



2023/0376(COD)

29.1.2024

AMENDMENTS

37 - 125

Draft report

Laura Ballarín Cereza

(PE757.840v01-00)

Proposal for a Directive of the European Parliament and of the Council amending Directive 2013/11/EU on alternative dispute resolution for consumer disputes, as well as Directives (EU) 2015/2302, (EU) 2019/2161 and (EU) 2020/1828

Proposal for a directive

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

Amendment 37
Katrin Langensiepen

Proposal for a directive
Recital 3

Text proposed by the Commission

Since at least two out of five online transactions made by consumers residing in the Union are with traders based in third countries, the scope of Directive 2013/11/EU should be extended to allow those third country traders willing to participate in an ADR procedure to do so. No procedural impediments should hinder consumers residing in the Union from resolving disputes against traders, irrespective of their establishment, if the traders accept to follow an ADR procedure through an ADR entity established in a Member State.

Amendment

(3) Since at least two out of five online transactions made by consumers residing in the Union are with traders based in third countries, the scope of Directive 2013/11/EU should be extended to allow those third country traders willing to participate in an ADR procedure to do so. No procedural impediments should hinder consumers residing in the Union from resolving disputes against traders, irrespective of their establishment, if the traders accept to follow an ADR procedure through an ADR entity established in a Member State. ***The consumer should be able to commence a procedure in the Member State where he or she resides.***

Or. en

Amendment 38
Antonius Manders

Proposal for a directive
Recital 4

Text proposed by the Commission

The complexity of consumer disputes has evolved significantly since the adoption of Directive 2011/13/EU. ***Digitilisation*** of goods and services, the growing importance of e-commerce and digital advertising in the formation of consumer contracts has resulted in a rise in the number of consumers being exposed to misleading online information and manipulative interfaces preventing them from making informed purchasing decisions. It is, therefore, necessary to clarify that contractual disputes arising from the sale of goods or services include

Amendment

(4) The complexity of consumer disputes has evolved significantly since the adoption of Directive 2011/13/EU. ***Digitalisation*** of goods and services, the growing importance of e-commerce and digital advertising in the formation of consumer contracts has resulted in a rise in the number of consumers being exposed to misleading online information and manipulative interfaces preventing them from making informed purchasing decisions. It is, therefore, necessary to clarify that contractual disputes arising from the sale of goods or services include

digital content and digital services, and to extend the scope of Directive 2011/13/EU, beyond such disputes so that consumers are also able to seek redress for practices harming them at a pre-contractual stage, ***irrespective of whether*** they later become bound by a contract.

digital content and digital services, and to extend the scope of Directive 2011/13/EU, beyond such disputes so that consumers are also able to seek redress for practices harming them at a pre-contractual stage, ***provided*** they later become bound by a contract.

Or. en

Amendment 39
Dita Charanzová

Proposal for a directive
Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) The notable increase in electronic commerce transactions involving EU traders and non-EU traders, coupled with a corresponding surge in instances of unfair practices, has a significant impact on the consumers' ability to autonomously and informedly exercise their choices or decisions. These unfair practices pose a threat to consumer trust in online marketplaces and exploit vulnerabilities in consumer behaviour. As a result, efficient mechanisms should be required to protect consumers from increasingly complex disputes. Consumers should have the possibility to signal unfair commercial practices to ADR entities and ADR entities should be able to deal with these unfair practices under strict conditions.

Or. en

Amendment 40
Antonius Manders

Proposal for a directive
Recital 4 b (new)

Text proposed by the Commission

Amendment

(4b) Member States should take note of

the Commission Recommendation of 17 October 2023 on quality requirements for dispute resolution procedures offered by online marketplaces and Union trade associations. The Commission should complement this Directive with a Regulation on quality requirements for dispute resolution procedures offered by online marketplaces and Union trade associations.

Or. en

Amendment 41
Adam Bielan

Proposal for a directive
Recital 5

Text proposed by the Commission

Amendment

(5) Moreover, Directive 2011/13/EU should also cover consumer rights arising from Union legislation which governs relationships between consumers and traders when there is no relationship of a contractual nature, with respect to the right to access and to pay for goods and services without undergoing discrimination based on nationality, place of residence or of establishment, as provided for in Articles 4 and 5 of Regulation (EU) 2018/302 of the European Parliament and of the Council³; the right to open and switch bank accounts as provided for in Articles 9, 10, 11, and 16 of Directive 2014/92/EU of the European Parliament and of the Council⁴ and to not be discriminated against as provided for in Article 15 of that Directive; the right to receive transparent information on retail conditions for roaming calls and SMS messages as provided for in Articles 13, 14 and 15 of Regulation (EU) 2022/612 of the European Parliament and of the Council⁵, the right to price transparency in air fares and rates as provided for in Article 23 of Regulation (EC) No 1008/2008 of

deleted

the European Parliament and of the Council⁶. Therefore, it should be provided that disputes arising in relation to such categories of consumer rights can be dealt with in ADR procedures.

