AMENDMENTS
124 - 402

Draft report
Louis Grech
(PE487.749v01-00)


Proposal for a directive
Amendment 124
Cornelis de Jong, Wim van de Camp, Kyriacos Triantaphyllides

Proposal for a directive
Citation 1

Text proposed by the Commission

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Amendment

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 and 169 thereof,

Or. en

Amendment 125
Cornelis de Jong, Wim van de Camp, Kyriacos Triantaphyllides

Draft legislative resolution
Citation 2

Draft legislative resolution

– having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0454/2011),

Amendment

– having regard to Article 294(2) and Articles 114 and 169 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0454/2011),

Or. en

Amendment 126
Cornelis de Jong, Wim van de Camp, Kyriacos Triantaphyllides

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) Article 169(1) and Article 169(2)(a) of the Treaty on the Functioning of the European Union (TFEU) provide that the Union is to contribute to the attainment of a high level of consumer protection

Amendment

(1) Article 169(1) and Article 169(2)(a) of the Treaty on the Functioning of the European Union (TFEU) provide that the Union is to contribute to the attainment of a high level of consumer protection
through the measures adopted pursuant to Article 114 thereof. Article 38 of the Charter of Fundamental Rights of the European Union provides that Union policies shall ensure a high level of consumer protection.

Amendment 127
Hans-Peter Mayer, Andreas Schwab, Sabine Verheyen, Heide Rühle

Proposal for a directive
Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) In the event of a complaint arising from the sale of goods or provision of services, customers should always first contact the entrepreneur or service-provider concerned in order to discuss their complaint and seek, at the initial stage, to solve the problem bilaterally. In many cases, consumer problems can thus be solved in advance.

Justification

This preliminary obligation is absolutely essential in order to reduce the workload of ADR entities.

Amendment 128
Cornelis de Jong, Wim van de Camp, Kyriacos Triantaphyllides

Proposal for a directive
Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) For a better functioning and
completion of the internal market it is essential to improve citizens' trust in it, in particular by clarifying consumer's rights and remedies.

Amendment 129
Cornelis de Jong, Wim van de Camp
Proposal for a directive
Recital 2 b (new)

Text proposed by the Commission

(2 b) Guaranteeing access to simple, efficient, expedient and low-cost ways of resolving cross-border disputes which arise from the sale of goods or the provision of services should benefit consumers and therefore boost their confidence in the market. This applies to offline as well as to online transactions.

Amendment

(2 b) Guaranteeing access to simple, efficient, expedient and low-cost ways of resolving cross-border disputes which arise from the sale of goods or the provision of services should benefit consumers and therefore boost their confidence in the market. This applies to offline as well as to online transactions.

Amendment 130
Hans-Peter Mayer, Andreas Schwab, Sabine Verheyen, Heide Rühlle
Proposal for a directive
Recital 3

Text proposed by the Commission

(3) Alternative dispute resolution offers a simple, fast and low-cost out-of-court solution to disputes between consumers and traders. However, alternative dispute resolution is not yet sufficiently developed across the European Union. In order for consumers to fully exploit its potential, it is necessary that alternative dispute resolution is available for all types of consumer disputes, quality levels of ADR procedures are even and consumers and

Amendment

(3) Alternative dispute resolution offers a simple, fast and low-cost out-of-court solution to disputes between consumers and traders which it has not previously proved possible to resolve bilaterally. However, alternative dispute resolution is not yet sufficiently developed across the European Union. In order for consumers to fully exploit its potential, it is necessary that alternative dispute resolution is available for all types of consumer
traders are aware of such procedures. It is also necessary that ADR entities handle cross-border disputes effectively.

disputes, quality levels of ADR procedures are even and consumers and traders are aware of such procedures. It is also necessary that ADR entities handle cross-border disputes effectively.

Amendment 131
Ashley Fox

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) Alternative dispute resolution offers a simple, fast and low-cost out-of-court solution to disputes between consumers and traders. However, alternative dispute resolution is not yet sufficiently developed across the European Union. In order for consumers to fully exploit its potential, it is necessary that alternative dispute resolution is available for all types of consumer disputes, quality levels of ADR procedures are even and consumers and traders are aware of such procedures. It is also necessary that ADR entities handle cross-border disputes effectively.

Amendment

(3) Alternative dispute resolution offers a simple, fast and low-cost out-of-court solution to disputes between consumers and traders. However, alternative dispute resolution is not yet sufficiently developed across the European Union. To improve the functioning of the Single Market, it is necessary that alternative dispute resolution is available for all types of consumer disputes, quality levels of ADR procedures are even and consumers and traders are aware of such procedures. It is also necessary that ADR entities handle cross-border disputes effectively.

Justification

Establishing ADR will improve the functioning of the Single Market but it is not necessary to enable consumers to fully exploit its potential.

Amendment 132
Cornelis de Jong, Wim van de Camp

Proposal for a directive
Recital 3 a (new)
(3 a) The inconsistent coverage, quality and awareness of ADR mechanisms of Member States, dealing with cross-border transactions, requires action at Union level. This directive should establish minimum standards for the quality of ADR entities. It should not prevent Member States from adopting or maintaining rules that go beyond what is provided for in this Directive.

Or. en

Amendment 133
Cornelis de Jong, Wim van de Camp
Proposal for a directive
Recital 3 b (new)

(3 b) In order for consumers to fully exploit the potential of the internal market, ADR should be available for all types of cross-border disputes covered by this Directive, ADR procedures should adhere to consistent minimum quality standards throughout the Union, and consumers and traders should be aware of the existence of such procedures. Due to increased cross-border trade and movement of persons, it is also important that ADR entities handle crossborder disputes effectively.

Or. en

Amendment 134
Konstantinos Poupakis
Proposal for a directive
Recital 4 a (new)
Text proposed by the Commission

(4a) The inconsistencies in the ADR mechanisms of Member States in terms of coverage, quality and public awareness constitute a barrier for the Single Market. As a result, many consumers refrain from cross-border trading and show a lack of confidence, since disputes with traders could be solved easily, rapidly and inexpensively. Furthermore, for the same reasons, where there is insufficient access to quality ADR procedures, traders may refrain from cross-border transactions with consumers. Moreover, traders established in a Member State where the quality of ADR procedures is inadequate are placed at a competitive disadvantage compared to those who have access to quality ADR procedures, since the latter are able to resolve consumer disputes more rapidly and at less expense.

Amendment

(4a) The inconsistencies in the ADR mechanisms of Member States in terms of coverage, quality and public awareness constitute a barrier for the Single Market. As a result, many consumers refrain from cross-border trading and show a lack of confidence, since disputes with traders could be solved easily, rapidly and inexpensively. Furthermore, for the same reasons, where there is insufficient access to quality ADR procedures, traders may refrain from cross-border transactions with consumers. Moreover, traders established in a Member State where the quality of ADR procedures is inadequate are placed at a competitive disadvantage compared to those who have access to quality ADR procedures, since the latter are able to resolve consumer disputes more rapidly and at less expense.

Amendment 135
Ashley Fox

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) The development within the European Union of well-functioning alternative dispute resolution is necessary to strengthen consumers' confidence in the internal market, including in the area of e-commerce. Such development should build on existing ADR procedures in the Member States and respect their legal traditions.

(6) The development within the European Union of well-functioning alternative dispute resolution will help to strengthen consumers' confidence in the Single Market, including in the area of e-commerce. Such development should build on the diverse existing ADR procedures in the Member States, which are effective in resolving disputes between traders and consumers. Such development should also respect the Member States' legal traditions.
Justification

The development of ADR network across the EU should draw on the ADR systems which are already in place across the Member States. Existing ADR systems which are effective and respect quality criteria are often diverse in their specific characteristics and the respect of this diversity should be the basis for such development.

Amendment 136
Robert Rochefort

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) This Directive should apply to contractual disputes between consumers and traders that are arising from the sale of goods or provision of services in all economic sectors. This Directive should not apply to disputes between traders; however, it should not prevent Member States from adopting or maintaining in force provisions on procedures for the out-of-court resolution of such disputes.

Amendment

(7) This Directive should apply to contractual disputes between consumers and traders that are arising from the sale of goods or provision of services in all economic sectors. Its scope should be limited to complaints submitted by consumers against traders but also complaints submitted by traders against consumers. This Directive should not apply to complaints submitted by traders against consumers or to disputes between traders; however, it should not prevent Member States from adopting or maintaining in force provisions on procedures for the out-of-court resolution of such disputes.
goods or provision of services in all economic sectors. This should include complaints submitted by consumers against traders but also complaints submitted by traders against consumers. This Directive should not apply to disputes between traders; however, it should not prevent Member States from adopting or maintaining in force provisions on procedures for the out-of-court resolution of such disputes.

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) This Directive should apply to contractual disputes between consumers and traders that are arising from the sale of goods or provision of services in all economic sectors. This should include complaints submitted by consumers against traders but also complaints submitted by traders against consumers. This Directive should not apply to disputes between traders; however, it should not prevent Member States from adopting or maintaining in force provisions on procedures for the out-of-court resolution of such disputes.

Amendment

(7) This Directive should apply to contractual disputes between consumers and traders that are arising from the sale of goods or provision of services in all economic sectors. This should include disputes arising from the sale or provision of digital content for remuneration. This Directive should apply to complaints submitted by consumers against traders. It should not apply to complaints submitted by traders against consumers. This Directive should not apply to disputes between traders; however, it should not prevent Member States from adopting or maintaining in force provisions on procedures for the out-of-court resolution of such disputes.
### Justification

Clarity is needed that digital content is included. Given that a number of ADR providers were established in order to address the imbalance of power between consumers and traders it would be inappropriate to require such bodies to accept disputes initiated by businesses against consumers. ADR should not be used for debt recovery.

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This Directive should apply to complaints linked to contractual disputes submitted by consumers against traders that are arising from the sale of goods or provision of services in all economic sectors and from online sales, including the supply of digital content for remuneration, in all economic sectors. This Directive should not apply to non-economic services of general interest, which are not performed for financial gain. This Directive should not apply to any disputes or complaints submitted by traders against consumers, or to disputes between traders; however, this Directive should not prevent Member States from adopting or maintaining in force provisions on procedures for the out-of-court resolution of such disputes.

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) This Directive should apply to contractual disputes between consumers and traders that are arising from the sale of goods or provision of services in all economic sectors. This should include complaints submitted by consumers against traders but also complaints submitted by traders against consumers. This Directive should not apply to disputes between traders; however, it should not prevent Member States from adopting or maintaining in force provisions on procedures for the out-of-court resolution of such disputes.

Amendment 141
Bernadette Vergnaud

(7) This Directive should apply to complaints linked to contractual disputes submitted by consumers against traders that are arising from the sale of goods or provision of services in all economic sectors and from online sales, including the supply of digital content. This Directive should not apply to non-economic services of general interest or to healthcare services provided by traders in order to assess, maintain or restore a patient’s state of health, including the administration and provision of prescription medicinal products and medical devices. It should not apply to complaints submitted by traders against consumers or to disputes between traders; however, it should not prevent Member States from adopting or maintaining in force provisions on procedures for the out-of-court resolution of such disputes.
Amendment 142
Robert Rochefort, Cristian Silviu Buşoi

Proposal for a directive
Recital 7 a (new)

Text proposed by the Commission

(7a) Consumers should be encouraged, as a first step, to contact the trader directly or to use the complaint handling system operated by the trader in an effort to find an amicable solution. This procedure could represent a swift way of resolving consumer disputes, although it should be available only for a limited period.

Amendment

 Or. fr

Amendment 143
Philippe Juvin

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) The definition of ‘consumer’ should cover natural persons who are acting outside their trade, business, craft or profession. However, if the contract is concluded for purposes partly within and partly outside the person’s trade (dual purpose contracts) and the trade purpose is so limited as not to be predominant in the overall context of the supply, that person should also be considered as a consumer.

Amendment

(8) The definition of ‘consumer’ should cover natural persons who are acting outside their trade, business, craft or profession.

Or. en
Justification

The extension of the definition of consumer to dual purpose contracts (contracts concluded for purposes partly within and partly outside the person's trade) is confusing, especially as the definition of the consumer in article 4(a) clearly states that a consumer "means any natural person who is acting for purposes which are outside his trade, business, craft or profession".

Amendment 144
Ashley Fox

Proposal for a directive
Recital 10

Text proposed by the Commission

This Directive should prevail over Union legislation which contains provisions aimed at encouraging the setting up of ADR entities in a specific sector. Where sector-specific legislation mandates the setting up of such entities, this Directive should prevail only to the extent that such legislation does not ensure at least an equivalent degree of consumer protection.

Amendment

If any provision of this Directive conflicts with a provision of another Union act governing specific sectors, the provision of that other Union act shall prevail and apply to those specific sectors. However, if the provision is aimed at encouraging the setting up of ADR entities in a specific sector, the relevant provisions of this Directive will prevail and apply.

Or. en

Justification

It would be hard to implement a requirement to compare the level of consumer protection ensured by different Union legislation. In addition, this Directive should prevail over specific provisions of other Union legislation, not that legislation in its entirety.

Amendment 145
Konstantinos Poupakis

Proposal for a directive
Recital 10 a (new)

Text proposed by the Commission

(10a) In order to facilitate the implementation of this Directive, the
Commission is urged to draw up guidelines in close cooperation with Member States on the relationship between this Directive and other EU legislation.

Amendment 146
Ashley Fox

Proposal for a directive
Recital 11

Text proposed by the Commission

(11) ADR entities are highly diverse across the Union but also within the Member States. This Directive should cover any entity that is established on a durable basis and offers the resolution of a dispute through an ADR procedure. An arbitration procedure which is created outside the framework of an ADR entity on an ad hoc basis for a single dispute between a consumer and a trader should not be considered as an ADR procedure.

Amendment

(11) ADR entities are highly diverse across the Union but also within the Member States. This Directive should cover any entity that is established on a durable basis to solve a dispute between a consumers and a trader that has been listed in accordance with Article 17(2) of this Directive. An arbitration procedure which is created outside the framework of an ADR entity on an ad hoc basis for a single dispute between a consumer and a trader should not be considered as an ADR procedure.

Justification

ADR providers that do not choose to become ADR entities under this Directive should not be affected by the Directive’s provisions.

Amendment 147
Robert Rochefort

Proposal for a directive
Recital 12
(12) This Directive should not apply to procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed exclusively by the trader nor to procedures before consumer compliant handling systems operated by the trader. It should not apply to direct negotiations between the parties. Furthermore, it should not apply to attempts made by a judge to settle a dispute in the course of a judicial proceeding concerning that dispute.

Amendment 148
Philippe Juvin

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) This Directive should not apply to procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed exclusively by the trader nor to procedures before consumer compliant handling systems operated by the trader. It should not apply to direct negotiations between the parties. Furthermore, it should not apply to attempts made by a judge to settle a dispute in the course of a judicial proceeding concerning that dispute.

Amendment

(12) This Directive should not apply to procedures before consumer compliant handling systems operated by the trader or to direct negotiations between the parties. Furthermore, it should not apply to attempts made by a judge to settle a dispute in the course of a judicial proceeding concerning that dispute.

Or. fr

Justification

Mediation provided by the traders or 'in-house' mediation should not be excluded, as it constitutes an important part of alternative dispute resolution mechanisms. Recommendation 98/257/EC did not exclude such type of mediation if certain conditions were met. 'In-house'
mediation can bring a true added value to out-of-court dispute resolution, as it ensures technical/on the field knowledge, and allows for the development of proximity mediation which is valuable for the parties.

Amendment 149
Ashley Fox

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) This Directive should not apply to procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed exclusively by the trader nor to procedures before consumer compliant handling systems operated by the trader. It should not apply to direct negotiations between the parties. Furthermore, it should not apply to attempts made by a judge to settle a dispute in the course of a judicial proceeding concerning that dispute.

Amendment

(12) This Directive should apply to procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed exclusively by the trader provided there is full compliance with the specific independence and impartiality requirements. The Directive should not apply to procedures before consumer compliant handling systems operated by the trader nor to direct negotiations between the parties. Furthermore, it should not apply to attempts made by a judge to settle a dispute in the course of a judicial proceeding concerning that dispute.

Or. en

Justification

Given the presence across the EU of well-functioning and efficient ADR schemes in which the natural person in charge is employed exclusively by the trader, in addition to the Directive’s clear objective to build on existing ADR entities, it is appropriate to extend the scope to such ADR schemes provided they respect independence and impartiality criteria to be detailed in the directive.

Amendment 150
Andreas Schwab

Proposal for a directive
Recital 12

Given the presence across the EU of well-functioning and efficient ADR schemes in which the natural person in charge is employed exclusively by the trader, in addition to the Directive’s clear objective to build on existing ADR entities, it is appropriate to extend the scope to such ADR schemes provided they respect independence and impartiality criteria to be detailed in the directive.
(12) This Directive should **not** apply to procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed exclusively by the trader **nor** to procedures before consumer compliant handling systems operated by the trader. It **should not apply** to direct negotiations between the parties. Furthermore, it should not apply to attempts made by a judge to settle a dispute in the course of a judicial proceeding concerning that dispute.

(12) This Directive should apply to procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed exclusively by the trader **provided there is full compliance with the requirements laid down in Chapter II of this Directive. The Directive should not apply** to procedures before consumer compliant handling systems operated by the trader **nor** to direct negotiations between the parties. Furthermore, it should not apply to attempts made by a judge to settle a dispute in the course of a judicial proceeding concerning that dispute.

**Amendment**

**Proposal for a directive**

**Recital 12**

(12) This Directive should not apply to procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed exclusively by the trader. It should not apply to direct negotiations between the parties. Furthermore, it should not apply to attempts made by a judge to settle a dispute in the course of a judicial proceeding concerning that dispute.

(12) This Directive should not apply to procedures before consumer compliant handling systems operated by the trader. It should not apply to direct negotiations between the parties. Furthermore, it should not apply to attempts made by a judge to settle a dispute in the course of a judicial proceeding concerning that dispute.
Amendment 152
Hans-Peter Mayer, Sabine Verheyen
Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission
(12a) This Directive should not apply to the sale of goods or provision of services which are provided as services of general economic interest (services of general interest) and thus constitute sovereign activities. This applies, for example, to water supply, waste water management and waste disposal services insofar as they are regulated by law as services of general interest in a Member State.

Amendment 153
Philippe Juvin
Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission
(12 a) This Directive should not apply to procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed exclusively by the trader unless a number of conditions are met to ensure appropriate independence and impartiality of the natural person in charge of the dispute resolution.

Justification
Mediation provided by the traders or 'in-house' mediation should not be excluded, as it constitutes an important part of alternative dispute resolution mechanisms. Recommendation 98/257/EC did not exclude such type of mediation if certain conditions were met. 'In-house'
mediation can bring a true added value to out-of-court dispute resolution, as it ensures technical/’on the field’ knowledge, and allows for the development of proximity mediation which is valuable for the parties.

Amendment 154
Robert Rochefort

Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission

(12a) This Directive should apply to procedures before dispute resolution entities if the natural persons in charge of dispute resolution are employed or paid exclusively by the trader or a business association only if the following twin conditions are met, namely that the operating methods of the entities meet the requirements laid down in Chapter II of this Directive and the natural persons comply with the specific conditions laid down in Article 6(2a) of this Directive. In that connection, the dispute resolution entity in question should undergo at least once a year an evaluation conducted by the competent authority of the Member State in which the entity is established in order to ascertain whether it meets these twin conditions.

