure.

Amendment

(13) Under Directive 2013/11/EU, Member States may introduce national legislation to make trader participation in ADR compulsory in sectors they deem fit, in addition to sector-specific Union legislation which provides for mandatory participation of traders in ADR. To encourage traders' participation in the ADR procedures and to ensure due and swift ADR procedures, traders should be required, especially in cases where their participation is not compulsory, to respond within a specific period, ***not exceeding 10 working days***, to enquiries made by ADR entities on whether they intend to participate to the proposed procedure.

Or. en

Amendment 21
Petar Vitanov

Proposal for a directive
Recital 14 a (new)

Text proposed by the Commission

Amendment

(14 a) In several Member States, consumers are still insufficiently informed about the existence of and services offered by consumer ADR entities. In order to increase consumer awareness of ADR entities and of the traders participating in ADR procedures, traders should provide ADR information to consumers in a clear, comprehensible and easily accessible way. Where the trader has a website, it should present the information on it. The information should also be included in the trader's general terms and conditions, and on the invoices that it issues.

Or. en

Amendment 22
Petar Vitanov

Proposal for a directive
Recital 15

Text proposed by the Commission

To provide effective assistance to consumers and traders in cross-border disputes, it is necessary to ensure that Member States establish ADR contact points with clearly defined tasks. European Consumer Centres (“ECCs”) are well placed to perform such tasks, as they are specialised in assisting consumers with issues with their cross-border purchases, but Member States should also be able to choose other bodies with relevant expertise. Those designated ADR contact points should be communicated to the Commission.

Amendment

(15) To provide effective assistance to consumers and traders in cross-border disputes, it is necessary to ensure that Member States establish ADR contact points with clearly defined tasks. European Consumer Centres (“ECCs”) are well placed to perform such tasks, as they are specialised in assisting consumers with issues with their cross-border purchases, but Member States should also be able to choose other bodies with relevant expertise ***and should ensure that they have adequate budgetary and human resources.*** Those designated ADR contact points should be communicated to the Commission.

Or. en

Amendment 23
Ondřej Kovařík, Jan-Christoph Oetjen

Proposal for a directive
Recital 17 a (new)

Text proposed by the Commission

Amendment

(17 a) Traders shall provide information about the ADR contact point, including the name, address, and website link of the ADR entity. This explicit disclosure not only informs consumers but also fosters transparency and accountability among traders. Embracing digital evolution, the inclusion of a website link aligns with current trends in online commerce and the essence of online platforms.

Or. en

Amendment 24
Ciarán Cuffe

Proposal for a directive
Article 1 – paragraph 1 – point -1 (new)
Directive 2013/11/EU
Article 1

Present text

Article 1

Subject matter

The purpose of this Directive is, through the achievement of a high level of consumer protection, to contribute to the proper functioning of the internal market by ensuring that consumers can, on a voluntary basis, submit complaints against traders to entities offering independent, impartial, transparent, effective, fast and fair alternative dispute resolution procedures. This Directive is without prejudice to national legislation making participation in such procedures mandatory, provided that such legislation does not prevent the parties from exercising their right of access to the judicial system.

Amendment

-1 Article 1 is amended as follows:

"Article 1

Subject matter

The purpose of this Directive is, through the achievement of a high level of consumer protection, to contribute to the proper functioning of the internal market by ensuring that consumers can, on a voluntary basis, submit complaints against traders to entities offering independent, impartial, transparent, effective, fast and fair alternative dispute resolution procedures. This Directive ***requires the participation by traders in ADR procedures to be mandatory in the transport and tourism sectors. This shall not prevent the involved parties from exercising their right of access to the judicial system.***

This Directive is without prejudice to national legislation making participation in such procedures mandatory, provided that such legislation does not prevent the parties from exercising their right of access to the judicial system.

Where under national legislation the participation in such procedures is voluntary, Member States shall require traders that choose not to participate to explain their reasons for that choice, and to make their explanation publicly available.

"

Or. en

Amendment 25
Petar Vitanov

Proposal for a directive
Article 1 – paragraph 1 – point -1 (new)
Directive 2013/11/EU
Article 1

Present text

The purpose of this Directive is, through the achievement of a high level of consumer protection, to contribute to the proper functioning of the internal market by ensuring that consumers can, on a voluntary basis, submit complaints against traders to entities offering independent, impartial, transparent, effective, fast and fair alternative dispute resolution procedures. This Directive is without prejudice to national legislation making participation in such procedures mandatory, provided that such legislation does not prevent the parties from exercising their right of access to the judicial system

Amendment

-1. Article 1 is amended as follows:

"The purpose of this Directive is, through the achievement of a high level of consumer protection, to contribute to the proper functioning of the internal market by ensuring that consumers can, on a voluntary basis, submit complaints against traders to entities offering independent, impartial, transparent, effective, fast and fair alternative dispute resolution procedures. This Directive ***requires the participation by traders in ADR procedures to be mandatory in the transport and tourism sector, whilst not preventing the parties from exercising their right of access to the judicial system.*** ***This Directive*** is without prejudice to national legislation making participation in such procedures mandatory ***in economic sectors other than those referred to in the second subparagraph***, provided that such legislation does not prevent the parties from exercising their right of access to the judicial system.