³ *Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC (OJ L 60I, 2.3.2018, p. 1).*

⁴ *Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic feature (OJ L257, 28.8.2014, p. 214).*

⁵ *Regulation (EU) 2022/612 of the European Parliament and of the Council of 6 April 2022 on roaming on public mobile communications networks within the Union (OJ L 115, 13.4.2022, p. 1).*

⁶ *Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (OJ L 293, 31.10.2008, p. 3).*

Or. en

Amendment 42
Antonius Manders

Proposal for a directive
Recital 5

Text proposed by the Commission

Moreover, Directive 2011/13/EU should

Amendment

(5) Moreover, Directive 2011/13/EU

also cover consumer rights arising from Union legislation which governs relationships between consumers and traders when there is no relationship of a contractual nature, with respect to the right to access and to pay for goods and services without undergoing discrimination based on nationality, place of residence or of establishment, as provided for in Articles 4 and 5 of Regulation (EU) 2018/302 of the European Parliament and of the Council³; the right to open and switch bank accounts as provided for in Articles 9, 10, 11, and 16 of Directive 2014/92/EU of the European Parliament and of the Council⁴ and to not be discriminated against as provided for in Article 15 of that Directive; the right to receive transparent information on retail conditions for roaming calls and SMS messages as provided for in Articles 13, 14 and 15 of Regulation (EU) 2022/612 of the European Parliament and of the Council⁵, the right to price transparency in air fares and rates as provided for in Article 23 of Regulation (EC) No 1008/2008 of the European Parliament and of the Council⁶. Therefore, it should be provided that disputes arising in relation to such categories of consumer rights can be dealt with in ADR procedures.

³ Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC (OJ L 60I, 2.3.2018, p. 1).

⁴ Directive 2014/92/EU of the European Parliament and of the Council of 23 July

should also cover consumer rights arising from Union legislation which governs relationships between consumers and traders when there is no relationship of a contractual nature, with respect to the right to access and to pay for goods and services without undergoing discrimination based on nationality, place of residence or of establishment, as provided for in Articles 4 and 5 of Regulation (EU) 2018/302 of the European Parliament and of the Council³ ***or on any ground as referred to in Article 21 of the Charter of Fundamental Rights of the European Union***; the right to open and switch bank accounts as provided for in Articles 9, 10, 11, and 16 of Directive 2014/92/EU of the European Parliament and of the Council⁴ and to not be discriminated against as provided for in Article 15 of that Directive; the right to receive transparent information on retail conditions for roaming calls and SMS messages as provided for in Articles 13, 14 and 15 of Regulation (EU) 2022/612 of the European Parliament and of the Council⁵, the right to price transparency in air fares and rates as provided for in Article 23 of Regulation (EC) No 1008/2008 of the European Parliament and of the Council⁶. Therefore, it should be provided that disputes arising in relation to such categories of consumer rights can be dealt with in ADR procedures.

³ Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC (OJ L 60I, 2.3.2018, p. 1).

⁴ Directive 2014/92/EU of the European Parliament and of the Council of 23 July

2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic feature (OJ L257, 28.8.2014, p. 214).

⁵ Regulation (EU) 2022/612 of the European Parliament and of the Council of 6 April 2022 on roaming on public mobile communications networks within the Union (OJ L 115, 13.4.2022, p. 1).

⁶ Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (OJ L 293, 31.10.2008, p. 3).

2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic feature (OJ L257, 28.8.2014, p. 214).

⁵ Regulation (EU) 2022/612 of the European Parliament and of the Council of 6 April 2022 on roaming on public mobile communications networks within the Union (OJ L 115, 13.4.2022, p. 1).

⁶ Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (OJ L 293, 31.10.2008, p. 3).

Or. en

Justification

Alignment with Article 6 of Directive (EU) 2023/2225

Amendment 43 **Adam Bielan**

Proposal for a directive **Recital 6**

Text proposed by the Commission

(6) Member States should have the right to apply ADR procedures also to disputes that relate to other non-contractual rights stemming from Union law, including rights stemming from Articles 101 and 102 TFEU or rights of users provided in Regulation (EU) 2022/1925 of the European Parliament and of the Council⁷. This is without prejudice of public enforcement of those rules.

⁷ Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending

Amendment

deleted

⁷ Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending

Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (OJ L 265, 12.10.2022, p. 1).

Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (OJ L 265, 12.10.2022, p. 1).

Or. en

Amendment 44
Katrin Langensiepen
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 6 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 45
Antonius Manders

Proposal for a directive
Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) The Member State in which the consumer resides should facilitate access to ADR procedures in cross-border disputes. Only when proven necessary, should the Member State in which the trader is established facilitate access to ADR procedures. It should not be possible to access ADR procedures in a Member State in which neither the consumer resides or the trader is established.