Or. fr

Amendment 155
Philippe Juvin

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) Member States should ensure that disputes covered by this Directive can be submitted to an ADR entity fulfilling the
requirements set out in this Directive. Member States should have the possibility to fulfil this obligation by relying on existing ADR entities and adjusting their scope of application, if needed, or by providing for the creation of new ADR entities. This Directive should not oblige Member States to create a specific ADR entity in each retail sector. Member States should have the possibility to provide for the creation of a residual ADR entity that deals with disputes for the resolution of which no specific entity is competent.

requirements set out in this Directive and which has been notified to the European Commission in accordance with article 17(2) of the present Directive. Member States should have the possibility to fulfil this obligation by relying on existing ADR entities and adjusting their scope of application, if needed, or by providing for the creation of new ADR entities. This Directive should not oblige Member States to create a specific ADR entity in each retail sector. Member States should have the possibility to provide for the creation of a residual ADR entity that deals with disputes for the resolution of which no specific entity is competent.

Or. en

Justification

All ADR entities fulfilling the criteria set out by the present proposal for a Directive must be notified by the national competent authority to the European Commission, in accordance with article 17 (2) of the proposal for a Directive.

Amendment 156
Cornelis de Jong

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) Member States should ensure that disputes covered by this Directive can be submitted to an ADR entity fulfilling the requirements set out in this Directive. Member States should have the possibility to fulfil this obligation by relying on existing ADR entities and adjusting their scope of application, if needed, or by providing for the creation of new ADR entities. This Directive should not oblige Member States to create a specific ADR entity in each retail sector. Member States should have the possibility to provide for

Amendment

(13) Member States should facilitate business and consumer organisations to set up ADR entities or to adjust the scope of application of existing, well-functioning ADR entities, complying with the quality criteria set out in this Directive. This Directive should not oblige Member States to create a specific ADR entity in each retail sector. Member States should have the possibility to provide for the creation of a residual ADR entity that deals with cross-border disputes for the resolution of which no specific entity is competent.
the creation of a residual ADR entity that deals with disputes for the resolution of which no specific entity is competent.

Amendment 157
Matteo Salvini, Francesco Enrico Speroni

Proposal for a directive
Recital 13

*Text proposed by the Commission*

(13) Member States should ensure that disputes covered by this Directive *can be* submitted to an ADR entity fulfilling the requirements set out in this Directive. Member States should have the possibility to fulfil this obligation by relying on existing ADR entities and adjusting their scope of application, if needed, or by providing for the creation of new ADR entities. This Directive should not oblige Member States to create a specific ADR entity in each retail sector. Member States should have the possibility to provide for the creation of a residual ADR entity that deals with disputes for the resolution of which no specific entity is competent.

*Amendment*

(13) Member States should ensure that disputes covered by this Directive *are* submitted to an ADR entity fulfilling the requirements set out in this Directive. Member States should have the possibility to fulfil this obligation by relying on existing ADR entities and adjusting their scope of application, if needed, or by providing for the creation of new ADR entities. This Directive should not oblige Member States to create a specific ADR entity in each retail sector. Member States should have the possibility to provide for the creation of a residual ADR entity that deals with disputes for the resolution of which no specific entity is competent.

*Justification*

In keeping with the positive experience of some Member States, an efficient alternative dispute resolution system should be based on a compulsory attempt at conciliation before being able to have access to the ordinary justice system (i.e. the courts).

Amendment 158
Louis Grech

Proposal for a directive
Recital 13
Text proposed by the Commission

(13) Member States should ensure that disputes covered by this Directive can be submitted to an ADR entity fulfilling the requirements set out in this Directive. Member States should have the possibility to fullfil this obligation by relying on existing ADR entities and adjusting their scope of application, if needed, or by providing for the creation of new ADR entities. This Directive should not oblige Member States to create a specific ADR entity in each retail sector. Member States should have the possibility to provide for the creation of a residual ADR entity that deals with disputes for the resolution of which no specific entity is competent.

Proposal for a directive
Recital 14

(14) This Directive should be without prejudice to traders established in a Member State being covered by an ADR entity which is located in another Member State. Member States should encourage the development of such entities.

Amendment

(13) Member States should ensure that the contractual disputes covered by this Directive can be submitted to an ADR entity complying with the quality criteria set out in this Directive. Member States could also fulfil this obligation by building on existing well-functioning ADR entities and adjusting their scope of application, complying with this Directive's provisions if needed, or by providing for the creation of new ADR entities. This Directive should not oblige Member States to create a specific ADR entity in each retail sector. Member States should provide for the creation of a residual ADR entity that deals with disputes for the resolution of which no specific entity is competent, in order to ensure full geographical coverage and access to alternative dispute resolution in all Member States.

Amendment 159
Hans-Peter Mayer, Andreas Schwab

Proposal for a directive
Recital 14

Text proposed by the Commission

(14) This Directive should be without prejudice to traders established in a Member State being covered by an ADR entity which is located in another Member State. Member States should encourage the development of such entities.

Amendment

(14) This Directive should be without prejudice to traders established in a Member State being covered by an ADR entity which is located in another Member State. Member States should support the development of such entities. However, ADR entities should finance themselves, for example from donations, membership charges, relatively small fees for services rendered and associations of several entities and members. Financing by Member States should only be a last resort.
Justification

ADR entities exist to resolve disputes arising from economic activities. They should not, as a rule, be financed by the State and thus by the tax-payer, as the latter has nothing to do with individual private disputes.

Amendment 160
Hans-Peter Mayer, Andreas Schwab, Sabine Verheyen

Proposal for a directive
Recital 15

Text proposed by the Commission

(15) This Directive should be without prejudice to Member States maintaining or introducing ADR procedures dealing jointly with identical or similar disputes between a trader and several consumers. Such procedures can be seen as a preliminary step to further developing collective ADR procedures within the Union.

Amendment 161
Ashley Fox

Proposal for a directive
Recital 15

Text proposed by the Commission

(15) This Directive should be without prejudice to Member States maintaining or introducing ADR procedures dealing

Or. de

Justification

We should not prescribe to Member States what further rights they have.

Or. de
jointly with identical or similar disputes between a trader and several consumers. Such procedures can be seen as a preliminary step to further developing collective ADR procedures within the Union.

Comprehensive impact assessments must be carried out on collective out-of-court settlements before they are proposed at a Union level.

Amendment 162
Hans-Peter Mayer, Andreas Schwab
Proposal for a directive
Recital 16 a (new)

Text proposed by the Commission

(16a) Confidentiality and privacy should always be guaranteed during the ADR procedure. Insofar as it is intended that exemplary final decisions should be published, the names of the parties and any references to them should be masked out unless both parties have expressly consented to their publication.

Justification

Here too, data protection should be ensured.

Amendment 163
Cornelis de Jong, Wim van de Camp, Kyriacos Triantaphyllides
Proposal for a directive
Recital 16 a (new)

Text proposed by the Commission

(16 a) The impartiality and integrity of ADR entities is crucial to gain European citizens' trust that ADR mechanisms will offer them a fair and independent
(17) The natural persons in charge of alternative dispute resolution should only be considered impartial if they cannot be subject to pressure that potentially influences their attitude towards the dispute. There is a particular need to ensure the absence of such pressure where ADR entities are financed by one of the parties to the dispute or an organisation of which one of the parties is a member.

Special conditions should therefore apply to natural persons in charge of the alternative dispute resolution who are employed or remunerated exclusively by the trader or by a business association.
entities are financed by one of the parties to the dispute or an organisation of which one of the parties is a member.  

if the natural person in charge of dispute resolution is partly cofinanced by one of the parties: there is a particular need to ensure the absence of such pressure where ADR entities are financed solely by one of the parties to the dispute or solely by an organisation of which one of the parties is a member.

Amendment 166
Ashley Fox

Proposal for a directive
Recital 17

Text proposed by the Commission

(17) The natural persons in charge of alternative dispute resolution should only be considered impartial if they cannot be subject to pressure that potentially influences their attitude towards the dispute. There is a particular need to ensure the absence of such pressure where ADR entities are financed by one of the parties to the dispute or an organisation of which one of the parties is a member.

Amendment

(17) The natural persons in charge of alternative dispute resolution should only be considered impartial if they cannot be subject to pressure that potentially influences their attitude towards the dispute. There is a particular need to ensure the absence of such pressure where ADR entities are financed by one of the parties to the dispute or an organisation of which one of the parties is a member before consumer compliant handling systems operated by the trader. Specific requirements should be established for ADR schemes in which the natural persons in charge of dispute resolution are employed exclusively by the trader.

Justification

The establishment of specific requirements for ADR schemes in which the natural persons in charge of dispute resolution are employed exclusively by the trader is essential to ensuring conformity with the principles of impartiality and independence.
Proposal for a directive  
Recital 17

Text proposed by the Commission

(17) The natural persons in charge of alternative dispute resolution should only be considered impartial if they cannot be subject to pressure that potentially influences their attitude towards the dispute. There is a particular need to ensure the absence of such pressure where ADR entities are financed by one of the parties to the dispute or an organisation of which one of the parties is a member.

Amendment

(17) The natural persons in charge of alternative dispute resolution should only be considered impartial if they cannot be subject to pressure that potentially influences their attitude towards the dispute. There is a particular need to ensure the absence of such pressure where ADR entities are financed by one of the parties to the dispute or an organisation of which one of the parties is a member. Therefore procedures where the natural person in charge of the dispute resolution is employed by or receives other forms of remuneration exclusively from the trader should not be regarded as ADR procedures within the meaning of this Directive and hence should be excluded from its scope of application. However, this Directive should not affect the possibility for business or professional associations to fund an ADR entity.

Or. en

Amendment 168  
Cristian Silviu Buşoi

Proposal for a directive  
Recital 17

Text proposed by the Commission

(17) The natural persons in charge of alternative dispute resolution should only be considered impartial if they cannot be subject to pressure that potentially influences their attitude towards the dispute. There is a particular need to ensure the absence of such pressure where ADR

Amendment

(17) The natural persons in charge of alternative dispute resolution should only be considered impartial if they cannot be subject to pressure that potentially influences their attitude towards the dispute. There is a particular need to ensure the absence of such pressure where ADR
entities are financed by one of the parties to the dispute or an organisation of which one of the parties is a member. In order to ensure the absence of any conflict of interest, natural persons in charge of alternative dispute resolution should disclose any circumstances that might hamper their independence or give rise to a conflict of interest. Specific requirements should apply to persons exclusively employed by the trader.

Amendment 169
Cristian Silviu Bușoi

Proposal for a directive
Recital 17 a (new)

Text proposed by the Commission

(17 a) It is essential for the success of ADR, in particular in order to ensure the necessary trust in the ADR procedures, that the natural persons in charge of alternative dispute resolution possess the necessary expertise. Therefore specific training schemes should be provided in co-operation between Member States and the Commission.

Amendment

(18) In order to ensure the transparency of ADR entities and of ADR procedures it is necessary that the parties receive all the

Amendment

(18) Subject to any national rules making the participation of traders in an ADR procedure mandatory, in order to ensure
information they need to take an informed decision before engaging in an ADR procedure. the transparency of ADR entities and of ADR procedures it is necessary that the parties receive all the information they need to take an informed decision before engaging in an ADR procedure.

**Justification**

*Mandatory ADR schemes exist in some Member States which require, in certain circumstances, businesses to engage in ADR procedures.*

### Amendment 171
Robert Rochefort

**Proposal for a directive**

**Recital 19**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>(19) ADR procedures should be effective. They should provide for a simple and fast procedure whose duration generally does not exceed 90 days. The ADR entity should be able to extend this time period when the complexity of the dispute in question so demands.</td>
<td>(19) ADR procedures should be effective. They should provide for a simple and fast procedure whose duration generally does not exceed 90 calendar days from the date of receipt of the complete complaint file by the ADR entity. The ADR entity should be able to extend this time period when the complexity of the dispute in question so demands.</td>
</tr>
</tbody>
</table>

### Amendment 172
Hans-Peter Mayer, Andreas Schwab, Sabine Verheyen

**Proposal for a directive**

**Recital 19**

<table>
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<td>(19) ADR procedures should be effective. They should provide for a simple and fast procedure whose duration generally does</td>
<td>(19) ADR procedures should be effective. They should provide for a simple and fast procedure whose duration generally does</td>
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not exceed 90 calendar days from the receipt of the complaint by the ADR entity until a solution is recommended by that entity. In the case of highly complex disputes, the ADR entities should be able to extend this time period in exceptional cases for the purpose of objective examination of certain aspects of the case in question.

Or. de

Amendment 173
Ashley Fox

Proposal for a directive
Recital 19

Text proposed by the Commission

(19) ADR procedures should be effective. They should provide for a simple and fast procedure whose duration generally does not exceed 90 days. The ADR entity should be able to extend this time period when the complexity of the dispute in question so demands.

Amendment

(19) ADR procedures should be effective. They should provide for a simple and fast procedure whose duration generally does not exceed 90 days. The ADR entity should be able to extend this time period when the complexity of the dispute in question so demands or because of other justified grounds.

Or. en

Justification

To allow ADR entities to extend this deadline, where justified, to ensure consumers get a quality outcome, not just a fast one.

Amendment 174
Konstantinos Poupakis

Proposal for a directive
Recital 19 a (new)
(19a) Consumers cannot always take advantage of the amicable resolution of disputes either because they are unaware of the existence of ADR entities or simply because they do not wish to do so. At the same time, it is likely that some unfair or misleading commercial practices exist covertly and systematically, potentially having a very adverse effect on a large number of consumers, without these practices being denounced and addressed. In these cases, an ADR entity should have the competence to decide to launch investigative procedures, based on its experience with commercial practices which have not necessarily been the subject of complaints by consumers, but in respect of which there exists a reasonable suspicion or evidence that they constitute a significant violation of consumers' rights and therefore require special scrutiny. The ADR entity should also be able to inform the public about the findings of these investigations and address public recommendations to traders to correct their offending behaviour.

Or. el

Justification

Without having to wait for a complaint to be lodged, ADR entities should be able to decide to launch an investigation into commercial practices which are reasonably suspected of being - and which evidence suggests are - misleading and constitute a significant violation of the rights of a large number of consumers. ADR bodies should inform the public about the findings of such investigations, issuing public recommendations to traders to correct their offending behaviour.

Amendment 175
Robert Rochefort
Proposal for a directive
Recital 20

Text proposed by the Commission

(20) ADR procedures should be free of charge or of moderate costs for consumers so that it remains economically reasonable for consumers to use such procedures.

Amendment

(20) ADR procedures should be free of charge for consumers.

Or. fr

Amendment 176
Hans-Peter Mayer

Proposal for a directive
Recital 20

Text proposed by the Commission

(20) ADR procedures should be free of charge or of moderate costs for consumers so that it remains economically reasonable for consumers to use such procedures.

Amendment

(20) ADR procedures should be free of charge or of moderate costs for consumers so that it remains economically reasonable for parties to use such procedures. At the end of the ADR procedure, the winning party should have the costs arising from the initiation of the procedure reimbursed by the losing party.

Or. de

Amendment 177
Ashley Fox

Proposal for a directive
Recital 20

Text proposed by the Commission

(20) ADR procedures should be free of charge or of moderate costs for consumers so that it remains economically reasonable for consumers to use such procedures.

Amendment

(20) ADR procedures should be free of charge for consumers so that it remains economically reasonable for consumers to use such procedures. Member States shall decide on an appropriate form of industry.
funding for ADR procedures within their jurisdiction.

Justification

Consumers will be deterred from using ADR if costs are associated with the procedure. Procedural rules on frivolous or vexatious claims will restrict claims to those that are necessary. In the current economic climate we must be clear that the taxpayer must not fund ADR procedures, this must be industry-led.

Amendment 178
Matteo Salvini, Francesco Enrico Speroni

Proposal for a directive
Recital 20

Text proposed by the Commission
(20) ADR procedures should be free of charge or of moderate costs for consumers so that it remains economically reasonable for consumers to use such procedures.

Amendment
(20) ADR procedures should be free of charge or of moderate costs, and in any case easily quantifiable for consumers or traders so that it remains economically reasonable for consumers to use such procedures.

Justification

For the purposes of greater accessibility and transparency, the costs relating to ADR procedures must be clearly and easily quantifiable by consumers or traders before they undertake such procedures.

Amendment 179
Louis Grech

Proposal for a directive
Recital 20

Text proposed by the Commission
(20) ADR procedures should be free of charge or of moderate costs for consumers so that it remains economically reasonable for consumers to use such procedures.

Amendment
(20) ADR procedures should be free of charge or of moderate costs, and in any case easily quantifiable for consumers or traders so that it remains economically reasonable for consumers to use such procedures.

Justification
charge or of moderate costs for consumers so that it remains economically reasonable for consumers to use such procedures.

charge for the consumer. In the event that costs are applied, they should be reasonable, proportionate and modest to ensure that the ADR procedure is accessible, attractive and at a low cost.

Amendment 180
Catherine Stihler
Proposal for a directive
Recital 20

Text proposed by the Commission

(20) ADR procedures should be free of charge or of moderate costs for consumers so that it remains economically reasonable for consumers to use such procedures.

Amendment

(20) ADR procedures should be free of charge or of moderate costs for consumers so that it remains economically reasonable for consumers to use such procedures. In the event that costs are applied, they should be reasonable, proportionate and modest to ensure that the ADR procedure is accessible, attractive and at a low cost for consumers.

This should not restrict the ability of dispute resolution services which already operate by charging businesses for their services on a case by case basis or an industry-wide levy.

Amendment 181
Louis Grech
Proposal for a directive
Recital 21

Text proposed by the Commission

(21) ADR procedures should be fair so that the parties to a dispute are fully informed about their rights and the consequences of the choices they make in the context of an

Amendment

(21) ADR procedures should be fair so that the parties to a dispute are fully informed about their rights and the consequences of the choices they make in the context of an
ADR procedure. The ADR entities should inform consumers of their rights under legal provisions before they agree to or reject the imposed or proposed solution. Both parties should also be able to submit their information and evidence without being physically present.

Amendment 182
Cornelis de Jong, Wim van de Camp, Kyriacos Triantaphyllides

Proposal for a directive
Recital 21 a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
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<tbody>
<tr>
<td>(21 a) An agreement between a consumer and a trader to submit complaints to an ADR entity should not deprive the consumer or the trader of their rights to seek redress before the courts. In the case of ADR entities which impose solutions, the solutions should only be binding on the parties if they were informed of their binding nature in advance and the parties specifically accepted this.</td>
<td></td>
</tr>
</tbody>
</table>

Amendment 183
Louis Grech

Proposal for a directive
Recital 21 a (new)

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<tbody>
<tr>
<td>(21 a) An agreement between a consumer and a trader to submit complaints to an ADR entity should not be binding on the consumer if it was concluded before the dispute arises and if it deprives the consumer of his right to bring an action</td>
<td></td>
</tr>
</tbody>
</table>
before the courts for the resolution of the dispute. In the case of ADR entities which impose solutions, the solutions should only be binding on the parties if they were informed of binding nature in advance and specifically accepted this, with the exception when national rules provide that solutions shall only be binding on traders.