"

Or. en

Amendment 26
Ciarán Cuffe

Proposal for a directive
Article 1 – paragraph 1 – point 1
Directive 2013/11/EU
Article 2 – paragraph 1 – point b – point i

Text proposed by the Commission

unfair commercial practices and terms,

Amendment

(i) unfair commercial practices and terms, ***where a damage or loss (material or immaterial) has occurred to the consumer directly.***

Or. en

Amendment 27

Ciarán Cuffe

Proposal for a directive

Article 1 – paragraph 1 – point 1

Directive 2013/11/EU

Article 2 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

ADR entities shall only be empowered to offer to start a procedure under sub-point (b) (i) if all of the following criteria are fulfilled:

(a) the entity can demonstrate necessary expertise in the relevant area, covering the relevant economic sector in its entirety;

(b) the entity can demonstrate a high level of independence as well as sufficient resources, funding, and capacity;

(c) the entity applies applicable law and not fairness when dealing with unfair commercial practices.

The principle of confidentiality of ADR procedures shall not apply in these procedures. At the start of any such procedure, the ADR entity shall inform the responsible national consumer protection authority or other relevant market regulators about the unfair practice brought to its attention and shall keep them informed on a regular basis until the procedure has been closed.

Or. en

Amendment 28
Petar Vitanov

Proposal for a directive
Article 1 – paragraph 1 – point 2 – introductory part

Text proposed by the Commission

In Article 4(1), points (e) and (f) are replaced **replaced** by the following:

Amendment

2. In Article 4(1), points (e) and (f) are replaced by the following:

Or. en

Amendment 29
Ondřej Kovařík

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point a
Directive 2013/11/EU
Article 5

Text proposed by the Commission

Amendment

1 a. Trader not legally established in the territory of any Member State offering goods or services or marketing in the EU, including digital content and digital services, shall participate in an ADR mechanism and comply with consumer ADR rules.

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)

Or. en

Justification

The amendment broadens the scope of the Alternative Dispute Resolution Directive by including non-EU traders and mandating their compliance with local ADR entities where they offer goods or services in the EU. This move aims to enhance global consumer protection, providing EU consumers with consistent and accessible dispute resolution mechanisms. By harmonizing ADR procedures, the amendment ensures operational consistency and prevents discrimination based on consumers' domiciles. The commitment to additional consumer-friendly measures further underscores the EU's dedication to fostering trust and fairness in cross-border transactions, ultimately strengthening consumer rights within the EU marketplace.

Amendment 30
Ciarán Cuffe

Proposal for a directive

Article 1 – paragraph 1 – point 3 – point b

Directive 2013/11/EU

Article 5 – paragraph 2 – point a (new)

Text proposed by the Commission

Amendment

(aa) ensure that the consumer can submit complaints in the country where he or she resides;

Or. en

Amendment 31
Ciarán Cuffe

Proposal for a directive

Article 1 – paragraph 1 – point 3 – point b

Directive 2013/11/EU

Article 5 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) grant the right to the parties to the dispute to request that the outcome of the ADR procedure **be** reviewed by a natural person when the procedure was carried out by automated means;

(c) ensure that the outcome of the ADR procedure **is** reviewed by a natural person when the procedure was carried out by automated means;

Or. en

Amendment 32
Cláudia Monteiro de Aguiar

Proposal for a directive

Article 1 – paragraph 1 – point 3 – point b

Directive 2013/11/EU

Article 5 – paragraph 2 – point d

Text proposed by the Commission

Amendment

may bundle similar cases against one specific trader into one procedure, under condition that the consumer concerned **is** informed and **does** not object to that;

(d) may bundle similar cases against one specific trader into one procedure, under condition that the consumer **and the trader** concerned **are** informed and **do** not

object to that;

Or. en

Amendment 33
Ciarán Cuffe

Proposal for a directive

Article 1 – paragraph 1 – point 3 – point d

Directive 2013/11/EU

Article 5 – paragraph 8

Text proposed by the Commission

Member States shall ensure that traders established in their territories that are contacted by an ADR entity from their country or from another Member State, inform that ADR entity whether, or not, they accept to participate in the proposed procedure and reply within a reasonable period of time that shall not exceed **20** working days..