Or. en

Amendment 46
Antonius Manders

Proposal for a directive
Recital 10

Text proposed by the Commission

Amendment

Member States should ensure that ADR should enable consumer to initiate and follow ADR procedures also offline if requested. It should also be ensured that when digital tools are provided, those can be used by all consumers, including vulnerable consumers or those with varying levels of digital literacy. Members States should ensure that, upon request, parties to the disputes ***always*** have access to a review of automated procedures by a natural person.

(10) Member States should ensure that ADR should enable consumer to initiate and follow ADR procedures also offline if requested. It should also be ensured that when digital tools are provided, those can be used by all consumers, including vulnerable consumers or those with varying levels of digital literacy. Members States should ensure that, upon request, parties to the disputes have access to a review of automated procedures by a natural person, ***who should be independent and impartial.***

Or. en

Amendment 47

Katrin Langensiepen

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 10

Text proposed by the Commission

Member States should ensure that ADR should enable consumer to initiate and follow ADR procedures also offline if requested. It should also be ensured that when digital tools are provided, those can be used by all consumers, including vulnerable consumers or those with varying levels of digital literacy. Members States should ensure that, ***upon request***, parties to the disputes always have access to a review of automated procedures by a natural person.

Amendment

(10) Member States should ensure that ADR should enable consumer to initiate and follow ADR procedures also offline if requested. It should also be ensured that when digital tools are provided, those can be used by all consumers, including vulnerable consumers or those with varying levels of digital literacy. Members States should ensure that parties to the disputes, ***in particular consumers***, always have access to a review of automated procedures by a natural person.

Or. en

Amendment 48

Adam Bielan

Proposal for a directive

Recital 10

Text proposed by the Commission

Member States should ensure that ADR should enable consumer to initiate and follow ADR procedures also offline if requested. It should also be ensured that when digital tools are provided, those can be used by all consumers, including vulnerable consumers or those with varying levels of digital literacy. Members States should ensure that, upon request, parties to the disputes always have access to a review of automated procedures by a natural person.

Amendment

(10) Member States should ensure that ADR should enable ***a consumer and a trader*** to initiate and follow ADR procedures also offline if requested. It should also be ensured that when digital tools are provided, those can be used by all consumers, including vulnerable consumers or those with varying levels of digital literacy. Members States should ensure that, upon request, parties to the disputes always have access to a review of automated procedures by a natural person.

Or. en

Amendment 49
Adam Bielan

Proposal for a directive
Recital 11

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 50
Svenja Hahn

Proposal for a directive
Recital 13

Text proposed by the Commission

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

Amendment

deleted

Or. en

Amendment 51
Dita Charanzová

Proposal for a directive
Recital 13

Text proposed by the Commission

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

Amendment

(13) Under Directive 2013/11/EU, Member States may introduce national legislation to make trader participation in ADR compulsory in sectors they deem fit, in addition to sector-specific Union legislation which provides for mandatory participation of traders in ADR. To encourage traders' participation in the ADR procedures and to ensure due and swift ADR procedures, traders should be required, especially in cases where their participation is not compulsory, to respond within a specific period ***not exceeding 15 working days*** to enquiries made by ADR entities on whether they intend to participate to the proposed procedure. ***The procedure may continue to be handled by the ADR entity if the trader fails to reply or chooses not to participate. However, an extension of this deadline could be granted for complex disputes or as a result of exceptional circumstances, such as a period of high activity or of external crisis.***

Or. en

Amendment 52
Katrin Langensiepen
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 13

Text proposed by the Commission

Under Directive 2013/11/EU, Member States may introduce national legislation to make trader participation in ADR compulsory in sectors they deem fit, in addition to sector-specific Union

Amendment

(13) Under Directive 2013/11/EU, Member States may introduce national legislation to make trader participation in ADR compulsory in sectors they deem fit, in addition to sector-specific Union

legislation which provides for mandatory participation of traders in ADR. To encourage traders' participation in the ADR procedures and to ensure due and swift ADR procedures, traders should be required, especially in cases where their participation is not compulsory, to respond within a specific period to enquiries made by ADR entities on whether they intend to participate to the proposed procedure.

legislation which provides for mandatory participation of traders in ADR. To encourage traders' participation in the ADR procedures and to ensure due and swift ADR procedures, traders should be required, especially in cases where their participation is not compulsory, to respond within a specific period **not exceeding 10 working days** to enquiries made by ADR entities on whether they intend to participate to the proposed procedure.

Or. en

Amendment 53
Adam Bielan

Proposal for a directive
Recital 13

Text proposed by the Commission

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

Amendment

(13) Under Directive 2013/11/EU, Member States may introduce national legislation to make trader participation in ADR compulsory in sectors they deem fit, in addition to sector-specific Union legislation which provides for mandatory participation of traders in ADR. To encourage traders' participation in the ADR procedures and to ensure due and swift ADR procedures, traders should be **encouraged** to respond within a specific period to enquiries made by ADR entities on whether they intend to participate to the proposed procedure.