Amendment 184
Cristian Silviu Buşoi

Proposal for a directive
Recital 21 a (new)

Text proposed by the Commission

(21 a) In order to comply with the recognised principle of liberty, the outcome of ADR procedures should not be binding for the parties unless they are informed before the commencement of the procedure about the binding nature of the outcome and explicitly state their consent to it. This is without prejudice to any national legislation providing that ADR solutions are binding on the trader.

Amendment 185
Sirpa Pietikäinen, Mitro Repo

Proposal for a directive
Recital 21 a (new)

Text proposed by the Commission

(21 a) Encourages the Commission to develop the European Consumer Centre Network to enable it to have legal authority in the area of ADR and
especially in cross-border disputes.

Or. en

Amendment 186
Bernadette Vergnaud

Proposal for a directive
Recital 21 a (new)

*Text proposed by the Commission*

(21a) Where necessary the Commission should divert appropriate funds from the ‘Consumers’ programme for the period 2014-2020 to finance the establishment of new entities and make money available to train mediators or other support staff and provide information and assistance to consumers in particular. Existing resources and contact points should be organised more effectively to make information accessible to the public.

Or. fr

Amendment 187
Konstantinos Poupakis

Proposal for a directive
Recital 21 a (new)

*Text proposed by the Commission*

(21a) Given the increasing importance of the concept of corporate social responsibility and the social impact and credibility of a company, the publication of unfair or misleading commercial practices may cause more damage than financial penalties. The prospect of the publication of proposed solutions by an ADR entity, by which disputes can be resolved more effectively, may constitute for traders who systematically refuse to
apply them, a valuable tool for motivating them vigorously to pursue a consensual resolution of disputes and also for preventing such conduct in future, while safeguarding consumers' interests.

Or. el

Justification

Given the increasing importance today of corporate social responsibility and the credibility of a company which also have a significant impact on the market, the prospect of the publication of the proposed solutions by the ADR entities may constitute a means of putting pressure on traders who reject and refuse to implement them to resolve disputes and may also prevent similar conduct in future.

Amendment 188
Cornelis de Jong, Wim van de Camp, Kyriacos Triantaphyllides

Proposal for a directive
Recital 21 b (new)

Text proposed by the Commission

(21 b) In the case of ADR procedures which impose binding solutions, consumers should be afforded at least the same level of protection as the one laid down by the mandatory provisions applicable under the law of the Member State in the territory of which the ADR entity is established, as well as the protection laid down by the mandatory provisions applicable under the law of the Member State in which the consumer has his habitual residence.

Or. en

Amendment 189
Louis Grech

Proposal for a directive
Recital 21 b (new)
In the case of ADR procedures which impose binding solution on consumers, the latter should be afforded at least the same level of protection as the one laid down by the mandatory provisions applicable under the law of the Member State in the territory of which the ADR entity is established. In the case of cross-border disputes, the solution imposed by the ADR entity should not result in the consumer being deprived of the protection afforded by the mandatory provisions applicable under the law of the Member State in which the consumer has his habitual residence.

Amendment 190
Cristian Silviu Bușoi
Proposal for a directive
Recital 21 b (new)

Text proposed by the Commission

(21 b) Confidentiality in ADR procedures is important and this Directive should therefore provide for a minimum degree of compatibility of civil procedural rules with regard to how to protect the confidentiality of ADR procedures in any subsequent civil and commercial judicial proceedings or arbitration.

Amendment 191
Konstantinos Poupakis
Proposal for a directive
Recital 21 b (new)
(21b) In order to reconcile, on the one hand, the need for consumer access to ADR procedures and, on the other, the need to protect traders from unfair or unfounded complaints, it is indispensable that such complaints be submitted to an ADR entity in good faith, namely: (a) from a procedural standpoint, the consumer should accompany the complaint with sufficient evidence constituting the basis of the dispute in question, (b) from an ethical standpoint, the trader should be cognisant of the allegations against him and have the opportunity to express his opinion, possibly as part of an internal complaints handling procedure, before the complaint reaches the ADR entity, and (c) from a legal standpoint, it should not be possible to refer a dispute for resolution by an ADR entity, unless all means to bring about an amicable agreement directly between trader and consumer have previously been exhausted without success.

Or. el

Amendment 192
Cornelis de Jong, Wim van de Camp

Proposal for a directive
Recital 21 c (new)

(21 c) In order to be sustainable and function efficiently, ADR entities should receive appropriate funding to carry out their activities. They should preferably be funded by private funds.

Or. en
Proposal for a directive
Recital 21 c (new)

Text proposed by the Commission

(21 c) In order to encourage the parties to use ADR, Member States should ensure that their rules on limitation and prescription periods do not prevent the parties from going to court if their attempt to find a solution through an ADR procedure fails. Member States should make sure that this result is achieved even though this Directive does not harmonise national rules on limitation and prescription periods. Provisions on limitation and prescription periods in international agreements as implemented in the Member States, for instance in the area of transport law, should not be affected by this Directive.

Or. en

Proposal for a directive
Recital 22

Text proposed by the Commission

(22) When a dispute arises it is necessary that consumers are able to identify quickly which ADR entities are competent to deal with their complaint and to know whether or not the trader concerned will participate in proceedings submitted to an ADR entity. Traders should therefore provide such information on their main commercial documents and, where they have a website, on their websites. This information should be published in a clear and readily understandable form.

(22) When a dispute arises it is necessary that consumers are able to identify quickly which ADR entities are competent to deal with their complaint. Traders who commit to use ADR entities should therefore inform consumers about the address or website of the relevant ADR entity or entities by which they are covered. This information should be published in a clear and readily understandable form.
obligation should be without prejudice to Articles 6(1)(t), 7(1) and 8 of Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights. Article 6(1)(t) of that Directive provides for consumer contracts concluded at a distance or off premises that the trader is to inform the consumer about the possibility of having recourse to an out-of-court complaint and redress mechanism to which the trader is subject, and the methods for having access to it, before the consumer is bound by the contract.

and mentioned in an easily, directly and permanently accessible way on the trader's website, where one exists, in the general terms and conditions of contracts for the sale of goods or provision of services concluded between the trader and a consumer and whenever a trader rejects a complaint submitted directly to him by a consumer. This obligation should be without prejudice to Articles 6(1)(t), 7(1) and 8 of Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights. Article 6(1)(t) of that Directive provides for consumer contracts concluded at a distance or off premises that the trader is to inform the consumer about the possibility of having recourse to an out-of-court complaint and redress mechanism to which the trader is subject, and the methods for having access to it, before the consumer is bound by the contract.

(22) When a dispute arises it is necessary that consumers are able to identify quickly which ADR entities are competent to deal with their complaint and to know whether or not the trader concerned will participate in proceedings submitted to an ADR entity. Traders should therefore provide such information on their main commercial documents and, where they have a website, on their websites. This obligation should be without prejudice to Articles 6(1)(t), 7(1) and 8 of Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights.

(22) When a dispute arises it is necessary that consumers are able to identify quickly which ADR entities are competent to deal with their complaint and to be assured that the trader will participate in proceedings submitted to an ADR entity. Traders should therefore provide such information on their main commercial documents and, where they have a website, on their websites. This obligation should be without prejudice to Articles 6(1)(t), 7(1) and 8 of Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights. Article
Article 6(1)(t) of Directive 2011/83/EU stipulates for consumer contracts concluded at a distance or off premises that the trader has to inform the consumer about the possibility of having recourse to an out-of-court complaint and redress mechanism to which the trader is subject, and the methods for having access to it, before the consumer is bound by the contract. Article 7(1) of Directive 2011/83/EU provides that, in the case of off-premises contracts, this information must be provided on paper or, if the consumer agrees, on another durable medium.

Proposal for a directive
Recital 22 a (new)

Text proposed by the Commission


Justification

The obligations for undertakings to provide information to consumers as referred to in Recital 22 are not only regulated in the Directive on consumer rights. Sector-specific directives also contain stipulations on the compulsory provision of information to consumers concerning extrajudicial complaints procedures and remedies, for example the Solvency II Framework Directive and the Directive on distance marketing of financial services.

Amendment 197
Hans-Peter Mayer, Sabine Verheyen

Proposal for a directive
Recital 23

(23) This Directive does not prescribe that participation of traders in ADR procedures be mandatory or that the outcome of such procedures be binding on traders, when a consumer has lodged a complaint against them. However, this Directive is without prejudice to any national rules making the participation of traders in such procedures mandatory or their outcome binding on traders, provided that such legislation does not prevent the parties from exercising their right of access to the judicial system as guaranteed in Article 47 of the Charter of Fundamental Rights of the European Union.

(23) This Directive does not prescribe that participation of traders in ADR procedures be mandatory or that the outcome of such procedures be binding on traders, when a consumer has lodged a complaint against them. However, this Directive is without prejudice to any national rules making the participation of traders in such procedures mandatory or their outcome binding on traders, provided that such legislation does not prevent the parties from exercising their right of access to the judicial system as guaranteed in Article 47 of the Charter of Fundamental Rights of the European Union. If the outcome of an ADR procedure is binding on an undertaking under domestic law, a right to judicial review should be guaranteed.

Amendment 198
Christel Schaldemose
Proposal for a directive
Recital 23

Text proposed by the Commission

(23) This Directive does not prescribe that participation of traders in ADR procedures be mandatory or that the outcome of such procedures be binding on traders, when a consumer has lodged a complaint against them. However, this Directive is without prejudice to any national rules making the participation of traders in such procedures mandatory or their outcome binding on traders, provided that such legislation does not prevent the parties from exercising their right of access to the judicial system as guaranteed in Article 47 of the Charter of Fundamental Rights of the European Union.

Amendment

(23) This Directive does not prescribe that participation of traders in ADR procedures be mandatory. However, this Directive is without prejudice to any national rules making the participation of traders in such procedures mandatory or their outcome binding on traders, provided that such legislation does not prevent the parties from exercising their right of access to the judicial system as guaranteed in Article 47 of the Charter of Fundamental Rights of the European Union.

Or. da

Amendment 199
Cornelis de Jong, Wim van de Camp

Proposal for a directive
Recital 23 a (new)

Text proposed by the Commission

(23 a) Member States should facilitate consumer and business organisations' representatives when establishing the ADR system and in the governance of the scheme, in particular in relation to the principles of impartiality and independence.

Amendment

(23 a) Member States should facilitate consumer and business organisations' representatives when establishing the ADR system and in the governance of the scheme, in particular in relation to the principles of impartiality and independence.

Or. en

Amendment 200
Louis Grech
Proposal for a directive
Recital 23 a (new)

Text proposed by the Commission

(23 a) In order to reduce unnecessary burdens on ADR schemes, Member States should encourage consumers to attempt to resolve the dispute amicably with the trader before referring their complaints to an ADR entity or court. In cases where consumers are required to first make contact with the trader before referring their complaints to an ADR entity, Member States shall ensure that once the consumer has contacted the trader, the trader must provide its answer within a maximum of twenty working days and in the absence of a response or if the parties fail to reach an amicable solution, the consumer can then forward the complaint to an ADR entity. Individual companies' in-house complaint schemes can be effective in resolving complaints and avoiding escalation of disputes at a later stage. Member States should be able to maintain or introduce national provisions relating to internal complaint procedures.

Amendment

Or. en

Amendment 201
Bernadette Vergnaud

Proposal for a directive
Recital 23 a (new)

Text proposed by the Commission

(23a) Member States should involve representatives of business organisations, legal professionals and consumer protection organisations in the work of establishing the ADR system and in the governance system, paying particular attention to the principles of impartiality and independence.
Amendment 202
Louis Grech

Proposal for a directive
Recital 23 b (new)

_text proposed by the Commission_

(23 b) Member States should be free to maintain or introduce minimum thresholds for the value of an admissible ADR claim, without setting a threshold that would restrict consumers' access to ADR procedures.

Or. en

Amendment 203
Robert Rochefort, Cristian Silviu Bușoi

Proposal for a directive
Recital 24

_text proposed by the Commission_

(24) Member States should ensure that ADR entities cooperate on the resolution of cross-border disputes and conduct regular exchanges of good practice as regards the settlement of both cross-border and domestic disputes.

Or. fr

Amendment 204
Ashley Fox

Proposal for a directive
Recital 25
(25) Networks of ADR entities which facilitate the resolution of cross-border disputes, such as FIN-NET in the area of financial services, should be strengthened within the Union. Member States should encourage ADR entities to become part of such networks.

(25) Networks of ADR entities, such as FIN-NET in the area of financial services, should be strengthened within the Union. Member States should encourage ADR entities to become part of such networks.

Justification

FIN-NET is a network through with best practice and knowledge can be shared but it is not involved in resolving specific disputes.

Amendment 205
Hans-Peter Mayer, Sabine Verheyen

Proposal for a directive
Recital 25 a (new)

targets of a comprehensive information campaign. To this end, the Commission should provide extensive financial support for appropriate European and national campaigns. It should also conduct a similar campaign relating to the ADR procedure when that procedure is introduced, in order to support and implement it.


Amendment 206
Ashley Fox

Proposal for a directive
Recital 26

Text proposed by the Commission
(26) Close cooperation between ADR entities and national authorities entrusted with the enforcement of Union legislation on consumer protection should strengthen the effective application of such Union legislation.

Amendment
(26) Close cooperation between ADR entities and national authorities entrusted with the enforcement of Union legislation on consumer protection should strengthen the effective application of such Union legislation but this cooperation should not be such that it threatens the independence of ADR entities.

Justification
It is important to ensure ADR entities are independent from regulators/enforcement otherwise this could deter traders from using ADR.

Amendment 207
Robert Rochefort
Recital 26

Text proposed by the Commission

(26) Close cooperation between ADR entities and national authorities entrusted with the enforcement of Union legislation on consumer protection should strengthen the effective application of such Union legislation.

Amendment

(26) Close cooperation between ADR entities and national authorities entrusted with the enforcement of Union legislation on consumer protection should strengthen the effective application of such Union legislation. With the same aim in view, the Commission should support and facilitate exchanges of experience between ADR entities at European level in order to encourage the use of best practice and exchanges of experience.

Or. fr

Amendment 208
Bernadette Vergnaud

Recital 26

Text proposed by the Commission

(26) Close cooperation between ADR entities and national authorities entrusted with the enforcement of Union legislation on consumer protection should strengthen the effective application of such Union legislation.

Amendment

(26) Close cooperation between the Commission, ADR entities and national authorities entrusted with the enforcement of Union legislation on consumer protection should strengthen the effective application of such Union legislation.

The Commission should facilitate administrative cooperation between the Member States, ADR entities and legal professionals by holding regular meetings with the various stakeholders to foster exchanges of best practice and technical expertise between ADR entities and discuss any problems arising from the operation of ADR schemes.

Or. fr
Amendment 209
Cristian Silviu Buşoi

Proposal for a directive
Recital 26 a (new)

Text proposed by the Commission

(26 a) In order to improve the coverage and consumer access to ADR across the EU, the development of regional and pan-European ADR entities should be encouraged. For the purposes of this directive, an ADR entity should be considered as pan-European if it is common to at least one third of the Member States or if it is set up by a European umbrella association. Such entities could be set up under European law, for instance, as European Economic Interest Groupings.

Amendment

Or. en

Amendment 210
Cornelis de Jong, Kyriacos Triantaphyllides

Proposal for a directive
Recital 27

Text proposed by the Commission

(27) In order to ensure that ADR entities function properly and effectively, they should be closely monitored. The Commission and competent authorities under this Directive should publish and update a list of ADR entities that comply with this Directive. Other bodies, such as ADR entities, consumer associations, business associations and the European Consumer Centre Network, should also publish this list. In addition, competent authorities should publish regular reports on the development and functioning of ADR entities. ADR entities should notify to competent authorities specific

Amendment

(27) In order to ensure that ADR entities function properly and effectively, Member States should designate a competent authority or authorities which should closely monitor and supervise those entities. The Commission and competent authorities under this Directive should publish and update a list of ADR entities that comply with this Directive. Other bodies, such as ADR entities, consumer associations, business associations and the European Consumer Centre Network, should also publish this list. In addition, competent authorities should publish regular reports on the development and
information on which those reports should be based. Member States should encourage ADR entities to provide such information using Commission Recommendation 2010/304/EU on the use of a harmonised methodology for classifying and reporting consumer complaints and enquiries.

Member States should encourage ADR entities to provide such information using Commission Recommendation 2010/304/EU on the use of a harmonised methodology for classifying and reporting consumer complaints and enquiries.

**Amendment 211**

Cristian Silviu Buşoi

Proposal for a directive

Recital 27

_text proposed by the Commission_

(27) In order to ensure that ADR entities function properly and effectively, they should be closely monitored. The Commission and competent authorities under this Directive should publish and update a list of ADR entities that comply with this Directive. Other bodies, such as ADR entities, consumer associations, business associations and the European Consumer Centre Network, should also publish this list. In addition, competent authorities should publish regular reports on the development and functioning of ADR entities. ADR entities should notify to competent authorities specific information on which those reports should be based. Member States should encourage ADR entities to provide such information using Commission Recommendation 2010/304/EU on the use of a harmonised methodology for classifying and reporting consumer complaints and enquiries.

**Amendment**

(27) In order to ensure that ADR entities function properly and effectively, they should be closely monitored. For this purpose, Member States should designate a competent authority. This Directive does not prevent Member States from designating more than one competent authority in case of sectoral ADR bodies. When doing so, Member States should determine which of the competent authorities will be the single contact point for the Commission. The Commission and competent authorities under this Directive should publish and update a list of ADR entities that comply with this Directive. Competent authorities cannot refuse the notification of ADR entities which comply with this Directive, including regional and pan-European ADR entities, irrespective of their legal status. Other bodies, such as ADR entities, consumer associations, business associations and the European Consumer Centre Network, should also publish this list. In addition, competent authorities should publish regular reports on the development and functioning of ADR entities in their Member States.
ADR entities. ADR entities should notify to competent authorities specific information on which those reports should be based. Member States should encourage ADR entities to provide such information using Commission Recommendation 2010/304/EU on the use of a harmonised methodology for classifying and reporting consumer complaints and enquiries.

Amendment 212
Cornelis de Jong
Proposal for a directive
Recital 27 a (new)

Text proposed by the Commission

(27 a) Providing ADR entities with a European quality label should increase European citizens' trust and confidence in the quality of the ADR system in cross-border transactions. Member States will see to it that any such label will only be issued to ADR systems which meet all the requirements laid down in this Directive.

Amendment

(27 a) Providing ADR entities with a European quality label should increase European citizens' trust and confidence in the quality of the ADR system in cross-border transactions. Member States will see to it that any such label will only be issued to ADR systems which meet all the requirements laid down in this Directive.

Amendment 213
Louis Grech
Proposal for a directive
Recital 27 a (new)

Text proposed by the Commission

(27 a) Providing ADR entities with a European quality label should increase European citizens' trust and confidence in the quality of the ADR system, especially when buying across borders. An easily recognisable European quality label,
regularly monitored and supervised by the Member States and the European Commission, should guarantee consumers that the relevant ADR entity complies with the quality criteria set out in this Directive.

 Amendment 214
 Hans-Peter Mayer, Sabine Verheyen

 Proposal for a directive
 Recital 28

 Text proposed by the Commission

 (28) It is necessary that Member States lay down penalties for infringements of the provisions of this Directive relating to consumer information by traders and information to be notified to competent authorities by ADR entities and ensure that they are enforced. The penalties should be effective, proportionate and dissuasive.