Amendment

8. Member States shall ensure that traders established in their territories that are contacted by an ADR entity from their country or from another Member State, inform that ADR entity whether, or not, they accept to participate in the proposed procedure and reply within a reasonable period of time that shall not exceed **10** working days. ***In case the trader does not respond within the given timeframe, it shall be deemed as tacit consent by the trader to commence the ADR procedure.***

Or. en

Amendment 34
Petar Vitanov

Proposal for a directive

Article 1 – paragraph 1 – point 3 – point d

Directive 2013/11/EU

Article 5 – paragraph 8

Text proposed by the Commission

Member States shall ensure that traders established in their territories that are contacted by an ADR entity from their country or from another Member State, inform that ADR entity whether, or not, they accept to participate in the proposed procedure and reply within a reasonable period of time that shall not exceed 20 working days..

Amendment

8. ***Without prejudice to paragraph 8a,*** Member States shall ensure that traders established in their territories that are contacted by an ADR entity from their country or from another Member State, inform that ADR entity whether, or not, they accept to participate in the proposed procedure and reply within a reasonable period of time that shall not exceed 20

working days.

Or. en

Amendment 35

Ondřej Kovařík, Jan-Christoph Oetjen

Proposal for a directive

Article 1 – paragraph 1 – point 3 – point d

Directive 2013/11/EU

Article 5 – paragraph 8

Text proposed by the Commission

Member States shall ensure that traders established in their territories that are contacted by an ADR entity from their country or from another Member State, inform that ADR entity whether, or not, they accept to participate in the proposed procedure and reply within a reasonable period of time that shall not exceed **20** working days..

Amendment

8. Member States shall ensure that traders established in their territories that are contacted by an ADR entity from their country or from another Member State, inform that ADR entity whether, or not, they accept to participate in the proposed procedure and reply within a reasonable period of time that shall not exceed **15** working days.

Or. en

Amendment 36

Petar Vitanov

Proposal for a directive

Article 1 – paragraph 1 – point 3 – point d

Directive 2013/11/EU

Article 5 – paragraph 8a (new)

Text proposed by the Commission

Amendment

8 a. The participation of traders operating in transport and tourism sectors in ADR procedures shall be made mandatory, regardless of whether the trader has been contacted by an ADR entity of the Member State of establishment or another Member State in which the trader is operating. The trader shall be required to communicate confirmation of participation within a reasonable timeframe, not exceeding 20 working days.

Amendment 37
Ondřej Kovařík

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point d
Directive 2013/11/EU
Article 5 – paragraph 8a (new)

Text proposed by the Commission

Amendment

8 a. Traders shall provide written explanations in case they refuse to participate in an ADR procedure. Traders shall provide consumers with clear and comprehensible information regarding their willingness to participate in ADR procedures. This information shall be easily accessible and displayed, ensuring that consumers are aware of the trader's stance on ADR participation before concluding the contract.

Or. en

Amendment 38
Ciarán Cuffe

Proposal for a directive
Article 1 – paragraph 1 – point 3 a (new)
Directive 2013/11/EU
Article 6 – paragraph 1 – point a

Present text

Amendment

Article 6
Expertise, independence and impartiality
1. Member States shall ensure that the natural persons in charge of ADR possess the necessary expertise and are independent and impartial. This shall be guaranteed by ensuring that such persons:
(a) possess the necessary knowledge and

3 a. Article 6 paragraph 1 point a is amended as follows:
"Article 6
Expertise, independence and impartiality
1. Member States shall ensure that the natural persons in charge of ADR possess the necessary expertise and are independent and impartial. This shall be guaranteed by ensuring that such persons:
(a) possess the necessary knowledge and

skills in the field of alternative or judicial resolution of consumer disputes, as well as a general understanding of law;

skills in the field of alternative or judicial resolution of consumer disputes, as well as a general understanding of law ***and that they possess expertise, in particular in private international law, when dealing with cross-border cases;***

”

Or. en

Amendment 39

Ondřej Kovařík, Jan-Christoph Oetjen

Proposal for a directive

Article 1 – paragraph 1 – point 6

Directive 2013/11/EU

Article 14 – paragraph 2a

Text proposed by the Commission

Amendment

2 a. Traders shall provide information about the ADR contact point, explicitly including the name, address, and website link of the ADR entity. Such information must be distinctly presented, separate from other content on the traders' websites, ensuring clear visibility and accessibility for consumers.

Or. en

Justification

To encourage consumer participation in ADR procedures, it is important to enhance the provision of information and assistance to consumers throughout the ADR process. This reinforcement aims to create a more supportive and transparent environment, motivating consumers to actively engage with ADR mechanisms.

Amendment 40

Petar Vitanov

Proposal for a directive

Article 1 – paragraph 1 – point 6

Directive 2013/11/EU

Article 14 – paragraph 3

Text proposed by the Commission

Amendment

***(a a) informing the parties of specific
timeframes in communication;***

Or. en