Or. en

Amendment 54
Antonius Manders

Proposal for a directive
Recital 13

Text proposed by the Commission

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

Amendment

(13) Under Directive 2013/11/EU, Member States may introduce national legislation to make trader participation in ADR compulsory in sectors they deem fit, in addition to sector-specific Union legislation which provides for mandatory participation of traders in ADR. To encourage traders' participation in the ADR procedures and to ensure due and swift ADR procedures, traders should be required, especially in cases where their participation is not compulsory, to respond within **20 working days** to enquiries made by ADR entities on whether they intend to participate to the proposed procedure.

Or. en

Justification

To clarify and align with Article 5 paragraph 8

Amendment 55

Katrin Langensiepen

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) To reduce information and reporting requirements and to save costs for ADR entities, national competent authorities and traders, reporting and information requirements should be simplified and the amount of information provided by ADR entities to the competent authorities should be reduced.

Amendment

deleted

Or. en

Amendment 56

Katrin Langensiepen

on behalf of the Verts/ALE Group

Proposal for a directive
Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) ADR entities and traders participating in ADR procedures should make best efforts to better promote the possibility of ADR procedures to increase awareness of ADR among consumers. In particular, traders should provide ADR information in a clear, prominent, comprehensible and easily accessible way. Where the trader has a website, it should present the information on it, clearly separated from other information. In addition, traders should also provide information on ADR procedures on their social media channels, where they exist.

Or. en

Amendment 57
Dita Charanzová

Proposal for a directive
Recital 14 b (new)

Text proposed by the Commission

Amendment

(14b) For the effective operation of ADR entities, Member States shall ensure public funding when industries bear almost all costs, mitigating financial strain risks and preserving ADR efficacy, thereby striking a balance between industry responsibility and public support for a well-functioning and efficient ADR framework across the EU.

Or. en

Amendment 58
Antonius Manders

Proposal for a directive
Recital 15

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 59
Dita Charanzová

Proposal for a directive
Recital 15

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 60
Dita Charanzová

Proposal for a directive
Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) To ensure procedural fairness, consumers engaging in cross-border disputes shall engage with the ADR contact point determined by the consumer's location, thereby discouraging selective choice of ADR contact points for convenience or advantageous outcomes. Nevertheless, ADR entities should have the possibility of maintaining or introducing, in accordance with the laws of the Member State in which they are established, procedural rules that allow them to refuse to deal with this type of disputes in specific circumstances, for example where a dispute is too complex, or where the ADR entities do not have the necessary resources to deal with this type of disputes.

Or. en

Amendment 61
Dita Charanzová

Proposal for a directive
Recital 15 b (new)

Text proposed by the Commission

Amendment

(15b) In cross-border disputes, ADR entities should use Union law as a point of reference for the resolution of the disputes. Nevertheless, in both domestic and cross-border disputes, ADR entities should always take into account the remedies available by the Union and the applicable national law.

Amendment 62
Dita Charanzová

Proposal for a directive
Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) ADR entities sometimes choose to deviate from strict legal provisions in order to base their decisions on fairness principles. This implies that ADR entities could opt for solutions that, in their judgment, align with a sense of what is morally or ethically right in a particular situation, diverging from a strict adherence to legal statutes. However, the use of fairness principles should not be acceptable when it comes to unfair commercial practices, which are not subject to compromises or mediated outcomes as they touch upon public order and the fundamentals of consumer protection.

Or. en

Amendment 63
Antonius Manders

Proposal for a directive
Recital 17

Text proposed by the Commission

Amendment

To ensure that consumers are able to easily find a suitable ADR entity, especially in a cross-border context, the Commission should develop and maintain a digital interactive tool that provides information about ADR entities' main characteristics and links to the webpages of the ADR entities, as notified to it.

(17) To ensure that consumers are able to easily find a suitable ADR entity, especially in a cross-border context, the Commission should develop and maintain a digital interactive tool that provides information about ADR entities' main characteristics, ***practical information about how to avail of ADR procedures in a cross-border context*** and links to the webpages of the ADR entities, as notified

to it.

Or. en

Amendment 64
Dita Charanzová

Proposal for a directive
Recital 17

Text proposed by the Commission

To ensure that consumers are able to easily find a suitable ADR entity, especially in a cross-border context, the Commission should develop and maintain a digital interactive tool that provides information about ADR entities' main characteristics and links to the webpages of the ADR entities, as notified to it.

Amendment

(17) To ensure that consumers are able to easily find a suitable ADR entity, especially in a cross-border context, the Commission should develop and maintain a digital interactive tool that provides information about ADR entities' main characteristics and links to the webpages of the ADR entities, as notified to it, ***directing consumers to a competent body to resolve their disputes.***

Or. en

Amendment 65
Adam Bielan

Proposal for a directive
Recital 17

Text proposed by the Commission

To ensure that consumers are able to easily find a suitable ADR entity, especially in a cross-border context, the Commission should develop and maintain a digital interactive tool that provides information about ADR entities' main characteristics and links to the webpages of the ADR entities, as notified to it.