 Amendment

 (28) It is necessary that Member States lay down penalties for infringements of the provisions of this Directive relating to consumer information by traders and information to be notified to competent authorities by ADR entities and ensure that they are enforced. The penalties should be effective, proportionate and dissuasive. They should be imposed only after an initial warning has been issued without success.

 Justification

 This insertion will avoid excessive bureaucracy, and is intended to help resolve simple disagreements.

 Amendment 215
 Ashley Fox

 Proposal for a directive
 Recital 28
(28) It is necessary that Member States lay down penalties for infringements of the provisions of this Directive relating to consumer information by traders **and information to be notified to competent authorities by ADR entities** and ensure that they are enforced. The penalties should be effective, proportionate and dissuasive.

**Justification**

*The proposed amendment to Article 17(2) provides that ADR providers that no longer meet the requirements of the Directive should be removed from the list of ADR entities. It is therefore unnecessary to impose additional penalties on ADR entities and to do so could deter them from becoming listed entities under the Directive.*

**Amendment 216**

Robert Rochefort, Cristian Silviu Bușoi

**Proposal for a directive**

**Recital 31**

(31) Since the objective of this Directive, namely to contribute to the proper functioning of the internal market by **ensuring a high level of consumer protection**, cannot be sufficiently achieved by the Member States and can therefore better be achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

**Amendment**

(31) Since the objective of this Directive, namely to contribute, **by achieving a high level of consumer protection**, to the proper functioning of the internal market, cannot be sufficiently achieved by the Member States and can therefore better be achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
Amendment 217
Robert Rochefort, Cristian Silviu Busoi

Proposal for a directive
Article 1

Text proposed by the Commission

This Directive is to contribute to the functioning of the internal market and to the achievement of a high level of consumer protection by ensuring that disputes between consumers and traders can be submitted to entities offering impartial, transparent, effective and fair alternative dispute resolution procedures.

Amendment

This Directive is to contribute, by achieving a high level of consumer protection, to the proper functioning of the internal market by ensuring that when disputes arise between consumers and traders following the sale of goods or the provision of services consumers can submit a complaint to entities offering impartial, independent, transparent, effective and fair alternative dispute resolution procedures.

Or. fr

Amendment 218
Hans-Peter Mayer, Andreas Schwab, Sabine Verheyen

Proposal for a directive
Article 1

Text proposed by the Commission

This Directive is to contribute to the functioning of the internal market and to the achievement of a high level of consumer protection by ensuring that disputes between consumers and traders can be submitted to entities offering impartial, transparent, effective and fair alternative dispute resolution procedures.

Amendment

This Directive is to contribute to the functioning of the internal market and to the achievement of a high level of consumer protection by ensuring that, in the event of disputes, consumers and traders can apply on a voluntary basis to entities offering impartial, independent, transparent, rapid, effective and fair alternative dispute resolution procedures.

Or. de
Amendment 219
Cornelis de Jong

Proposal for a directive
Article 1

Text proposed by the Commission

This Directive is to contribute to the functioning of the internal market and to the achievement of a high level of consumer protection by ensuring that disputes between consumers and traders can be submitted to entities offering impartial, transparent, effective and fair alternative dispute resolution procedures.

Amendment

1. This Directive aims at contributing to the achievement of a high level of consumer protection in cross-border transactions and thus at contributing to the well-functioning of the internal market by promoting that in the case of cross-border transactions disputes can be submitted on a voluntary basis by consumers against traders to impartial and transparent ADR entities offering fast, effective and fair alternative dispute resolution procedures.

2. This Directive does not prevent Member States from adopting or maintaining rules that go beyond what is provided for in this Directive.

Or. en

Amendment 220
Matteo Salvini, Francesco Enrico Speroni

Proposal for a directive
Article 1

Text proposed by the Commission

This Directive is to contribute to the functioning of the internal market and to the achievement of a high level of consumer protection by ensuring that disputes between consumers and traders can be submitted to entities offering impartial, transparent, effective and fair alternative dispute resolution procedures.

Amendment

This Directive is to contribute to the functioning of the internal market and to the achievement of a high level of consumer protection by ensuring that disputes between consumers and traders, before ending up in the ordinary courts, are submitted to entities offering impartial, transparent, effective and fair alternative dispute resolution procedures.

Or. it
**Justification**

*In keeping with the positive experience of some Member States, an efficient alternative dispute resolution system should be based on a compulsory attempt at conciliation before being able to have access to the ordinary justice system (i.e. the courts).*

**Amendment 221**

*Wim van de Camp*

**Proposal for a directive**

**Article 1**

- **Text proposed by the Commission**

  This Directive is to contribute to the functioning of the internal market and to the achievement of a high level of consumer protection by ensuring that disputes between consumers and traders can be submitted to entities offering impartial, transparent, effective and fair alternative dispute resolution procedures.

- **Amendment**

  This Directive is to contribute to the functioning of the internal market and to the achievement of a high level of consumer protection by ensuring that disputes between consumers and traders can be submitted to entities offering impartial, transparent, effective and fair alternative dispute resolution procedures, **realising that ADR remains voluntary and successful submission will remain dependent of the willingness of the parties to agree on engagement to ADR.**

*Or. en*

**Justification**

*The ADR directive and its accompanying documents give consumers the impression that the directive will accomplish and ensure that consumers can file all their complaints to an ADR body, and will realize full coverage. Unlike access to court, which is a citizen’s right, (and apart from a limited number of exemptions where on the basis of EU legislation ADR is made mandatory) the proposal will not change the fact that ADR remains voluntary, and rightly so. These principles shall be enshrined in the directive, so that that the right expectations are set. This amendment lays down that this Directive shall reach out to Member States to enable and promote their (notified) ADR bodies in such a way that consumer disputes can be handled, whenever possible and appropriate, as well as to lay down that access to ADR is voluntary and depends on the willingness of the parties to engage to ADR.*

**Amendment 222**

*Robert Rochefort, Cristian Silviu Buşoi*
Proposal for a directive
Article 2 – paragraph 1

**Text proposed by the Commission**

1. This Directive shall apply to procedures for the out-of-court resolution of contractual disputes arising from the sale of goods or provision of services by a trader established in the Union to a consumer resident in the Union through the intervention of a dispute resolution entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution, hereinafter ‘ADR procedures’.

**Amendment**

1. This Directive shall apply to procedures for the out-of-court resolution of domestic and cross-border contractual disputes arising from the sale of goods or provision of services by a trader established in the Union to a consumer resident in the Union through the intervention of a dispute resolution entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution, hereinafter ‘ADR procedures’, in cases where the consumer has been unable to obtain satisfaction from the trader.

Or. fr

Amendment 223
Hans-Peter Mayer, Andreas Schwab, Sabine Verheyen, Heide Rühle

Proposal for a directive
Article 2 – paragraph 1

**Text proposed by the Commission**

1. This Directive shall apply to procedures for the out-of-court resolution of contractual disputes arising from the sale of goods or provision of services by a trader established in the Union to a consumer resident in the Union through the intervention of a dispute resolution entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution, hereinafter ‘ADR procedures’.

**Amendment**

1. This Directive shall apply to procedures for the out-of-court resolution of contractual disputes arising from the sale of goods or provision of services by a trader established in the Union to a consumer resident in the Union through the intervention of a dispute resolution entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution, hereinafter ‘ADR procedures’.

Or. de
Amendment 224
Christel Schaldemose

Proposal for a directive
Article 2 – paragraph 1

Text proposed by the Commission

1. This Directive shall apply to procedures for the out-of-court resolution of contractual disputes arising from the sale of goods or provision of services by a trader established in the Union to a consumer resident in the Union through the intervention of a dispute resolution entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution, hereinafter ‘ADR procedures’.

Amendment

1. This Directive shall apply to procedures for the out-of-court resolution of contractual disputes arising from the sale of goods or provision of services by a trader established in the Union to a consumer resident in the Union through the intervention of a dispute resolution entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution, hereinafter ‘ADR procedures’. The Member States may decide that decisions taken by their national ADR entities shall be binding on traders, unless one of the parties wishes to have the dispute resolved in court.

Or. da

Amendment 225
Cornelis de Jong, Wim van de Camp

Proposal for a directive
Article 2 – paragraph 1

Text proposed by the Commission

1. This Directive shall apply to procedures for the out-of-court resolution of contractual disputes arising from the sale of goods or provision of services by a trader established in the Union to a consumer resident in the Union through the intervention of a dispute resolution entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution, hereinafter ‘ADR procedures’.

Amendment

1. This Directive shall apply to procedures for the out-of-court resolution of cross-border contractual disputes arising from the sale of goods or provision of services by a trader established in the Union to a consumer resident in the Union through the intervention of a dispute resolution entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution.
Amendment 226
Catherine Stihler

Proposal for a directive
Article 2 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

An agreement between a consumer and a trader to submit complaints to an ADR entity should not be binding on the consumer if it was concluded before the dispute arises and if it deprives the consumer of his right to bring an action before the courts for the resolution of the dispute. In the case of ADR entities which impose solutions, the solutions should only be binding on the parties if they were informed of binding nature in advance and specifically accepted this. This provision should not apply where national rules provide that solutions are binding on the trader.

Amendment 227
Ashley Fox

Proposal for a directive
Article 2 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. The Directive shall also apply to those ADR entities set-up by national associations or groups of firms and, which constitute a different legal entity from an individual trader.
Justification

Failing to clarify the scope of the Directive would inevitably lead to divergences in its transposition and implementation, and be counter-productive for all parties.

Amendment 228
Cristian Silviu Buşoi

Proposal for a directive
Article 2 – paragraph 2 – point a

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed exclusively by the trader;</td>
<td>deleted</td>
</tr>
</tbody>
</table>

Or. en

Justification

As long as they respect the quality criteria set out in this Directive, there is no reason to exclude in-house ADR schemes, which would become 2nd class ADR and therefore would be bound to disappear, with negative consequences on ADR coverage.

Amendment 229
Hans-Peter Mayer, Andreas Schwab, Sabine Verheyen, Heide Rühle

Proposal for a directive
Article 2 – paragraph 2 – point a

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed exclusively by the trader;</td>
<td>(a) procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed exclusively by one of the parties and which do not fulfil the criteria of Chapter II of this Directive;</td>
</tr>
</tbody>
</table>

Or. de
Amendment 230
Robert Rochefort

Proposal for a directive
Article 2 – paragraph 2 – point a

Text proposed by the Commission

(a) procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed exclusively by the trader;

Amendment

(a) procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed or paid exclusively by the trader or a business association unless, in addition to the fact that the entities’ operating methods meet the requirements laid down in Chapter II of this Directive, the natural persons in question comply with the specific conditions laid down in Article 6(2a) of this Directive.

Or. fr

Amendment 231
Philippe Juvin

Proposal for a directive
Article 2 – paragraph 2 – point a

Text proposed by the Commission

(a) procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed exclusively by the trader;

Amendment

(a) procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed exclusively by the trader, unless these entities comply with the general requirements of Chapter II in accordance with Article 17, and if the following additional conditions are met:

- the natural persons in charge of dispute resolution are hierarchically independent from the trader and cannot be subject to instructions given by the trader;
- the remuneration of the natural persons in charge of dispute resolution is not subject to the outcome of the dispute resolution procedure;
- the natural persons in charge of dispute resolution must not have worked for the trader concerned during the three years prior to assuming the post.

- the dispute resolution entity is subjected to an annual evaluation by the competent authority of the Member State where it is established regarding compliance with the principles laid down in this Directive;
be detailed in the directive.

**Amendment 233**  
Hans-Peter Mayer, Sabine Verheyen

**Proposal for a directive**  
**Article 2 – paragraph 2 – point b a (new)**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>(ba) the sale of goods or provision of services which are provided as services of general economic interest (services of general interest).</em></td>
<td></td>
</tr>
</tbody>
</table>

Or. de

**Amendment 234**  
Robert Rochefort, Cristian Silviu Bușoi

**Proposal for a directive**  
**Article 2 – paragraph 2 – point b a (new)**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>(ba) disputes between traders;</em></td>
<td></td>
</tr>
</tbody>
</table>

Or. fr

**Amendment 235**  
Ashley Fox

**Proposal for a directive**  
**Article 2 – paragraph 2 – point d a (new)**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>(d a) complaints submitted by the trader against a consumer;</em></td>
<td></td>
</tr>
</tbody>
</table>

Or. en
Justification

A significant number of ADR providers were established in order to address the imbalance of power between consumers and traders. It would be inappropriate to require such bodies to accept disputes initiated by business against a consumer.

Amendment 236
Ashley Fox

Proposal for a directive
Article 2 – paragraph 2 – point d b (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(d b) complaints where a consumer has not already sought an amicable solution of the dispute with the trader;</td>
<td></td>
</tr>
</tbody>
</table>

Or. en

Justification

A consumer should always try to resolve a dispute amicably with a trader before they resort to ADR, as this is reduces costs to ADR entities and leads to better outcomes.

Amendment 237
Ashley Fox

Proposal for a directive
Article 2 – paragraph 2 – point d c (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(d c) complaints that arise from the sale of goods or the provision of services that was concluded before 24 months after publication in the Official Journal;</td>
<td></td>
</tr>
</tbody>
</table>

Or. en

Justification

It is necessary to restrict the application of this Directive to disputes that arise after the Directive is implemented.
Amendment 238
Ashley Fox

Proposal for a directive
Article 2 – paragraph 2 – point d d (new)

Text proposed by the Commission

(\(d\) d) health services provided by health professionals, to patients to assess, maintain or restore their state of health, including the prescription, dispensation and provision of medicinal products and medical devices;

Amendment

Or. en

Justification

It is not appropriate to treat these sectors in the same way as “shopping” and therefore they should be exempt from the Directive.

Amendment 239
Ashley Fox

Proposal for a directive
Article 2 – paragraph 2 – point d e (new)

Text proposed by the Commission

(\(d\) e) further or higher education providers that are eligible for government funding or whose courses are designated for state-funded student finance support;

Amendment

Or. en

Justification

It is not appropriate to treat these sectors in the same way as “shopping” and therefore they should be exempt from the Directive.
Amendment 240
Wim van de Camp

Proposal for a directive
Article 2 – paragraph 2 – paragraph 2 a (new)

Text proposed by the Commission  Amendment

2 a. This Directive does not prevent Member States from adopting or maintaining rules that go beyond what is provided for in this Directive.

Or. en

Amendment 241
Silvia Costa

Proposal for a directive
Article 2 – paragraph 2 a (new)

Text proposed by the Commission  Amendment

2a. Member States shall ensure that the decision taken by the ADR entity is binding on the parties only if they were informed of its binding nature in advance and specifically accepted this. Member States shall ensure that agreements between consumers and traders to submit complaints to an ADR entity do not deprive consumers of their right to go to court to settle the dispute. This Directive establishes a harmonised minimum standard of alternative dispute resolution procedure in order to ensure that consumers have access to high-quality, transparent, effective and fair redress mechanisms, in every economic and trading sector for every kind of internal market goods and services, no matter where the consumers and traders reside in the Union. Member States may adopt or maintain in force more stringent provisions, compatible with the TFEU, in the field covered by this Directive to ensure a higher level of consumer
2. **Article 5(1)** of this Directive shall prevail **over the provisions referred to** in the **Annex**.

**Amendment**

2. **If any provision** of this Directive conflicts with a provision of another Union act governing specific sectors, the provision of that other Union act shall prevail and apply **to those specific sectors**. However, if the provision is aimed at encouraging the setting up of ADR entities **in a specific sector**, the relevant provisions of this Directive will prevail and apply.

**Justification**

It would be difficult to implement a requirement to compare the level of consumer protection ensured by different Union legislation. In addition, this Directive should prevail over specific provisions of other Union legislation, not that legislation in its entirety.
at least an equivalent degree of consumer protection.

Amendment 244
Christel Schaldemose

Proposal for a directive
Article 4 – paragraph 1 – point a

Text proposed by the Commission

a) "consumer" means any natural person who is acting for purposes which are outside his trade, business, craft or profession;

Amendment

(a) “consumer” means any natural person who is acting for purposes which are outside his trade, business, craft or profession or who concludes a contract for purposes that are partly inside and partly outside the person’s trade (dual purpose agreements) where the trade purpose is so limited as not to be predominant in the overall context of the supply;

Amendment 245
Hans-Peter Mayer, Sabine Verheyen, Heide Rühle

Proposal for a directive
Article 4 – paragraph 1 – point c a (new)

Text proposed by the Commission

(ca) "contractual dispute" means a dispute arising from the sale of goods or provision of services which it has not proved possible to resolve bilaterally between the customer and the trader and/or service provider.

Amendment

Or. de
Amendment 246
Ashley Fox

Proposal for a directive
Article 4 – paragraph 1 – point d a (new)

Text proposed by the Commission

(\textit{d a}) "ADR procedure" means a procedure as referred to in Article 2 which complies with the requirements set out in this Directive and is carried out by an ADR entity;

Amendment

Or. en

Justification

It is important to be clear that this Directive applies only to ADR procedures carried out by ADR providers that choose to become ADR entities under this Directive.

Amendment 247
Ashley Fox

Proposal for a directive
Article 4 – paragraph 1 – point d b (new)

Text proposed by the Commission

(\textit{d b}) "Contractual dispute" means that the customer and the trader cannot agree bilaterally. As such a contractual dispute does not manifest itself until the trader has had the opportunity to handle the complaint fairly and promptly;

Amendment

Or. en

Amendment 248
Ashley Fox

Proposal for a directive
Article 4 – paragraph 1 – point e
Text proposed by the Commission

(e) ‘ADR entity’ means any entity, however named or referred to, which is established on a durable basis and offers the resolution of a dispute through an ADR procedure;

Amendment

(e) "ADR entity” means any entity, however named or referred to, which is established on a durable basis and offers the resolution of a dispute through an ADR procedure and that has been listed in accordance with Article 17(2);

Or. en

Amendment 249
Philippe Juvin

Proposal for a directive
Article 4 – paragraph 1 – point e

Text proposed by the Commission

(e) ‘ADR entity’ means any entity, however named or referred to, which is established on a durable basis and offers the resolution of a dispute through an ADR procedure;

Amendment

(e) ‘ADR entity’ means any entity, however named or referred to, which is established on a durable basis, offers the resolution of a dispute through an ADR procedure, and has been notified to the European Commission in accordance with article 17(2) of the present Directive;

Or. en

Justification

All ADR entities fulfilling the criteria set out by the present proposal for a Directive must be notified by the national competent authority to the European Commission, in accordance with article 17(2) of the proposal for a Directive.

Amendment 250
Robert Rochefort

Proposal for a directive
Article 5 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that disputes

Amendment

1. Member States shall facilitate access by
covered by this Directive can be submitted to an ADR entity which complies with the requirements set out in this Directive.

consumers to ADR procedures and shall ensure that disputes covered by this Directive can be submitted to ADR entities which comply with the quality criteria set out in this Directive in cases where the consumer has been unable to obtain satisfaction from the trader.