Amendment

(17) To ensure that consumers ***and traders*** are able to easily find a suitable ADR entity, especially in a cross-border context, the Commission should develop and maintain a digital interactive tool that provides information about ADR entities' main characteristics and links to the webpages of the ADR entities, as notified to it.

Or. en

Amendment 66
Katrin Langensiepen

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

Present text

Article 1

Subject matter

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

Amendment

-1 “Article 1

Subject matter

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

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

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

Or. en

(Directive 2013/11/EU)

Amendment 67
Adam Bielan

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

Present text

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

Amendment

-1. Article 1 is replaced by following:

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

Or. en

(32013L0011)

Amendment 68
Adam Bielan

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

Text proposed by the Commission

Member States may apply the ADR procedures set out in this Directive, also to categories of disputes other than those listed the first subparagraph, point **(b)**..

Amendment

Member States may apply the ADR procedures set out in this Directive, also to categories of disputes other than those listed the first subparagraph, point **(a)**.

Or. en

Amendment 69
Adam Bielan

Proposal for a directive

Article 1 – paragraph 1 – point 1

Directive 2013/11/EU

Article 2 paragraph 2

Text proposed by the Commission

Amendment

- (b) consumer rights applicable to non-contractual and pre-contractual situations and provided in Union law concerning:**
- (i) unfair commercial practices and terms,**
- (ii) compulsory precontractual information,**
- (iii) non-discrimination on the basis of nationality or place of residence,**
- (iv) access to services and deliveries,**
- (v) remedies in case of non-conformity of products and digital content,**
- (vi) right to switch providers, and**
- (vii) passenger and travellers' rights.**
- deleted*

Or. en

Justification

ADR should remain simple. Non and pre-contractual situations are more complex and would undermine the spirit and efficiency of existing system. The Commission and the Member States should ensure that supervision works effectively. Extension of the scope of the directive would entail a major departure from the current system as it would constitute an exercise of authority directed at individuals and so it seems like alternative dispute resolution bodies should substitute for a lack of supervisory efforts.

Amendment 70

Svenja Hahn

Proposal for a directive

Article 1 – paragraph 1 – point 1

2013/11/EU

Art. 2

Text proposed by the Commission

Amendment

(i) *unfair commercial practices and terms,* *deleted*

Or. en

Amendment 71
Andreas Schwab

Proposal for a directive
Article 1 – paragraph 1 – point 1
2013/11/EU
Article 2(1)

Text proposed by the Commission

Amendment

i) *unfair commercial practices and terms,* *deleted*

Or. de

Amendment 72
Katrin Langensiepen
on behalf of the Verts/ALE Group

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 73
Antonius Manders

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

Text proposed by the Commission

non-discrimination on the basis of
nationality or place of residence,

Amendment

(iii) non-discrimination on the basis of
nationality or place of residence ***or on any
ground as referred to in Article 21 of the
Charter of Fundamental Rights of the
European Union,***

Or. en

Amendment 74

Svenja Hahn

Proposal for a directive

Article 1 – paragraph 1 – point 1

2013/11/EU

Art. 2

Text proposed by the Commission

(iv) ***access to services and deliveries,***

Amendment

deleted

Or. en

Amendment 75

Andreas Schwab

Proposal for a directive

Article 1 – paragraph 1 – point 1

2013/11/EU

Article 2(2)

Text proposed by the Commission

(iv) ***access to services and deliveries,***

Amendment

deleted

Or. de

Amendment 76

Svenja Hahn

Proposal for a directive

Article 1 – paragraph 1 – point 1

2013/11/EU

Art. 2

Text proposed by the Commission

Amendment

(v) remedies in case of non-conformity of products and digital content,

deleted

Or. en

Amendment 77
Andreas Schwab

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

Text proposed by the Commission

Amendment

(v) remedies in case of non-conformity of products and digital content,

deleted

Or. de

Amendment 78
Andreas Schwab

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

Text proposed by the Commission

Amendment

Member States may apply the ADR procedures set out in this Directive, also to categories of disputes other than those listed the first subparagraph, point (b).

deleted

Or. de

Amendment 79
Katrin Langensiepen
on behalf of the Verts/ALE Group

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

Text proposed by the Commission

Amendment

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

- (a) the entity can demonstrate necessary expertise in the relevant area, covering the relevant economic sector in its entirety;***
- (b) the entity can demonstrate a high level of independence as well as sufficient resources, funding, and capacity;***
- (c) the entity applies applicable law and not fairness when dealing with unfair commercial practices.***

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

Or. en

Amendment 80
Dita Charanzová

Proposal for a directive
Article 1 – paragraph 1 – point 1
Directive 2013/11/EU
Article 2 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

Member States shall only authorise a consumer ADR entity to deal with unfair commercial practices under the following conditions:

- (i) *the ADR entity shall be a sectorial coverage entity with relevant knowledge on unfair commercial practices;*
- (ii) *the ADR entity shall have adequate resources, funding and capacity; and*
- (iii) *the unfair practice resulted in a material or immaterial loss to the consumer;*

Or. en

Amendment 81 Dita Charanzová

Proposal for a directive

Article 1 – paragraph 1 – point 2 – introductory part 2013/11/EU

Art. 4(1)

Text proposed by the Commission

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

Amendment

2. In Article 4(1), ***the following point (fa) is added and*** points (e) and (f) are replaced by the following:

Or. en

Amendment 82 Svenja Hahn

Proposal for a directive

Article 1 – paragraph 1 – point 2

2013/11/EU

Art. 4(1), point (f)

Text proposed by the Commission

‘cross-border dispute’ means a dispute between a consumer and a trader, related to contractual obligations and/or consumer rights provided in Union acts as referred to in article 2(1), where the consumer is resident in a Member State other than the Member State in which the trader is established ***or where the consumer is resident in a Member State and the trader***

Amendment

(f) ‘cross-border dispute’ means a dispute between a consumer and a trader, related to contractual obligations and/or consumer rights provided in Union acts as referred to in article 2(1), where the consumer is resident in a Member State other than the Member State in which the trader is established;

is established outside of the Union;

Or. en

Amendment 83

Adam Bielan

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2013/11/EU

Article 4(1), point (f)

Text proposed by the Commission

‘cross-border dispute’ means a dispute between a consumer and a trader, related to contractual obligations *and/or consumer rights provided in Union acts as referred to in article 2(1)*, where the consumer is resident in a Member State other than the Member State in which the trader is established or where the consumer is resident in a Member State and the trader is established outside of the Union;

Amendment

(f) ‘cross-border dispute’ means a dispute between a consumer and a trader, related to contractual obligations, where the consumer is resident in a Member State other than the Member State in which the trader is established or where the consumer is resident in a Member State and the trader is established outside of the Union;

Or. en

Amendment 84

Dita Charanzová

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2013/11/EU

Article 4 – paragraph 1 – point (fa) (new)

Text proposed by the Commission

Amendment

(fa) “Unfair commercial practice” means any misleading commercial practice as defined in Annex I of Directive 2005/29/EC.

Or. en

Amendment 85

Adam Bielan

Proposal for a directive

Article 1 – paragraph 1 – point 3 – point a

Directive 2013/11/EU

Article 5 – paragraph 1

Text proposed by the Commission

Member States shall facilitate access by consumers to ADR procedures and shall ensure that disputes covered by this Directive and which involve a trader established on their respective territories, or a trader not established in the territory of any Member State but offering goods or services, including digital content and digital services, to consumers residing in their respective territories, 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 **and traders** to ADR procedures and shall ensure that disputes covered by this Directive and which involve a trader established on their respective territories, or a trader not established in the territory of any Member State but offering goods or services, including digital content and digital services, to consumers residing in their respective territories, can be submitted to an ADR entity which complies with the requirements set out in this Directive.;

Or. en

Amendment 86

Antonius Manders

Proposal for a directive

Article 1 – paragraph 1 – point 3 – point a

Directive 2013/11/EU

Article 5 – paragraph 1

Text proposed by the Commission

Member States shall facilitate access by consumers to ADR procedures and shall ensure that disputes covered by this Directive and which involve a trader established on their respective territories, or a trader not established in the territory of any Member State but offering goods or services, including digital content and digital services, to consumers residing in their respective territories, 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 and which involve a trader established on their respective territories, or a trader not established in the territory of any Member State but offering goods or services, including digital content and digital services, to consumers residing in their respective territories, can be submitted to an ADR entity which complies with the requirements set out in this Directive. ***Member States may facilitate access by self-employed or micro enterprises to ADR procedures.***

Amendment 87
Dita Charanzová

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

Text proposed by the Commission

Amendment

(aa) the following paragraph (1a) is added:

1a. Non-EU traders shall adhere to at least one consumer ADR entity in each of the countries in which they sell their products or provide their services.

Or. en

Amendment 88
Antonius Manders

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point b – introductory part
Directive 2013/11/EU
Article 5 – paragraph 2

Text proposed by the Commission

Amendment

in paragraph 2, **points (a) to (d) are replaced by** the following:

(b) in paragraph 2, the following points are added:

Or. en

Justification

The proposed points (b), (c) and (d) should be added to Directive 2013/11/EU Article 5 paragraph 2, but not replacing points (a) to (d)

Amendment 89
Antonius Manders

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point b

Directive 2013/11/EU
Article 5 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) ensure that consumers can submit complaints and the requisite supporting documents online in a traceable manner and ensure that consumers may also submit and access these documents in a non-digital format upon request; **deleted**

Or. en

Justification

Already covered in Directive 2013/11/EU : Article 5, paragraph 2, points a, c and d.