Or. fr

<table>
<thead>
<tr>
<th>Amendment 251</th>
<th>Ashley Fox</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Proposal for a directive</strong></td>
<td><strong>Article 5 – paragraph 1</strong></td>
</tr>
<tr>
<td><strong>Text proposed by the Commission</strong></td>
<td><strong>Amendment</strong></td>
</tr>
<tr>
<td>1. Member States shall ensure that disputes covered by this Directive can be submitted to an ADR entity which complies with the requirements set out in this Directive.</td>
<td>1. Member States shall ensure that disputes covered by this Directive and involving a trader established on its territory can be submitted to an ADR entity which complies with the requirements set out in this Directive.</td>
</tr>
</tbody>
</table>

*Justification*

*In order to avoid unnecessary duplication, Member States should only have to ensure ADR is available for disputes involving traders established on their territory.*

<table>
<thead>
<tr>
<th>Amendment 252</th>
<th>Cornelis de Jong, Wim van de Camp, Kyriacos Triantaphyllides</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Proposal for a directive</strong></td>
<td><strong>Article 5 – paragraph 1</strong></td>
</tr>
<tr>
<td><strong>Text proposed by the Commission</strong></td>
<td><strong>Amendment</strong></td>
</tr>
<tr>
<td>1. Member States shall ensure that disputes covered by this Directive can be submitted to an ADR entity which complies with the requirements set out in this Directive.</td>
<td>1. Member States shall facilitate access by consumers to ADR procedures and shall promote that disputes covered by this Directive can be submitted to ADR entities</td>
</tr>
</tbody>
</table>

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which comply with the quality criteria set out in this Directive if both the trader and the consumer agree to do so.

**Amendment 253**
Matteo Salvini, Francesco Enrico Speroni

**Proposal for a directive**
**Article 5 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall ensure that disputes covered by this Directive can be submitted to an ADR entity which complies with the requirements set out in this Directive.

*Amendment*

1. Member States shall ensure that disputes covered by this Directive are submitted to an ADR entity which complies with the requirements set out in this Directive.

*Or. it*

**Justification**

In keeping with the positive experience of some Member States, an efficient alternative dispute resolution system should be based on a compulsory attempt at conciliation before being able to have access to the ordinary justice system (i.e. the courts).

**Amendment 254**
Louis Grech

**Proposal for a directive**
**Article 5 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall ensure that disputes covered by this Directive can be submitted to an ADR entity which complies with the requirements set out in this Directive.

*Amendment*

1. Member States shall facilitate access by consumers to ADR procedures and shall ensure that disputes covered by this Directive which involve a trader established on its territory can be submitted to ADR entities which comply with the quality criteria set out in this Directive if both the trader and the consumer agree to do so.
Proposal for a directive
Article 5 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that disputes covered by this Directive can be submitted to an ADR entity which complies with the requirements set out in this Directive.

Amendment

1. Member States shall promote that disputes covered by this Directive can be submitted to an ADR entity which complies with the requirements set out in this Directive, realising that ADR remains voluntary and successful submission will remain dependent of the willingness of the parties to agree on engagement to ADR.

Justification

The ADR directive and its accompanying documents give consumers the impression that the directive will accomplish and ensure that consumers can file all their complaints to an ADR body, and will realize full coverage. Unlike access to court, which is a citizen’s right, (and apart from a limited number of exemptions where on the basis of EU legislation ADR is made mandatory) the proposal will not change the fact that ADR remains voluntary, and rightly so. These principles shall be enshrined in the directive, so that the right expectations are set. This amendment lays down that this Directive shall reach out to Member States to enable and promote their (notified) ADR bodies in such a way that consumer disputes can be handled, whenever possible and appropriate, as well as to lay down that access to ADR is voluntary and depends on the willingness of the parties to engage to ADR.
Proposal for a directive
Article 5 – paragraph 2 – point a

Text proposed by the Commission
(a) have a website enabling the parties to submit a complaint online;

Amendment
(a) have a website enabling the parties to submit an application for ADR online;

Amendment 257
Hans-Peter Mayer, Andreas Schwab, Sabine Verheyen

Proposal for a directive
Article 5 – paragraph 2 – point a

Text proposed by the Commission
(a) have a website enabling the parties to submit a complaint online;

Amendment
(a) run and keep up to date a website which provides the parties with easy access to information concerning ADR procedures and enables consumers to submit a complaint online or provides them with a postal address to which they can send complaints and the requisite supporting documents;

Amendment 258
Robert Rochefort, Cristian Silviu Buşoi

Proposal for a directive
Article 5 – paragraph 2 – point a

Text proposed by the Commission
(a) have a website enabling the parties to submit a complaint online;

Amendment
(a) run and keep up to date a website which provides the parties with easy access to information concerning ADR procedures and enables consumers to submit a complaint online or provides them with a postal address to which they can send complaints and the requisite supporting documents;

Amendment 259
Philippe Juvin

Proposal for a directive
Article 5 – paragraph 2 – point a a (new)
Text proposed by the Commission

(a a) inform the consumer that prior contact directly with the trader may be needed before the opening of proceedings before an ADR entity to ensure the effectiveness of the procedure and avoid overloading ADR entities with requests that could be dealt with by the trader's customer service, when it exists, within reasonable time limits;

Amendment

Justification

ADR entities must not be turned into a substitute for traders' customer service. Consumers should contact first the customer service of the trader if it exists, before launching a procedure before an ADR entity, to avoid overloading the latter and decreasing the effectiveness and speed of the whole procedure.

Amendment 260
Robert Rochefort

Proposal for a directive
Article 5 – paragraph 2 – point a a (new)

Text proposed by the Commission

(aa) have sufficient resources (appropriate human, material and financial resources);

Amendment

Or. fr

Amendment 261
Robert Rochefort

Proposal for a directive
Article 5 – paragraph 2 – point b

Text proposed by the Commission

(b) enable the parties to exchange

Amendment

(b) enable the parties to exchange
information with them via electronic means;

information with them via electronic means

*or by post;*

Or. fr

**Amendment 262**
Cornelis de Jong, Wim van de Camp

Proposal for a directive
Article 5 – paragraph 2 – point c

*Text proposed by the Commission*

(c) accept both, domestic and cross-border disputes, including disputes covered by Regulation (EU) No [Office of Publications insert reference number] of the European Parliament and of the Council of [Office of Publications insert date of adoption] on online dispute resolution for consumer disputes (Regulation on consumer ODR); and

*Amendment*

(c) accept cross-border disputes, including disputes covered by Regulation (EU) No [Office of Publications insert reference number] of the European Parliament and of the Council of [Office of Publications insert date of adoption] on online dispute resolution for consumer disputes (Regulation on consumer ODR); and

Or. en

**Amendment 263**
Ashley Fox

Proposal for a directive
Article 5 – paragraph 2 – point d

*Text proposed by the Commission*

(d) *when dealing with disputes covered by this Directive* take the necessary measures to ensure that the processing of personal data complies with the rules on the protection of personal data laid down in the national legislation implementing Directive 95/46/EC.

*Amendment*

(d) take the necessary measures to ensure that the processing of personal data complies with the rules on the protection of personal data laid down in the national legislation implementing Directive 95/46/EC in which the ADR entity is established.

Or. en
Amendment 264
Hans-Peter Mayer, Sabine Verheyen

Proposal for a directive
Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. An ADR entity cannot refuse to process a dispute without giving the parties an appropriate justification for its refusal, which it must do within 14 calendar days of receiving the application for ADR.

Or. de

Amendment 265
Ashley Fox

Proposal for a directive
Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States may set a time limit by which the consumer can submit a complaint to an ADR entity, or to the trader where this is a prerequisite to the ADR procedure, which shall not be shorter than the time limit, where such a limit exists, in the legal acts of the Member State allowing the parties to initiate judicial proceedings.

Or. en

Amendment 266
Konstantinos Poupakis

Proposal for a directive
Article 5 – paragraph 2 a (new)
Text proposed by the Commission

2a. Member States may set a time-limit within which the consumer has the opportunity to submit a complaint to an ADR entity, which may not be shorter than the time-limit - where such a time-limit exists - provided for in the legislation of the Member State in question for initiating legal proceedings.

In no case may the time-limit within which the consumer may submit a complaint to an ADR entity be less than one year from the date on which the consumer makes a complaint to the trader.

Or. el

Justification

Member States may set time-limits for the submission of complaints to ADR procedures in order to avoid preventing consumers from exercising their legal rights. However, the Directive should provide, as a safeguard for consumers, for a minimum time-limit of one year for submitting a complaint to an ADR entity from the time the consumer submits a complaint to the trader, in case some Member States provide in their legislation for a shorter time-limit.

Amendment 267
Cornelis de Jong

Proposal for a directive
Article 5 – paragraph 3
3. Member States may fulfil their obligation under paragraph 1 by ensuring the existence of a residual ADR entity which is competent to deal with disputes as referred to in paragraph 1 for the resolution of which no existing ADR entity is competent.

Amendment 268
Róža Gräfin von Thun und Hohenstein, Hans-Peter Mayer

Proposal for a directive
Article 5 – paragraph 3

Text proposed by the Commission
3. Member States may fulfil their obligation under paragraph 1 by ensuring the existence of a residual ADR entity which is competent to deal with disputes as referred to in paragraph 1 for the resolution of which no existing ADR entity is competent.

Amendment
3. Member States may fulfil their obligation under paragraph 1 by setting up a residual ADR entity which is competent to deal with disputes as referred to in paragraph 1 for the resolution of which no existing ADR entity is competent.

Or. en

Justification
For proper functioning of the alternative and online dispute resolution, it is necessary to ensure maximum coverage of the ADR entities throughout the sectors. However, this can be done on European level. There is no need for all Member States to establish sectoral ADR entities.

Amendment 269
Wim van de Camp
Proposal for a directive
Article 5 – paragraph 3 a (new)

Text proposed by the Commission

3 a. Consumers can submit their complaint to ADR, only if they first have submitted their complaint to the trader.

Or. en

Justification

The Commission proposal does not lay down a requirement that the consumer first has to try to settle their complaint with the trader, before he can file his dispute to the ADR. Such a requirement is both desirable, but is also considered necessary not to overburden ADR entities. That is why the amendment proposes to lay down such a requirement.

Amendment 270
Sandra Kalniete

Proposal for a directive
Article 5 – paragraph 3 a (new)

Text proposed by the Commission

3 a. Member States may introduce or maintain procedural rules which enable ADR entities to operate effectively, including rules on monetary thresholds by which this Directive does not apply or rules on a time limit within which the consumer can submit a complaint to an ADR entity. Such procedural rules must not appreciably impair consumers' access to ADR procedures.

Or. en

Amendment 271
Ildikó Gáll-Pelcz

Proposal for a directive
Article 5 – paragraph 3 a (new)
(3a) The Member States may permit the ADR entities to introduce or maintain procedural rules which enable them to refuse to resolve a given dispute if the consumer did not contact the trader directly with a view to resolving the dispute before he approached the ADR entity, or if the complaint is unfounded, if a procedure is already pending before another ADR entity or any court in connection with the dispute, or if conducting such a procedure would in any other way seriously impair the ADR entity’s operational effectiveness. Such procedural rules may not make it significantly harder, even in cross-border disputes, for the consumer to access ADR procedures.

Amendment 272
Ashley Fox

Proposal for a directive
Article 5 – paragraph 3 a (new)

Text proposed by the Commission

3 a. Member States may introduce, maintain or allow ADR entities to introduce or maintain procedural rules allowing them to refuse to deal with a given dispute. Such procedural rules must not unjustifiably impair consumers’ access to ADR procedures.

Justification

All ADR providers have rules under which they are able to dismiss a dispute. It is important to recognise that these rules exist. It is also important not to try to harmonise these rules –
there are often good reasons why they are different in different sectors. Furthermore, if an ADR entity has reasonably decided that a specific dispute is not suitable for ADR then it seems unreasonable to expect a different ADR entity to be willing to seek to resolve that dispute.

Amendment 273
Bernadette Vergnaud

Proposal for a directive
Article 5 – paragraph 3 a (new)

Text proposed by the Commission

3a. Member States may authorise ADR entities to introduce or retain procedural rules which enable them to refuse to give an undertaking to deal with a given dispute if the consumer has not contacted the trader in order to settle the dispute at an earlier stage, if the complaint is defamatory if the dispute has already been dealt with by another ADR entity or a court. Such procedural rules must not pose a clear obstacle to consumer access to ADR procedures, including where cross-border disputes are concerned.

Or. fr

Amendment 274
Ashley Fox

Proposal for a directive
Article 5 – paragraph 3 b (new)

Text proposed by the Commission

3 b. Where, in accordance with the procedural rules referred to in paragraph 4, an ADR entity is unable to consider a dispute that has been submitted to it, Member States shall not be required to ensure that the consumer can submit his dispute to another ADR entity.
### Amendment 275
**Robert Rochefort**

**Proposal for a directive**  
**Article 6 – title**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expertise and impartiality</td>
<td>Expertise, <em>independence</em> and impartiality</td>
</tr>
</tbody>
</table>

**Justification**

*The principle of independence is distinct from impartiality and will add to the credibility of ADR schemes by providing necessary additional requirements in relation to the natural persons in charge of such schemes, to be applicable, in particular, in cases where such natural persons are exclusively employed by the trader.*

### Amendment 276
**Ashley Fox**

**Proposal for a directive**  
**Article 6 – title**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expertise and impartiality</td>
<td>Expertise, <em>independence</em> and impartiality</td>
</tr>
</tbody>
</table>

### Amendment 277
**Robert Rochefort**

**Proposal for a directive**  
**Article 6 – paragraph 1 – introductory part**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Member States shall ensure that the natural persons in charge of alternative</td>
<td>1. Member States shall ensure that the natural persons in charge of alternative</td>
</tr>
</tbody>
</table>

PE489.695v01-00 86/147 AM\903359EN.doc
dispute resolution possess the necessary expertise and are impartial. This shall be guaranteed by ensuring that they:

Amendment 278
Ashley Fox

Proposal for a directive
Article 6 – paragraph 1 – introductory part

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Member States shall ensure that the natural persons in charge of alternative dispute resolution possess the necessary expertise and are impartial. This shall be guaranteed by ensuring that they:</td>
<td>1. Member States shall ensure that the natural persons in charge of ADR procedures possess the necessary expertise and are impartial. This shall be guaranteed by ensuring that they:</td>
</tr>
</tbody>
</table>

Amendment 279
Ashley Fox

Proposal for a directive
Article 6 – paragraph 1 – introductory part

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Member States shall ensure that the natural persons in charge of alternative dispute resolution possess the necessary expertise and are impartial. This shall be guaranteed by ensuring that they:</td>
<td>1. Member States shall ensure that the natural persons in charge of alternative dispute resolution possess the necessary expertise and are independent and impartial. This shall be guaranteed by ensuring that they:</td>
</tr>
</tbody>
</table>

Justification

The principle of independence is distinct from impartiality and will add to the credibility of ADR schemes by providing necessary additional requirements in relation to the natural
persons in charge of such schemes to be applicable, in particular, in cases where they are exclusively employed by the trader.

**Amendment 280**
Robert Rochefort

**Proposal for a directive**
**Article 6 – paragraph 1 – point a**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) possess the necessary knowledge, skills and experience in the field of alternative dispute resolution;</td>
<td>(a) possess the necessary knowledge, skills and experience, <em>including legal experience</em>, in the field of alternative dispute resolution;</td>
</tr>
</tbody>
</table>

Or. fr

**Amendment 281**
Ashley Fox

**Proposal for a directive**
**Article 6 – paragraph 1 – point a**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) possess the necessary knowledge, skills and experience in the field of alternative dispute resolution;</td>
<td>(a) possess the necessary knowledge and skills in the field of dispute resolution;</td>
</tr>
</tbody>
</table>

Or. en

**Amendment 282**
Louis Grech

**Proposal for a directive**
**Article 6 – paragraph 1 – point a**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) possess the necessary knowledge, skills and experience in the field of alternative dispute resolution;</td>
<td>(a) possess the necessary <em>proven</em> knowledge, skills and experience in the field of dispute resolution;</td>
</tr>
</tbody>
</table>
Amendment 283
Ashley Fox

Proposal for a directive
Article 6 – paragraph 1 a (new)

Text proposed by the Commission

1 a. ADR schemes are responsible for defining appropriate expertise in light of the nature and complexity of disputes.

Amendment

Or. en

Justification

This is best way to guarantee that the knowledge and skills of natural persons involved in complaints handling match the characteristics of both the ADR mechanism and the specificities of disputes.

Amendment 284
Ashley Fox

Proposal for a directive
Article 6 – paragraph 1 b (new)

Text proposed by the Commission

1 b. Where the natural persons in charge of dispute resolution are employed exclusively by the trader, Member States shall ensure that they comply with the following requirements:

(a) appointment by the highest level of management and for a sufficient duration to ensure the independence of their action;

(b) lack of hierarchical link with the operational management, in particular with those responsible for customer relationships;

Amendment
(c) remuneration not bound to the results of the ADR procedure;
(d) establishment of a dedicated budget providing the appropriate resources to ensure the effectiveness of ADR procedures.

Or. en

Justification

To accompany the extension of the scope of the Directive to ADR schemes in which the natural person in charge is employed exclusively by the trader, it is necessary to set out specific requirements to ensure compliance with the principles of impartiality and independence.

Amendment 285
Ashley Fox

Proposal for a directive
Article 6 – paragraph 2

Text proposed by the Commission Amendment

2. Member States shall ensure that ADR entities where the natural persons in charge of dispute resolution form part of a collegial body provide for an equal number of representatives of consumers' interests and of representatives of traders' interests in that body.

Or. en

Justification

It is unacceptable to micromanage the membership of Boards of ADR entities. In addition, the composition of a collegial body of an ADR entity is not relevant when considering impartiality – the requirement of no conflict of interest is sufficient.

Amendment 286
Louis Grech
Proposal for a directive
Article 6 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that ADR entities where the natural persons in charge of dispute resolution form part of a collegial body provide for an equal number of representatives of consumers' interests and of representatives of traders' interests in that body.

Amendment 287
Louis Grech

Proposal for a directive
Article 6 – paragraph 2 a (new)

Text proposed by the Commission

2 a. Member States shall ensure that the natural person in charge of alternative dispute resolution discloses any factors that could affect their impartiality or give rise to a conflict of interest through a personal, business or financial relationship with any of the parties, or any other interest in the outcome of the ADR procedure.

Amendment 288
Robert Rochefort

Proposal for a directive
Article 6 – paragraph 2 a (new)

Text proposed by the Commission

2a. For the purposes of paragraph 1(c), if the natural persons in charge of
alternative dispute resolution are
employed or paid exclusively by the trader
or a business association Member States
shall ensure that the following specific
conditions are met:

(1) the natural persons in question carry
out their function on behalf of a legal
entity which is separate from the trader or
business association;

(2) the natural persons in question are not
bound by any instructions issued by the
trader or business association and have
no hierarchical or functional link with the
management or operational services of
the trader or business association;

(3) the natural persons in question are
appointed by means of a transparent
procedure;

(4) the natural persons in question are
appointed for a fixed period of at least
three years;

(5) the outcome of ADR procedures has
no bearing on the remuneration of the
natural persons in question;

(6) the dispute resolution entity on whose
behalf they work has its own budget
which is separate from the general budget
of the trader or business association;

(7) the dispute resolution entity on whose
behalf they work undergoes at least once
a year an evaluation conducted by the
competent authority of the Member State
in which the entity is established in order
to ascertain whether it meets the criteria
laid down in Chapter II of this Directive
and in this paragraph in particular.

Amendment 289
Louis Grech

Proposal for a directive
Article 6 – paragraph 2 b (new)
2 b. Member States shall ensure that appropriate training is available for the natural persons in charge of alternative dispute resolution in order to ensure high quality dispute resolution across the Union. The development and implementation of such schemes will be supported by the Commission.