Amendment 90

Adam Bielan

Proposal for a directive

Article 1 – paragraph 1 – point 3 – point b

Directive 2013/11/EU

Article 5(2) (a)

Text proposed by the Commission

Amendment

ensure that consumers can submit complaints and the requisite supporting documents online in a traceable manner and ensure that consumers may also submit and access these documents in a non-digital format upon request;

(a) ensure that consumers **and traders** can submit complaints and the requisite supporting documents online in a traceable manner and ensure that consumers **and traders** may also submit and access these documents in a non-digital format upon request;

Or. en

Amendment 91

Katrin Langensiepen

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 3 – point b

Directive 2013/11/EU

Article 5 paragraph 2, point (a a) new

Text proposed by the Commission

Amendment

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

Or. en

Amendment 92
Antonius Manders

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point b
Directive 2013/11/EU
Article 5 – paragraph 2 – point c

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 93
Katrin Langensiepen
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point b
Directive 2013/11/EU
Article 5 – paragraph 2, point c

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 94
Adam Bielan

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point b
Directive 2013/11/EU
Article 5(2)(d)

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 95
Svenja Hahn

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point d
2013/11/EU
Art. 55 – paragraph 8

Text proposed by the Commission

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

Amendment

deleted

Or. en

Amendment 96
Dita Charanzová

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

Text proposed by the Commission

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

Amendment

8. Member States shall ensure that traders established in their territories that are contacted by an ADR entity from their country or from another Member State, inform that ADR entity whether, or not, they accept to participate in the proposed procedure and reply within a reasonable period of time that shall not exceed **15** working days. ***The procedure may continue to be handled by the ADR entity if the trader fails to reply or chooses not to participate. However, an extension of this deadline, not exceeding 30 working days, may be granted for complex disputes or as a result of exceptional circumstances, such as a period of high activity or of external crisis.***

Or. en

Amendment 97

Katrin Langensiepen

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 3 – point d

Directive 2013/11/EU

Article 5 – paragraph 8

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 98
Adam Bielan

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

Text proposed by the Commission

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

Amendment

8. Member States shall **encourage** that traders established in their territories that are contacted by an ADR entity from their country or from another Member State, inform that ADR entity whether, or not, they accept to participate in the proposed procedure and reply within a reasonable period of time that shall not exceed **40** working days..

Or. en

Amendment 99
Stelios Kouloglou

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point d
Directive 2013/11/EU
Article 5 – paragraph 9

Text proposed by the Commission

Amendment

8a. The following paragraph 9 is added:

“9. Traders established outside the Union should adhere to a consumer ADR entity in the country or countries in which they all sell services or products.”;

Or. en

Amendment 100
Katrin Langensiepen
on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 3 a (new)

Directive 2013/11/EU

Article 6 – paragraph 1, point a

Present text

Article 6

Expertise, independence and impartiality

1. Member States shall ensure that the natural persons in charge of ADR possess the necessary expertise and are independent and impartial. This shall be guaranteed by ensuring that such persons:

(a) possess the necessary knowledge and skills in the field of alternative or judicial resolution of consumer disputes, as well as a general understanding of law;

Amendment

3a. Article 6 paragraph 1, point a :

"Article 6

Expertise, independence and impartiality

1. Member States shall ensure that the natural persons in charge of ADR possess the necessary expertise and are independent and impartial. This shall be guaranteed by ensuring that such persons:

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

Or. en

(Directive 2013/11/EU)

Amendment 101

Katrin Langensiepen

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 3 – point d a (new)

Directive 2013/11/EU

Article 6 – paragraph 3 – point (a)

Present text

3. Where Member States decide to allow procedures referred to in point (a) of Article 2(2) as ADR procedures under this Directive, they shall ensure that, in addition to the general requirements set out in paragraphs 1 and 5, those procedures comply with the following specific

Amendment

(da) Article 6 – paragraph 3 – point (aa) :

"3. Where Member States decide to allow procedures referred to in point (a) of Article 2(2) as ADR procedures under this Directive, they shall ensure that, in addition to the general requirements set out in paragraphs 1 and 5, those procedures comply with the following specific

requirements:

(a) the natural persons in charge of dispute resolution are nominated by, or form part of, a collegial body composed of an equal number of representatives of consumer organisations and of representatives of the trader and are appointed as result of a transparent procedure;

requirements:

(a) the natural persons in charge of dispute resolution are nominated by, or form part of, a collegial body composed of an equal number of representatives of consumer organisations and of representatives of the trader and are appointed as result of a transparent procedure;

(aa) the dispute resolution entity embedded “in-house” shall have no access to the software, database and other tools or information in the possession of the trader”

Or. en

(Directive 2013/11/EU)

Justification

This additions should ensure full independence of the ADR entity.