Amendment 290
Cristian Silviu Buşoi
Proposal for a directive
Article 6 a (new)

Text proposed by the Commission

Art. 6 a

Legality of ADR decisions

(1) Member States shall ensure that the outcome of an ADR procedure which aims at resolving the dispute by imposing a solution on the consumer does not result in the consumer being deprived of the protection afforded by the mandatory provisions of the law of the Member State where the ADR entity is established.

(2) In the case of cross-border consumer disputes, Member States shall ensure that the outcome of an ADR procedure which aims at resolving the dispute by imposing a solution on the consumer does not result in the consumer being deprived of the protection afforded to him by the provisions that cannot be derogated from by agreement by virtue of the law of the Member State where the consumer has his habitual residence, in the instances provided for in Article 6 of Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June
2008 on the law applicable to contractual obligations (Rome I)\textsuperscript{1}.

\textsuperscript{1} OJ L 177, 4.7.2008, p.6.

Justification

ADR entities might take their decision on the basis of rules other than law (self-regulatory codes, etc.). It is therefore essential that ADR procedures does not result in a weaker protection than the one afforded by applicable law, where such decisions are binding on the consumer.

Amendment 291
Robert Rochefort

Proposal for a directive
Article 7 – paragraph 1 – introductory part

\textit{Text proposed by the Commission}

1. Member States shall ensure that ADR entities make publicly available on their websites and in printed form at their premises information on:

\textit{Amendment}

1. Member States shall ensure that ADR entities make publicly available on their websites and in printed form at their premises \textit{clear and easily understandable} information on:

Or. fr

Amendment 292
Ashley Fox

Proposal for a directive
Article 7 – paragraph 1 – introductory part

\textit{Text proposed by the Commission}

1. Member States shall ensure that ADR entities make publicly available on their websites and \textit{in printed form at their premises} information on:

\textit{Amendment}

1. Member States shall ensure that ADR entities make publicly available on their websites and \textit{by any other means they consider appropriate} information on:
Justification

It may not always be appropriate to have printed versions available and ADR entities may incur significant costs in doing so and in keeping them up-to-date.

Amendment 293
Cristian Silviu Bușoi

Proposal for a directive
Article 7 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that ADR entities make publicly available on their websites and in printed form at their premises information on:

Amendment

1. Member States shall ensure that ADR entities make publicly available in plain language understandable to an average user, on their websites and, upon request, in printed form at their premises information on:

Or. en

Amendment 294
Konstantinos Poupakis

Proposal for a directive
Article 7 – paragraph 1 – point a

Text proposed by the Commission

a) the natural persons in charge of alternative dispute resolution, the method of their appointment and the length of their mandate;

Amendment

a) the natural persons in charge of alternative dispute resolution, their academic and professional qualifications, the method of their appointment and the length of their mandate;

Or. el

Justification

For greater transparency.
Amendment 295
Ashley Fox

Proposal for a directive
Article 7 – paragraph 1 – point b

Text proposed by the Commission  
(b) the source of financing, including deleted percentage share of public and of private financing;

Amendment

Or. en

Justification

This information is not relevant to the impartiality of ADR entities. With appropriate governance ADR entities that receive no public financing can be completely impartial.

Amendment 296
Cristian Silviu Buşoi

Proposal for a directive
Article 7 – paragraph 1 – point d

Text proposed by the Commission  
(d) the types of disputes they are competent to deal with;

Amendment  
(d) the types of disputes they are competent to deal with; including the minimum value of the claim, where applicable;

Or. en

Amendment 297
Louis Grech

Proposal for a directive
Article 7 – paragraph 1 – point e

Text proposed by the Commission  
(e) the rules of procedure governing the resolution of a dispute;

Amendment  
(e) the rules of procedure governing the resolution of a dispute and the reasons for
resolution of a dispute; which an entity may refuse to deal with a dispute;

Amendment 298
Cristian Silviu Buşoi

Proposal for a directive
Article 7 – paragraph 1 – point h

Text proposed by the Commission
(h) any preliminary requirements the parties may have to meet before an ADR procedure can be instituted;

Amendment
(h) any preliminary requirements the parties may have to meet before an ADR procedure can be instituted, including the requirement to attempt to reach an amicable solution directly with the trader;

Justification
The trader should be contacted first and only if the attempt fails, the dispute should be brought before an ADR body. The aim of this provision is to increase the efficiency of ADR bodies by allowing them to focus on relevant cases only.

Amendment 299
Cristian Silviu Buşoi

Proposal for a directive
Article 7 – paragraph 1 – point i

Text proposed by the Commission
(i) the costs, if any, to be borne by the parties;

Amendment
(i) the costs, if any, to be borne by the parties, including rules on award of costs at the end of the procedure;
Amendment 300
Cornelis de Jong, Wim van de Camp

Proposal for a directive
Article 7 – paragraph 1 – point k a (new)

Text proposed by the Commission

(k a) the binding nature of the ADR decision, if relevant.

Amendment

Or. en

Amendment 301
Ashley Fox

Proposal for a directive
Article 7 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall ensure that ADR entities make publicly available on their websites and in printed form at their premises annual activity reports. These reports shall include the following information relating to both domestic and cross-border disputes:

Amendment

2. Member States shall ensure that in relation to disputes covered by this Directive ADR entities make publicly available on their websites and by any other means they consider appropriate annual activity reports. These reports shall include the following information relating to both domestic and cross-border disputes:

Or. en

Justification

It is helpful to be clear that ADR entities only have to provide reports in relation to disputes covered by this Directive. In addition, it may not always be appropriate to have printed versions available and ADR entities may incur significant costs in doing so and in keeping them up-to-date.

Amendment 302
Hans-Peter Mayer, Andreas Schwab, Sabine Verheyen

Proposal for a directive
Article 7 – paragraph 2 – point b a (new)
(ba) with due regard for data protection, ‘exemplary decisions’ based on the outcomes of important disputes;

Or. de

Amendment 303
Robert Rochefort

Proposal for a directive
Article 7 – paragraph 2 – point b a (new)

Text proposed by the Commission

(ba) a list of the main decisions likely to influence the way in which consumers’ rights are interpreted, accompanied by general recommendations intended to prevent the reappearance of certain recurrent or significant disputes;

Or. fr

Amendment 304
Ashley Fox

Proposal for a directive
Article 7 – paragraph 2 – point c

Text proposed by the Commission

(c) the rate of dispute resolution procedures which were discontinued before an outcome was reached;

(c) the number of dispute resolution procedures which were discontinued before an outcome was reached;

Or. en

Justification

This information is provided in an annual activity report and therefore it is more appropriate to refer to number than rate.
### Amendment 305
Cristian Silviu Bușoi

**Proposal for a directive**  
**Article 7 – paragraph 2 – point e**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(e) the rate of compliance, <em>if known</em>, with the outcomes of the ADR procedures;</td>
<td>(e) the rate of compliance with the outcomes of the ADR procedures;</td>
</tr>
</tbody>
</table>

Or. en

### Amendment 306
Cornelis de Jong, Kyriacos Triantaphyllides

**Proposal for a directive**  
**Article 8 – paragraph 1 – introductory part**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Member States shall ensure that ADR procedures are effective and fulfil the following requirements:</td>
<td>Member States shall ensure that ADR procedures <em>followed by ADR entities</em> are effective and fulfil the following requirements:</td>
</tr>
</tbody>
</table>

Or. en

### Amendment 307
Hans-Peter Mayer, Sabine Verheyen

**Proposal for a directive**  
**Article 8 – paragraph 1 – point a**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) the ADR procedure is easily accessible to both parties <em>irrespective of where the party is situated</em>;</td>
<td>(a) the ADR procedure is <em>always accessible online and</em> easily accessible <em>offline</em> to both parties;</td>
</tr>
</tbody>
</table>

Or. de
Amendment 308
Hans-Peter Mayer

Proposal for a directive
Article 8 – paragraph 1 – point c

Text proposed by the Commission
(c) the ADR procedure is free of charge or at moderate costs for consumers;

Amendment
(c) the ADR procedure is free of charge or at moderate costs for consumers. At the end of the ADR procedure, the losing party shall reimburse the winning party for the costs arising from the initiation of the procedure;

Or. de

Amendment 309
Robert Rochefort

Proposal for a directive
Article 8 – paragraph 1 – point c

Text proposed by the Commission
(c) the ADR procedure is free of charge or at moderate costs for consumers;

Amendment
(c) the ADR procedure is free of charge for consumers;

Or. fr

Amendment 310
Ashley Fox

Proposal for a directive
Article 8 – paragraph 1 – point c

Text proposed by the Commission
(c) the ADR procedure is free of charge or at moderate costs for consumers;

Amendment
(c) the ADR procedure is free of charge for consumers and Member States shall decide on an appropriate form of industry funding for ADR procedures within their jurisdiction;

Or. en
Justification

Consumers will be deterred from using ADR if costs are associated with the procedure. Procedural rules on frivolous or vexatious claims will restrict claims to those that are necessary. In the current economic climate we must be clear that the taxpayer must not fund ADR procedures, this must be industry-led.

Amendment 311
Matteo Salvini, Francesco Enrico Speroni

Proposal for a directive
Article 8 – paragraph 1 – point c

Text proposed by the Commission
(c) the ADR procedure is free of charge or at moderate costs for consumers;

Amendment
(c) the ADR procedure is free of charge or at moderate costs for consumers, or in any case easily quantifiable in advance by the parties;

Justification

For the purposes of greater accessibility and transparency, the costs relating to ADR procedures must be clearly and easily quantifiable by consumers or traders before they undertake such procedures.

Amendment 312
Louis Grech

Proposal for a directive
Article 8 – paragraph 1 – point c

Text proposed by the Commission
(c) the ADR procedure is free of charge or at moderate costs for consumers;

Amendment
(c) the ADR procedure is preferably free of charge for the consumer or, if not, at a nominal cost;

Or. en
Amendment 313
Cristian Silviu Buşoi

Proposal for a directive
Article 8 – paragraph 1 – point c a (new)

Text proposed by the Commission

(c a) the ADR entity, which has received a complaint, notifies the parties of the dispute as soon as it has received all the documents necessary to carry out the ADR procedure;

Amendment

Or. en

Amendment 314
Hans-Peter Mayer, Andreas Schwab, Sabine Verheyen

Proposal for a directive
Article 8 – paragraph 1 – point d

Text proposed by the Commission

(d) the dispute is resolved within 90 days from the date on which the ADR entity has received the complaint. In the case of complex disputes, the ADR entity may extend this time period.

Amendment

(d) the dispute is resolved within 90 calendar days from the date on which the ADR entity has received the complaint to the date on which the ADR entity recommends a solution. In the case of highly complex disputes, the ADR entity may, in exceptional cases, extend this time period at its own discretion.

Or. de

Justification

The period of delivery of the recommended solution and the period during which the consent of the parties is awaited should not be included in the 90-day time limit, as the resulting periods could not be readily calculated.

Amendment 315
Robert Rochefort
Proposal for a directive
Article 8 – paragraph 1 – point d

Text proposed by the Commission
(d) the dispute is resolved within 90 days from the date on which the ADR entity has received the complaint.

Amendment
(d) the dispute is resolved within 90 calendar days from the date on which the ADR entity has received the full complaint file.

Or. fr

Amendment 316
Ashley Fox

Proposal for a directive
Article 8 – paragraph 1 – point d

Text proposed by the Commission
(d) the dispute is resolved within 90 days from the date on which the ADR entity has received the complaint. In the case of complex disputes, the ADR entity may extend this time period.

Amendment
(d) the outcome of ADR procedure is made available within 90 days from the date on which the ADR entity has received the complaint and all relevant documentation pertaining to that complaint. In the case of complex disputes or for other justified grounds, this time period may be exceeded.

Or. en

Justification
It is necessary to add clarity as to when the 90 day period starts and also to allow ADR entities to extend this deadline, where justified, to ensure consumers get a quality outcome, not just a fast one.

Amendment 317
Philippe Juvin

Proposal for a directive
Article 8 – paragraph 1 – point d
Text proposed by the Commission

(d) the dispute is resolved within 90 days from the date on which the ADR entity has received the complaint. In the case of complex disputes, the ADR entity may extend this time period.

Amendment

(d) the dispute is resolved within 90 days from the date on which the ADR entity has received the complete complaint file. In the case of complex disputes, or when the complaint file is incomplete, the ADR entity may extend this time period.

Justification

The 90 days period must start when the complete file with all necessary documents is sent to the ADR entity to allow for the official opening of the procedure. If the complaint is incomplete, it might not be possible for the ADR entity to investigate properly and effectively the case, and find a solution within the official deadline.

Amendment 318
Mitro Repo, Sirpa Pietikäinen

Proposal for a directive
Article 8 – paragraph 1 – point d

Text proposed by the Commission

(d) the dispute is resolved within 90 days from the date on which the ADR entity has received the complaint. In the case of complex disputes, the ADR entity may extend this time period.

Amendment

(d) outcome of the ADR procedure is made available within 120 days from the date on which the ADR entity has received the complaint and all relevant documentation pertaining to that complaint. In the case of complex disputes or for other justified grounds, this time period may be exceeded.

Justification

The deadline should not include the time that is needed to receive all the necessary documents. Furthermore, it would be necessary to have a longer deadline, 120 days in order to ensure the quality of decision making.
Amendment 319  
Ildikó Gáll-Pelcz  
Proposal for a directive  
Article 8 – paragraph 1 – point d  

**Text proposed by the Commission**  
d) the dispute is resolved within 90 days from the date on which the ADR entity has received the complaint. In the case of complex disputes, the ADR entity may extend this time period.

**Amendment**  
d) the dispute is resolved within 90 days from the date on which the ADR entity has received the complaint. In the event of complex disputes *or any other reasonable grounds* the ADR entity may extend this time period *by 60 days.*

Or. hu

Amendment 320  
Hans-Peter Mayer, Sabine Verheyen  
Proposal for a directive  
Article 8 – paragraph 1 – point d a (new)  

**Text proposed by the Commission**  
(da) The Member States are not responsible for the financing of the ADR entities.

**Amendment**  
(da) The Member States are not responsible for the financing of the ADR entities.

Or. de

**Justification**  
The entities must not be funded by the tax-payer: this is a matter purely for private enterprise, as it is the sole beneficiary.

Amendment 321  
Konstantinos Poupakis  
Proposal for a directive  
Article 8 – paragraph 1 a (new)
An ADR entity may decide to launch an investigation into trade practices which have not necessarily been referred to it, but in respect of which there exists a reasonable suspicion or evidence that they are unfair and misleading for a large numbers of consumers. The findings of these investigations may be published and provide a basis for direct recommendations to traders.

Justification

Without having to wait for a complaint to be lodged, ADR entities should be able to decide to launch an investigation into commercial practices which are reasonably suspected of being - and which evidence suggests are - unfair and misleading and constitute a significant violation of the rights of a large number of consumers. ADR bodies should, moreover, inform the public about the findings of such investigations, issuing public recommendations to traders to correct their offending behaviour.

Amendment 322
Catherine Stihler

Proposal for a directive
Article 8 – paragraph 1 a (new)

Member States may provide for procedural rules that can be applied by an ADR entity in order to ensure that it only deals with those disputes which are appropriate to be dealt with through ADR and that these disputes are submitted in a timely manner. Member States should ensure that such procedural rules do not unreasonably limit the scope of application of ADR in that Member State.
Justification

The ability to maintain effective rules to reject complaints is particularly important for ADRs when the parties do not need to agree in advance to go to ADR. As such ADRs needs to be able to reject complaints that they are not best placed to deal with (e.g. to tell the consumer they should go to another ADR or to a court – instead of only rejecting complaints that have already been to court).

Amendment 323
Konstantinos Poupakis

Proposal for a directive
Article 8 – paragraph 1 b (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consumers may resort to ADR procedures within a period of time that may not be less than one year of their becoming fully aware of the aggressive acts or omissions which form the basis of their dispute with the trader, in order to ensure easy access to ADR entities and thus avoid making the solution even more difficult.</td>
<td></td>
</tr>
</tbody>
</table>

Or. el

Amendment 324
Cornelis de Jong, Kyriacos Triantaphyllides

Proposal for a directive
Article 9 – paragraph 1 – introductory part

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Member States shall ensure that in ADR procedures:</td>
<td></td>
</tr>
</tbody>
</table>

1. Member States shall ensure that in ADR procedures followed by ADR entities:

Or. en

Amendment 325
Robert Rochefort
Proposal for a directive  
Article 9 – paragraph 1 – point a  

**Text proposed by the Commission** 
(a) the parties have the possibility to express their point of view and hear the arguments and facts put forward by the other party and any experts' statements;  

**Amendment** 
(a) the parties have the possibility to express their point of view, hear the arguments and facts put forward by the other party and any experts' statements and respond within a reasonable period;

---

**Amendment 326**  
Konstantinos Poupakis  

Proposal for a directive  
Article 9 – paragraph 1 – point a a (new)  

**Text proposed by the Commission** 

**Amendment**  
(aa) the dispute between the parties is adequately documented with evidence showing the need for a solution;

---

**Amendment 327**  
Cristian Silviu Buşoi  

Proposal for a directive  
Article 9 – paragraph 1 – point b  

**Text proposed by the Commission** 
(b) the outcome of the ADR procedure is made available to both parties in writing or on a durable medium, stating the grounds on which the outcome is based.  

**Amendment**  
(b) the outcome of an ADR procedure cannot have any binding effect on the parties involved unless they are informed before the commencement of the procedure about the binding nature of that outcome and explicitly state their consent to it. This provision shall not apply where national rules provide that
solutions are binding on the trader.

Amendment 328
Hans-Peter Mayer, Andreas Schwab, Sabine Verheyen

Proposal for a directive
Article 9 – paragraph 2 – introductory part

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Member States shall ensure that in ADR procedures which aim at resolving the dispute by suggesting a solution</td>
<td>2. Member States shall ensure that in ADR procedures which aim at resolving the dispute</td>
</tr>
</tbody>
</table>

Justification

ADR procedures may lead to a resolution through discussion, so without any formal recommendation being made.

Amendment 329
Cornelis de Jong, Kyriacos Triantaphyllides

Proposal for a directive
Article 9 – paragraph 2 – introductory part

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Member States shall ensure that in ADR procedures which aim at resolving the dispute by suggesting a solution</td>
<td>2. Member States shall ensure that in ADR procedures followed by ADR entities which aim at resolving the dispute by suggesting a solution</td>
</tr>
</tbody>
</table>

Amendment 330
Hans-Peter Mayer, Sabine Verheyen
### Proposal for a directive
#### Article 9 – paragraph 2 – point a – introductory part

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) the consumer, <strong>before agreeing to a suggested solution</strong>, is informed that:</td>
<td>(a) <strong>immediately after receipt of the application for ADR</strong>, the consumer is informed that:</td>
</tr>
</tbody>
</table>

**Or. de**

#### Justification

The consumer should have the option of withdrawing an application for ADR if he does not agree with the substance of the information. There is no point in conducting an ADR procedure after which the consumer does not agree with this information.

---

### Amendment 331
Robert Rochefort

#### Proposal for a directive
#### Article 9 – paragraph 2 – point a – introductory part

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) the <strong>consumer</strong>, before agreeing to a suggested solution, <strong>is</strong> informed that:</td>
<td>(a) the <strong>parties</strong>, before agreeing to a suggested solution, <strong>are</strong> informed that:</td>
</tr>
</tbody>
</table>

**Or. fr**

### Amendment 332
Philippe Juvin

#### Proposal for a directive
#### Article 9 – paragraph 2 – point a – introductory part

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) the <strong>consumer</strong>, before agreeing to a suggested solution, <strong>is</strong> informed that:</td>
<td>(a) the <strong>parties</strong>, before agreeing to a suggested solution, <strong>are</strong> informed that:</td>
</tr>
</tbody>
</table>

**Or. en**
Justification

Both parties must have the possibility to be informed that they have the choice whether or not to agree to the solution proposed by the ADR entity, that the proposed solution may be less favourable than a Court decision, etc. Both the consumer and the trader being party to the procedure, there is no ground for excluding one of them.

Amendment 333
Konstantinos Poupakis

Proposal for a directive
Article 9 – paragraph 2 – point a – introductory part

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) the <strong>consumer</strong>, before agreeing to a suggested solution, <strong>is</strong> informed that:</td>
<td>a) the <strong>parties</strong>, before agreeing to a suggested solution, <strong>are first and foremost informed about their rights under existing legislation</strong> that:</td>
</tr>
</tbody>
</table>


Amendment 334
Philippe Juvin

Proposal for a directive
Article 9 – paragraph 2 – point a – point i

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) <strong>he has</strong> the choice as to whether or not to agree to a suggested solution;</td>
<td>(i) <strong>they have</strong> the choice as to whether or not to agree to a suggested solution;</td>
</tr>
</tbody>
</table>


Justification

Consequence of modification of article 9 paragraph 2 (a).
**Amendment 335**  
Hans-Peter Mayer, Sabine Verheyen  

Proposal for a directive  
Article 9 – paragraph 2 – point a – point i  

*Text proposed by the Commission*  
(i) *he has* the choice as to whether or not to agree to a suggested solution;  

*Amendment*  
(i) *both parties have* the choice as to whether or not to agree to a suggested solution;  

Or. de

**Amendment 336**  
Robert Rochefort  

Proposal for a directive  
Article 9 – paragraph 2 – point a – point i  

*Text proposed by the Commission*  
i) *he has* the choice as to whether or not to agree to a suggested solution;  

*Amendment*  
i) *they have* the choice as to whether or not to agree to a suggested solution;  

Or. fr

**Amendment 337**  
Philippe Juvin  

Proposal for a directive  
Article 9 – paragraph 2 – point a – point ii  

*Text proposed by the Commission*  
(ii) the suggested solution may be *less favourable than* an outcome determined by a court applying legal rules;  

*Amendment*  
(ii) the suggested solution may *differ from* an outcome determined by a court applying legal rules;  

Or. en

**Amendment 338**  
Hans-Peter Mayer, Sabine Verheyen
Proposal for a directive
Article 9 – paragraph 2 – point a – point ii

Text proposed by the Commission

(ii) the suggested solution may be less favourable than an outcome determined by a court applying legal rules;

Amendment

(ii) the suggested solution may be more or less favourable than an outcome determined by a court applying legal rules;

Or. de

Amendment 339
Robert Rochefort

Proposal for a directive
Article 9 – paragraph 2 – point a – point ii

Text proposed by the Commission

ii) the suggested solution may be less favourable than an outcome determined by a court applying legal rules;

Amendment

ii) where applicable the proposed solution may be less favourable than an outcome determined by a court applying legal rules;

Or. fr

Amendment 340
Christel Schaldemose

Proposal for a directive
Article 9 – paragraph 2 – point a – point ii

Text proposed by the Commission

ii) the suggested solution may be less favourable than an outcome determined by a court applying legal rules;

Amendment

ii) the suggested solution complies with such binding legal rules as may exist in the Member State in which the dispute resolution takes place;

Or. da

Amendment 341
Philippe Juvin
Proposal for a directive
Article 9 – paragraph 2 – point a – point iii

Text proposed by the Commission

(iii) before agreeing or rejecting the suggested solution he has the right to seek independent advice;

Amendment

(iii) before agreeing or rejecting the suggested solution they have the right to seek independent advice;

Or. en

Justification

Consequence of modification of article 9 paragraph 2 (a).

Amendment 342
Hans-Peter Mayer, Sabine Verheyen

Proposal for a directive
Article 9 – paragraph 2 – point a – point iii

Text proposed by the Commission

(iii) before agreeing or rejecting the suggested solution he has the right to seek independent advice;

Amendment

(iii) he has the right to seek independent advice at any time, particularly with regard to the recommended solution;

Or. de

Justification

This consultation should start before the procedure begins. Otherwise, it would appear as if the resolution of a dispute by ADR were ultimately called into question by the consumer’s own entity.

Amendment 343
Hans-Peter Mayer, Sabine Verheyen

Proposal for a directive
Article 9 – paragraph 2 – point a – point iii a (new)
(iii a) before agreeing to a suggested solution, the parties are informed of the legal effect of such agreement;

Or. de

Justification

It is not apparent why this should not fall under (a).

Amendment 344
Hans-Peter Mayer, Sabine Verheyen

Proposal for a directive
Article 9 – paragraph 2 – point a – point iii b (new)

Text proposed by the Commission

(iii b) the applicant has the option at any time of withdrawing his application for ADR and thus declaring the procedure terminated.

Or. de

Justification

Consumers should have the option of withdrawing an application for ADR at any time, as it may also be possible to resolve the dispute between the parties bilaterally during the procedure.

Amendment 345
Hans-Peter Mayer, Sabine Verheyen

Proposal for a directive
Article 9 – paragraph 2 – point b

Text proposed by the Commission

(b) the parties, before agreeing to a suggested solution, are informed of the

Amendment

(b) when the recommended solution is
legal effect of such agreement; communicated to the parties, they are:

Justification

This is the introductory part of a new paragraph, incorporating the following individual amendments as subparagraphs.

Amendment 346
Hans-Peter Mayer, Sabine Verheyen

Proposal for a directive
Article 9 – paragraph 2 – point b – point i (new)

Text proposed by the Commission  Amendment

(i) again reminded of the binding legal effect of agreement to a recommended solution;

Or. de

Amendment 347
Hans-Peter Mayer, Sabine Verheyen

Proposal for a directive
Article 9 – paragraph 2 – point b – point ii (new)

Text proposed by the Commission  Amendment

(ii) informed of the 14 calendar day time limit for agreement which runs from the date of delivery of the recommended solution;

Or. de

Amendment 348
Hans-Peter Mayer, Sabine Verheyen
Proposal for a directive
Article 9 – paragraph 2 – point b – point iii (new)

Text proposed by the Commission

(iii) informed that, if they do not agree to the recommended solution in writing within 14 calendar days of delivery, this will be deemed to constitute rejection of it, while the time limit will be considered to have been respected if the document indicating agreement is posted within the 14 calendar days.

Amendment 349
Konstantinos Poupakis

Proposal for a directive
Article 9 – paragraph 2 – point b a (new)

Text proposed by the Commission

b a) if the parties decide to reject the proposed solution, the ADR entity may publish this solution;

Amendment

Or. el

Amendment 350
Hans-Peter Mayer, Sabine Verheyen

Proposal for a directive
Article 9 – paragraph 2 – point c

Text proposed by the Commission

(c) the parties, before expressing their consent to a suggested solution or amicable agreement, are allowed a reasonable period of time to reflect.

Amendment

deleted
Amendment 351
Ashley Fox

Proposal for a directive
Article 9 – paragraph 2 a (new)

Text proposed by the Commission

2 a. Member States may place limits on the amount of redress that may be awarded by an ADR entity or on the value of the disputes claimed by the consumer.

Amendment

Or. en

Amendment 352
Ashley Fox

Proposal for a directive
Article 9 a (new)

Text proposed by the Commission

Article 9 a

Binding ADR Procedures

Member States shall ensure that in ADR procedures which aim at resolving the dispute by imposing a solution the solution imposed may be binding on the parties only if they were informed of its binding nature in advance and specifically accepted this. Specific acceptance by the trader is not required if national rules provide that solutions are binding on traders.

Amendment

Or. en

Justification

As a general rule where ADR procedures impose a binding solution on the parties, those parties should have given prior acceptance. The exception to this is where national rules
provide that the solutions are binding on traders. These schemes operate very effectively for consumers and they should not be undermined.

Amendment 353
Cornelis de Jong, Wim van de Camp

Proposal for a directive
Article 9 a (new)

Text proposed by the Commission

Amendment

Article 9 a

Liberty

1. Member States shall ensure that the decision taken by the ADR entity shall be binding on the parties only if they were informed of its binding nature in advance and specifically accepted this.

2. Member States shall ensure that notwithstanding the acceptance by the trader and the consumer of the binding nature of a decision taken by the ADR entity, both parties will retain their right to seek redress before the courts.

Or. en

Amendment 354
Louis Grech

Proposal for a directive
Article 9 a (new)

Text proposed by the Commission

Amendment

Article 9 a

Liberty

1. Member States shall ensure that the decision taken by the ADR entity shall be binding on the parties only if they were informed of its binding nature in advance and specifically accepted this, with the exception when national rules provide
that solutions are only binding on traders.

2. Member States shall ensure that an agreement between a consumer and a trader to submit complaints to an ADR entity is not binding on the consumer if it was concluded before the dispute arises and if it deprives the consumer of his right to bring an action before the courts for the resolution of the dispute.

Or. en

Amendment 355
Cristian Silviu Buşoi

Proposal for a directive
Article 9 a (new)

Text proposed by the Commission

Amendment

Article 9 a

Confidentiality of ADR procedures

(1) Member States shall ensure that, unless the parties agree otherwise, neither ADR entities nor natural persons in charge of alternative dispute resolution shall be compelled to give evidence in civil and commercial judicial proceedings or arbitration regarding information arising out of or in connection with an ADR procedure, except:

(a) where this is necessary for overriding considerations of public policy of the Member State concerned, in particular when required to ensure the protection of the best interests of children or to prevent harm to the physical or psychological integrity of a person;

(b) where disclosure of the content of the outcome of an ADR procedure is necessary in order to implement or enforce that outcome.

(2) Nothing in paragraph 1 shall preclude Member States from enacting stricter
measures to protect the confidentiality of ADR procedures.

Amendment 356
Catherine Stihler

Proposal for a directive
Article 9 a (new)

Text proposed by the Commission

Amendment

Article 9 a

1. Member States shall ensure that the decision taken by the ADR entity shall be binding on the parties only if they were informed of its binding nature in advance and specifically accepted this.

2. Member States shall ensure that an agreement between a consumer and a trader to submit complaints to an ADR entity is not binding on the consumer if it was concluded before the dispute arises and if it deprives the consumer of his right to bring an action before the courts for the resolution of the dispute. This provision shall not apply where national rules provide that solutions are binding on the trader.

Or. en

Amendment 357
Silvia Costa

Proposal for a directive
Article 9 a (new)

Text proposed by the Commission

Amendment

Article 9a

Member States shall ensure that agreements between consumers and
traders to submit complaints to an ADR entity do not deprive consumers of their right to go to court to settle the dispute.

Or. it

Amendment 358
Cornelis de Jong, Wim van de Camp

Proposal for a directive
Article 9 b (new)

Text proposed by the Commission

Amendment

Article 9 b

Legality

Member States shall ensure that in ADR procedures which aim at resolving the dispute by imposing a solution, the solution imposed shall not result in the consumer being deprived of the protection afforded by the mandatory provisions applicable under the law of the Member State in the territory of which the ADR entity is established as well as the protection afforded by the mandatory provisions applicable under the law of the Member State where the consumer has his habitual residence as defined in Article 6 of Regulation (EC) No. 593/2008

Or. en

Amendment 359
Ashley Fox

Proposal for a directive
Article 9 b (new)

Text proposed by the Commission

Amendment

Article 9 b

Legality

Member States shall ensure that in ADR procedures which aim at resolving the dispute by imposing a solution on either
the consumer or both parties, any solution imposed on the consumer shall not result in the consumer being deprived of the protection afforded by the mandatory provisions applicable under the law of the Member State in the territory of which the ADR entity is established. In the case of cross-border disputes, the solution imposed by the ADR entity shall not result in the consumer being deprived of the protection afforded by the mandatory provisions applicable under the law of the Member State where the consumer has his habitual residence as defined in Article 6 of Regulation (EC) No 593/2008.

Or. en

Amendment 360
Cristian Silviu Buşoi

Proposal for a directive
Article 9 b (new)

Text proposed by the Commission

Amendment

Article 9 b

Effect of ADR procedures on limitation and prescription periods

(1) Member States shall ensure that parties who choose ADR in an attempt to settle a dispute are not subsequently prevented from initiating judicial proceedings in relation to that dispute by the expiry of limitation or prescription periods during the ADR procedure.

(2) Paragraph 1 shall be without prejudice to provisions on limitation or prescription periods in international agreements to which Member States are party.

Or. en
Amendment 361
Ildikó Gáll-Pelcz

Proposal for a directive
Article 10 – paragraph 1

Text proposed by the Commission

(1) Member States shall ensure that traders established on their territories inform consumers about the ADR entities by which they are covered and which are competent to deal with potential disputes between themselves and consumers. Such information shall include the addresses of the relevant ADR entities' websites and specify whether or not the trader commits to use these entities to resolve disputes with consumers.

Amendment

(1) Member States shall ensure that traders established on their territories inform consumers about the ADR entities by which they are covered and which are competent to deal with potential disputes between themselves and consumers. Such information shall include the addresses of the relevant ADR entities' websites and specify whether or not the trader commits to use these entities to resolve disputes with consumers. The information shall at any event include the addresses and websites of the relevant ADR entities.

Or. hu

Amendment 362
Robert Rochefort, Cristian Silviu Bușoi

Proposal for a directive
Article 10 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that traders established on their territories inform consumers about the ADR entities by which they are covered and which are competent to deal with potential disputes between themselves and consumers. Such information shall include the addresses of the relevant ADR entities' websites and specify whether or not the trader commits to use these entities to resolve disputes with consumers.

Amendment

1. Member States shall ensure that traders established on their territories inform consumers about the ADR entities by which they are covered and which they undertake to use and which are competent to deal with potential disputes between themselves and consumers. Such information shall include the contact details and the addresses of the relevant ADR entities' websites.

Or. fr
Amendment 363
Ashley Fox

Proposal for a directive
Article 10 – paragraph 1

Text proposed by the Commission
1. Member States shall ensure that traders
established on their territories inform
consumers about the ADR entities by
which they are covered and which are
competent to deal with potential disputes
between themselves and consumers. Such
information shall include the addresses of
the relevant ADR entities' websites and
specify whether or not the trader commits
to use these entities to resolve disputes
with consumers.

Amendment
1. Member States shall ensure that traders
established on their territories which
commit to or are obliged to use an ADR
entity or ADR entities to resolve disputes
with consumers inform their consumers
about the relevant ADR entity or ADR
to the relevant ADR entity or ADR
entities. The information shall include the
address of the relevant ADR entity's or
ADR entities' website.

Justification
Only businesses that will use ADR should be required to provide details of an ADR entity
otherwise consumers may be misled about the availability of ADR. In addition, it would be
burdensome to require businesses to include details of ADR entities on invoices and receipts,
particularly for businesses that use several different ADR entities for different
products/services that they sell.

Amendment 364
Cornelis de Jong

Proposal for a directive
Article 10 – paragraph 1

Text proposed by the Commission
1. Member States shall ensure that traders
established on their territories inform
consumers about the ADR entities by
which they are covered and which are
competent to deal with potential disputes
between themselves and consumers. Such
information shall include the addresses of
the relevant ADR entities' websites and

Amendment
1. Member States shall ensure that traders
established on their territories inform
consumers about the ADR entities by
which they are covered and which are
competent to deal with potential disputes
between themselves and consumers. Such
information shall include the addresses of
the relevant ADR entities' websites and
specify whether or not the trader commits to use these entities to resolve disputes with consumers.

specify whether or not the trader commits to use these entities to resolve disputes with consumers. *Such information shall include the addresses of the relevant ADR entities' websites.*

**Amendment 365**  
Wim van de Camp

**Proposal for a directive**  
**Article 10 – paragraph 1**

**Text proposed by the Commission**

1. Member States shall ensure that traders established on their territories inform consumers about the ADR entities by which they are covered and which are competent to deal with potential disputes between themselves and consumers. Such information shall include the addresses of the relevant ADR entities' websites *and specify whether or not the trader commits to use these entities to resolve disputes with consumers.*

**Amendment**

1. Member States shall ensure that traders established on their territories inform consumers about the ADR entities by which they are covered and which are competent to deal with potential disputes between themselves and consumers. Such information shall include the addresses of the relevant ADR entities' websites.

**Justification**

*The ADR directive and its accompanying documents give consumers the impression that the directive will accomplish and ensure that consumers can file all their complaints to an ADR body, and will realize full coverage. Unlike access to court, which is a citizen’s right, (and apart from a limited number of exemptions where on the basis of EU legislation ADR is made mandatory) the proposal will not change the fact that ADR remains voluntary, and rightly so. These principles shall be enshrined in the directive, so that that the right expectations are set. This amendment lays down that this Directive shall reach out to Member States to enable and promote their (notified) ADR bodies in such a way that consumer disputes can be handled, whenever possible and appropriate, as well as to lay down that access to ADR is voluntary and depends on the willingness of the parties to engage to ADR.*
Amendment 366
Hans-Peter Mayer, Andreas Schwab, Sabine Verheyen

Proposal for a directive
Article 10 – paragraph 2

Text proposed by the Commission

2. The information referred to in paragraph 1 shall be mentioned in an easily, directly, prominently and permanently accessible way on the trader's website, where one exists, in the general terms and conditions of contracts for the sale of goods or provision of services between the trader and a consumer and in invoices and receipts relating to such contracts. It shall specify how further information on the ADR entity concerned and on the conditions for using it can be accessed.

Amendment

2. The information referred to in paragraph 1 must be easily accessible and comprehensible. It shall specify how further information on the ADR entity concerned and on the conditions for using it can be accessed.

Or. de

Amendment 367
Robert Rochefort, Cristian Silviu Bușoi

Proposal for a directive
Article 10 – paragraph 2

Text proposed by the Commission

2. The information referred to in paragraph 1 shall be mentioned in an easily, directly, prominently and permanently accessible way on the trader's website, where one exists, in the general terms and conditions of contracts for the sale of goods or provision of services between the trader and a consumer and in invoices and receipts relating to such contracts. It shall specify how further information on the ADR entity concerned and on the conditions for using it can be accessed.

Amendment

2. The information referred to in paragraph 1 shall be published in a clear and readily understandable form and mentioned in an easily, directly and permanently accessible way on the trader's website, where one exists, in the general terms and conditions of contracts for the sale of goods or provision of services between the trader and a consumer and whenever a trader rejects a complaint submitted directly to him by a consumer. It shall specify how further information on the ADR entity concerned and on the conditions for using it can be accessed.

Or. fr
Amendment 368
Ashley Fox

Proposal for a directive
Article 10 – paragraph 2

Text proposed by the Commission

2. The information referred to in paragraph 1 shall be mentioned in an easily, directly, prominently and permanently accessible way on the trader's website, where one exists, in the general terms and conditions of contracts for the sale of goods or provision of services between the trader and a consumer and in invoices and receipts relating to such contracts. It shall specify how further information on the ADR entity concerned and on the conditions for using it can be accessed.

Amendment

2. The information referred to in paragraph 1 shall be mentioned in a clear comprehensible and easily accessible way on the trader's website, where one exists, and if applicable, in the general terms and conditions of sales or service contracts between the trader and a consumer.

Or. en

Justification

Only businesses that will use ADR should be required to provide details of an ADR entity otherwise consumers may be misled about the availability of ADR. In addition, it would be burdensome to require businesses to include details of ADR entities on invoices and receipts, particularly for businesses that use several different ADR entities for different products/services that they sell.

Amendment 369
Sandra Kalniete

Proposal for a directive
Article 10 – paragraph 2

Text proposed by the Commission

2. The information referred to in paragraph 1 shall be mentioned in an easily, directly, prominently and permanently accessible way on the trader's website, where one exists, in the general terms and conditions of contracts for the sale of goods or

Amendment

2. The information referred to in paragraph 1 shall be mentioned in an easily, directly, prominently and permanently accessible way on the trader's website, where one exists, in the general terms and conditions of contracts for the sale of goods or
provision of services between the trader and a consumer and in invoices and receipts relating to such contracts. It shall specify how further information on the ADR entity concerned and on the conditions for using it can be accessed.

Amendment 370
Mitro Repo, Sirpa Pietikäinen

Proposal for a directive
Article 10 – paragraph 2

Text proposed by the Commission

2. The information referred to in paragraph 1 shall be mentioned in an easily, directly, prominently and permanently accessible way on the trader's website, where one exists, in the general terms and conditions of contracts for the sale of goods or provision of services between the trader and a consumer and in invoices and receipts relating to such contracts. It shall specify how further information on the ADR entity concerned and on the conditions for using it can be accessed.

Amendment

2. The information referred to in paragraph 1 shall be mentioned in a clear, comprehensible and easily accessible way on the trader's website, where one exists, and if applicable in the general terms and conditions of contracts for the sale of goods or provision of services between the trader and a consumer.

Justification

Member States and traders should be able to consider how to inform consumers. The requirement of giving information in invoices and receipts would be an excessive burden especially to SMEs and it would be also unpractical.

Amendment 371
Hans-Peter Mayer, Andreas Schwab, Sabine Verheyen

Proposal for a directive
Article 10 – paragraph 3
Text proposed by the Commission

3. The provisions in this Article shall be without prejudice to the provisions in Articles 6, 7 and 8 of Directive 2011/83/EU concerning consumer information for distance and off-premises contracts.

Amendment

3. The provisions in this Article shall be without prejudice to the provisions in Articles 6, 7 and 8 of Directive 2011/83/EU concerning consumer information for distance and off-premises contracts and corresponding provisions of Directive 2009/138/EC on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) and Directive 2002/65/EC concerning the distance marketing of consumer financial services.

Or. de

Justification

The obligations for undertakings to provide information to consumers as referred to in Article 10 are not only regulated in the Directive on consumer rights referred to here. The provisions concerning compulsory information about extrajudicial complaints procedures and remedies which are laid down in the Solvency II Framework Directive and the Directive on distance marketing of consumer financial services should be mentioned as additional examples in Article 10(3).

Amendment 372

Ashley Fox

Proposal for a directive

Article 12 – paragraph 1

Text proposed by the Commission

Member States shall ensure that ADR entities, consumer associations, business associations, the centres of the European Consumer Centre Network and, where appropriate, the bodies designated in accordance with Article 11(2) make publicly available at their premises and on their websites the list of ADR entities referred to in Article 17(3).

Amendment

Member States shall ensure that ADR entities, the centres of the European Consumer Centre Network and, where appropriate, the bodies designated in accordance with Article 11(2), make publicly available on their websites by providing a link to the Commission’s website and by any other means they consider appropriate, the list of ADR entities referred to in Article 17(4).
**Justification**

Consumer associations and business associations are independent organisations and it would be inappropriate for Member States to oblige them to act in any particular way. It may not always be appropriate to have available at the premises of ADR entities the list of ADR entities.

**Amendment 373**  
Ildikó Gáll-Pelcz

Proposal for a directive  
Article 12 – paragraph 1 a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Commission and the Member States shall ensure appropriate disclosure of information as to how consumers may access the ADR procedure in the event of contractual disputes as referred to in Article 2(1) in relation to a particular trader.</td>
<td></td>
</tr>
</tbody>
</table>

**Amendment 374**  
Konstantinos Poupakis

Proposal for a directive  
Article 12 – paragraph 1 a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Commission and Member States shall ensure the proper dissemination of information on the possibilities for consumers to receive compensation in the event of a contractual dispute with a trader, as stated in Article 2.</td>
<td></td>
</tr>
</tbody>
</table>

Or. en

Or. hu

Or. el
Amendment 375
Robert Rochefort, Cristian Silviu Buşoi

Proposal for a directive
Article 13 – title

Text proposed by the Commission
Cooperation between ADR entities on the resolution of cross-border disputes

Amendment
Cooperation and exchanges of experience between ADR entities

Or. fr

Amendment 376
Robert Rochefort, Cristian Silviu Buşoi

Proposal for a directive
Article 13 – paragraph 1

Text proposed by the Commission
1. Member States shall ensure that ADR entities cooperate on the resolution of cross-border disputes.

Amendment
1. Member States should ensure that ADR entities cooperate on the resolution of cross-border disputes and conduct regular exchanges of good practice as regards the settlement of both cross-border and domestic disputes.

Or. fr

Amendment 377
Ashley Fox

Proposal for a directive
Article 13 – paragraph 1

Text proposed by the Commission
1. Member States shall ensure that ADR entities cooperate on the resolution of cross-border disputes.

Amendment
1. Member States shall encourage ADR entities to cooperate with the resolution of cross-border disputes.

Or. en
Justification

ADR entities are often independent organisations and it would not be appropriate to ensure that they cooperate. Placing unnecessary burdens on ADR providers may deter them from becoming listed ADR entities for the purposes of this Directive.

Amendment 378
Robert Rochefort

Proposal for a directive
Article 13 – paragraph 1 a (new)

Text proposed by the Commission

\textit{1a. The Commission shall support and facilitate exchanges of experience between ADR entities in order to encourage the use of best practices, in particular through the 'Consumers' programme.}

Or. fr

Amendment 379
Ashley Fox

Proposal for a directive
Article 14 – paragraph 1

Text proposed by the Commission

1. Member States shall \textit{ensure} cooperation between ADR entities and national authorities entrusted with the enforcement of Union legislation on consumer protection.

Amendment

1. Member States shall \textit{encourage} cooperation between ADR entities and national authorities entrusted with the enforcement of Union legislation on consumer protection.

Or. en

Justification

ADR entities are often independent organisations and it would not be appropriate to ensure that they cooperate.
Amendment 380
Ashley Fox

Proposal for a directive
Article 14 – paragraph 2

Text proposed by the Commission

2. This cooperation shall include mutual exchange of information on business practices by traders about which consumers have lodged complaints. It shall also include the provision of technical assessment and information by such national authorities to ADR entities where such assessment or information is necessary for the handling of individual disputes.

Amendment

2. This cooperation may include mutual exchange of information on practices in specific business sectors by traders about which consumers have lodged complaints. It shall also include the provision of technical assessment and information by such national authorities to ADR entities where such assessment or information is necessary for the handling of individual disputes and cannot be obtained elsewhere.

Or. en

Justification

It is important to enable greater sharing of information between ADR entities and national enforcing authorities but requiring such sharing of information may, in certain circumstances, jeopardise the independence of these organisations and could deter traders from using ADR.

Amendment 381
Hans-Peter Mayer, Andreas Schwab, Sabine Verheyen

Proposal for a directive
Article 14 – paragraph 2

Text proposed by the Commission

2. This cooperation shall include mutual exchange of information on business practices by traders about which consumers have lodged complaints. It shall also include the provision of technical assessment and information by such national authorities to ADR entities where such assessment or information is necessary for the handling of individual disputes.

Amendment

2. This cooperation shall include mutual exchange of information on traders about whom consumers have repeatedly lodged complaints. It shall also include the provision of technical assessment and information by such national authorities to ADR entities where such assessment or information is necessary for the handling of individual disputes and is already
Undertakings’ business practices should not be publicised en masse: this information also includes confidential data and business secrets which should not be passed on to the public. Moreover, an ADR entity cannot compel State agencies to provide assessments by means of European law. This particularly applies in relation to financing.

**Amendment 382**

Philippe Juvin

**Proposal for a directive**

**Article 14 – paragraph 2**

*Text proposed by the Commission*

2. This cooperation shall include mutual exchange of information on **business practices** by **traders about which consumers have lodged complaints**. It shall also include the provision of technical assessment and information by such national authorities to ADR entities where such assessment or information is necessary for the handling of individual disputes.

*Amendment*

2. This cooperation shall include mutual exchange of information on **complaints lodged by consumers and the positive or negative outcome of the ADR procedure**. It shall also include the provision of technical assessment and information by such national authorities to ADR entities where such assessment or information is necessary for the handling of individual disputes.

**Justification**

The reference to "business practices" seems to be unclear and ambiguous. The new wording attempts to focus the exchange of information on the nature and type of complaint lodged by consumers before the ADR entity, and the outcome of the procedure (whether if it has been successful or not).

**Amendment 383**

Ashley Fox

**Proposal for a directive**

**Article 15 – paragraph 1**
1. Each Member State shall designate an authority as competent authority in terms of Articles 16 and 17. Each Member State may designate more than one competent authority. If a Member State does so, it shall determine which of the competent authorities designated is the single point of contact for the Commission among the competent authorities established on its territory. Each Member State shall communicate the authority or, where appropriate, the competent authorities including the single point of contact it has designated to the Commission.

Or. en

Justification

In order to reflect different sectoral or geographical approaches to ADR, it is necessary to allow Member States to designate more than one competent authority.

Amendment 384
Cristian Silviu Buşoi

Proposal for a directive
Article 15 – paragraph 1

Text proposed by the Commission

1. Each Member State shall designate a competent authority in charge of monitoring the functioning and development of ADR entities established on its territory. Each Member State shall communicate the authority it has designated to the Commission.

Amendment

1. Each Member State shall designate a competent authority in charge of monitoring the functioning and development of ADR entities established on its territory. Each Member State may designate more than one competent authority if the monitoring of ADR entities in different sectors so requires. If a Member State does so, it shall designate one of the competent authorities as the single point of contact with the Commission. Each Member State shall communicate the authority or, where
appropriate, the authorities, including the one acting as single point of contact it has designated to the Commission.

Justification

It may be difficult for one competent authority to monitor the functioning and development of ADR entities in all sectors.

Amendment 385
Catherine Stihler

Proposal for a directive
Article 15 – paragraph 1

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Each Member State shall designate a competent authority in charge of monitoring the functioning and development of ADR entities established on its territory. Each Member State shall communicate the authority it has designated to the Commission.</td>
<td>1. Each Member State shall designate an authority as competent authority in terms of Articles 16 and 17. Each Member State may designate more than one competent authority. If a Member State does so, it shall determine which of the competent authorities designated is the single point of contact for the Commission among the competent authorities established on its territory. Each Member State shall communicate the authority or, where appropriate, the competent authorities including the single point of contact it has designated to the Commission.</td>
</tr>
</tbody>
</table>

Justification

In some Member States, sectoral differences necessitate the need for numerous specific ADR authorities.

Amendment 386
Cristian Silviu Buşoi
| Proposal for a directive  
<table>
<thead>
<tr>
<th>Article 15 – paragraph 2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Text proposed by the Commission</strong></td>
</tr>
<tr>
<td>2. The Commission shall establish a list of the competent authorities communicated to it in accordance with paragraph 1 and publish that list in the Official Journal of the European Union.</td>
</tr>
</tbody>
</table>

**Amendment 387**  
Heide Rühle, Hans-Peter Mayer

| Proposal for a directive  
<table>
<thead>
<tr>
<th>Article 16 – paragraph 2 – point e</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Text proposed by the Commission</strong></td>
</tr>
<tr>
<td>(e) relevant statistics demonstrating the way in which traders use alternative dispute resolution for their disputes with consumers;</td>
</tr>
</tbody>
</table>

**Justification**

*The information which ADR entities are required to provide to the competent authorities should be practicable, manageable and not associated with unnecessary administrative burden.*

**Amendment 388**  
Heide Rühle, Hans-Peter Mayer

| Proposal for a directive  
| Article 16 – paragraph 2 – point g  |
(g) where applicable, an assessment of the effectiveness of their cooperation within networks of ADR entities facilitating the resolution of cross-border disputes;

Justification

The information which ADR entities are required to provide to the competent authorities should be practicable, manageable and not associated with unnecessary administrative burden.

Amendment 389
Heide Rühle, Hans-Peter Mayer

Proposal for a directive
Article 16 – paragraph 2 – point h

(h) a self-assessment of the effectiveness of the ADR procedure offered by the entity and of possible ways of improving its performance.

Justification

The information which ADR entities are required to provide to the competent authorities should be practicable, manageable and not associated with unnecessary administrative burden.

Amendment 390
Ashley Fox

Proposal for a directive
Article 16 – paragraph 2 a (new)
2 a. Member States shall ensure that ADR entities, where the natural persons in charge of dispute resolution are employed exclusively by the trader established on their territories, notify the competent authority on an annual basis of their continued compliance with the following requirements:

(a) appointment by the highest level of management and for a sufficient duration to ensure the independence of their action;

(b) lack of hierarchical link with the operational management, in particular with those responsible for customer relationships;

(c) remuneration not bound to the results of the ADR procedure;

(d) establishment of a dedicated budget providing the appropriate resources to ensure the effectiveness of ADR procedures.

Justification

The extension of the scope of the Directive to ADR schemes in which the natural person in charge is employed exclusively by the trader, should be accompanied by additional monitoring of such entities so as to ensure continued compliance with the specified requirements on independence and impartiality which determines their inclusion in the scope of the Directive.

Amendment 391
Cornelis de Jong

Proposal for a directive
Article 17 – paragraph 2 – subparagraph 2 – point e
(e) the need for the physical presence of the parties or of their representatives, if applicable; and

Amendment 392
Ashley Fox
Proposal for a directive
Article 17 – paragraph 2 a (new)

2 a. Competent authorities shall notify an ADR entity if that ADR entity no longer fulfils the requirements set out in paragraph 1. If the ADR entity after a period of three months still does not fulfil the requirements set out in paragraph 1, the competent authority shall remove the ADR entity from the list.

Justification

It should be possible, with appropriate warning, for an ADR entity to be removed from the list of ADR entities if they no longer meet the quality standards of the Directive.

Amendment 393
Ashley Fox
Proposal for a directive
Article 17 – paragraph 2 b (new)

2 b. This list shall be updated without undue delay and the relevant information notified to the Commission.
Amendment 394
Ashley Fox

Proposal for a directive
Article 17 – paragraph 2 c (new)

Text proposed by the Commission

Article 17 – paragraph 2 c

Amendment

2 c. If a Member State has designated more than one competent authority, the list and the updates referred to in paragraph 2 shall be notified to the Commission by the single point of contact. The list and the updates shall relate to all ADR entities established in that Member State.

Amendment 395
Heide Rühle, Hans-Peter Mayer

Proposal for a directive
Article 17 – paragraph 5 – introductory part

Text proposed by the Commission

Article 17 – paragraph 5

Amendment

5. Every two years, each competent authority shall publish a report on the development and functioning of ADR entities. The report shall in particular:

5. Every three years, each competent authority shall publish a report on the development and functioning of ADR entities. The report shall in particular:

Justification

Reduction of administrative burden for national authorities.

Amendment 396
Hans-Peter Mayer, Sabine Verheyen
Proposal for a directive
Article 18 – paragraph 1

Text proposed by the Commission

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to Article 10 and Article 16(1) and (2) of this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

Amendment

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to Article 10 and Article 16(1) and (2) of this Directive in the event of a required initial warning being issued but without success, and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

Or. de

Amendment 397
Ashley Fox

Proposal for a directive
Article 18 – paragraph 1

Text proposed by the Commission

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to Article 10 and Article 16(1) and (2) of this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

Amendment

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to Article 10 of this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

Or. en

Justification

ADR providers that no longer meet the requirements of the Directive should be removed from the list of ADR entities. It is therefore unnecessary to impose additional penalties on ADR entities and to do so could deter them from becoming listed entities under the Directive.
Amendment 398
Ashley Fox

Proposal for a directive
Article 22 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [Office of Publications insert date: 18 months after entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

Amendment

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [Office of Publications insert date: 24 months after entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

Or. en

Justification

A longer transposition period is required to enact implementing legislation and to establish new ADR entities or allow current ADR providers a transitional period during which they can amend their practices to comply with the requirements of the Directive. It is not necessary to require Member States to produce a correlation table.

Amendment 399
Wim van de Camp

Proposal for a directive
Article 22 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [Office of Publications insert date: 18 months after entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

Amendment

Member States shall bring into force the laws, regulations and administrative provisions, or arrangements of self-regulation, necessary to comply with this Directive by [Office of Publications insert date: 18 months after entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.
Directive.

Justification

In some Member States, e.g. in the Netherlands, ADR is well developed, while there is no legislation. In these Member States there is ample room for business to introduce ADR through self regulation. Many businesses see ADR as a good mechanism for providing consumers with an additional mechanism to solve disputes. This may happen on a basis where also the government takes its (financial) part in such cooperative mechanisms. It is considered appropriate to explicitly lay down in article 22 that the ADR directive can be implemented through self regulation.

Amendment 400
Hans-Peter Mayer, Sabine Verheyen

Proposal for a directive
Article 23 – paragraph 1

Text proposed by the Commission

No later than [Office of Publications insert date: five years after the entry into force], and every three years thereafter, the Commission shall submit to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Directive. The report shall consider the development and the use of ADR entities and the impact of this Directive on consumers and traders. The report shall be accompanied, where appropriate, by proposals for amendment of this Directive.

Amendment

No later than [Office of Publications insert date: four years after the entry into force], and every five years thereafter, the Commission shall submit to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Directive. This report shall consider the development and the use of ADR entities and the impact of this Directive on consumers and traders. The report shall be accompanied, where appropriate, by proposals for amendment of this Directive.

Amendment 401
Ildikó Gáll-Pelcz

Proposal for a directive
Article 23 – paragraph 1
Text proposed by the Commission

No later than [Office of Publications insert date: five years after the entry into force], and every three years thereafter, the Commission shall submit to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Directive. The report shall consider the development and the use of ADR entities and the impact of this Directive on consumers and traders. The report shall be accompanied, where appropriate, by proposals for amendment of this Directive.

Amendment

No later than [Office of Publications insert date: five years after the entry into force], and every three years thereafter, the Commission shall submit to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Directive. The report shall consider the development and the use of ADR entities and the impact of this Directive on consumers and traders. The report shall include in particular provisions relating to the scope of the directive, and consider the need to extend the scope to legal disputes initiated by traders against consumers. In that case proposals for amendment of this Directive shall be attached to the report.

Amendment 402
Ashley Fox

Proposal for a directive
Annex 1

Text proposed by the Commission

deleted

Amendment

Or. en

Justification

It would be hard to implement a requirement to compare the level of consumer protection ensured by different Union legislation. In addition, this Directive should prevail over specific provisions of other Union legislation, not that legislation in its entirety.