Amendment 102
Stelios Kouloglou

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

Text proposed by the Commission

Amendment

8b. In article 6, paragraph 3, the following point is added:

(e) in-house ADR entities should/shall not have the possibility to use the software, database and other tools or information used in the possession of the trader in which the ADR entity is embedded.

Or. en

Amendment 103
Stelios Kouloglou

Proposal for a directive

Article 1 – paragraph 1 – point 3 – point d

Directive 2013/11

Article 6 – paragraph 5a

Text proposed by the Commission

Amendment

8c. In article 6, a new paragraph 5a is added:

“5a. Member States shall ensure that consumer ADR’s natural persons dealing with cross-border complaints have the appropriate knowledge and expertise, in particular in private international law”

Or. en

Amendment 104

Antonius Manders

Proposal for a directive

Article 1 – paragraph 1 – point 4 – point a

Directive 2013/11/EU

Article 7 – paragraph 2 – point a

Text proposed by the Commission

Amendment

Member States shall ensure that ADR entities make publicly available on their websites, ***on a durable medium upon request***, and by any other means they consider appropriate, biennial activity reports.

Member States shall ensure that ADR entities make publicly available on their websites and by any other means they consider appropriate, biennial activity reports.

Or. en

Amendment 105

Katrin Langensiepen

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 4 – point a

Directive 2013/11/EU

Article 7 – paragraph 2

Text proposed by the Commission

Amendment

Member States shall ensure that ADR

Member States shall ensure that ADR

entities make publicly available on their websites, on a durable medium upon request, and by any other means they consider appropriate, **biennial** activity reports.

entities make publicly available on their websites, on a durable medium upon request, and by any other means they consider appropriate, **annual** activity reports.

Or. en

Amendment 106

Katrin Langensiepen

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 4 – point b

Directive 2013/11/EU

Article 7 – paragraph 2

Text proposed by the Commission

Amendment

(b) point (h) is deleted.

deleted

Or. en

Amendment 107

Antonius Manders

Proposal for a directive

Article 1 – paragraph 1 – point 4 a (new)

Directive 2013/11/EU

Article 8

Present text

Amendment

Member States shall ensure that ADR procedures are effective and fulfil the following requirements:

(a) the ADR procedure is available and easily accessible online and offline to both parties irrespective of where they are;

(b) the parties have access to the procedure without being obliged to retain a lawyer or a legal advisor, but the procedure shall not deprive the parties of their right to independent advice or to be represented or assisted by a third party at any stage of the procedure;

4a. Article 8 is amended as follows:

“Member States shall ensure that ADR procedures are effective and fulfil the following requirements:

(a) the ADR procedure is available and easily accessible online and offline to both parties irrespective of where they are;

(b) the parties have access to the procedure without being obliged to retain a lawyer or a legal advisor, but the procedure shall not deprive the parties of their right to independent advice or to be represented or assisted by a third party at any stage of the procedure;

(c) the ADR procedure is free of charge or available at a nominal fee for consumers;

(d) the ADR entity which has received a complaint notifies the parties to the dispute as soon as it has received all the documents containing the relevant information relating to the complaint;

(e) the outcome of the ADR procedure is made available within a period of 90 calendar days from the date on which the ADR entity has received the complete complaint file. In the case of highly complex disputes, the ADR entity in charge may, at its own discretion, extend the 90 calendar days' time period. The parties shall be informed of any extension of that period and of the expected length of time that will be needed for the conclusion of the dispute.

(c) the ADR procedure is free of charge or available at a nominal fee for consumers.

In the case of a nominal fee for consumers, this fee is reimbursed when the dispute is resolved;

(d) the ADR entity which has received a complaint notifies the parties to the dispute as soon as it has received all the documents containing the relevant information relating to the complaint;

(e) the parties have access to the procedure with the possibility to hold a physical meeting, which can be chaired by a judge;

(f) the outcome of the ADR procedure is made available within a period of 90 calendar days from the date on which the ADR entity has received the complete complaint file. In the case of highly complex disputes, the ADR entity in charge may, at its own discretion, extend the 90 calendar days' time period. The parties shall be informed of any extension of that period and of the expected length of time that will be needed for the conclusion of the dispute.

The Commission shall take the necessary measures to ensure that Member States fulfil this requirement."

Or. en

(32013L0011)

Amendment 108

Katrin Langensiepen

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 4 a (new)

Directive 2013/11/EU

Article 13 – paragraph 2

Present text

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

Amendment

4a. Article 13 - paragraph 2

“2. The information referred to in paragraph 1 shall be provided in a clear, comprehensible and easily accessible way on the traders' website, **and social media channels**, where *they* exists, and, if applicable, in the general terms and conditions of sales or service contracts between the trader and a consumer.”

Or. en

(Directive 2013/11/EU)

Amendment 109

Katrin Langensiepen

Proposal for a directive

Article 1 – paragraph 1 – point 5 a (new)

Directive 2013/11/EU

Article 13 – paragraph 3

Present text

Member States shall ensure that, in cases where a ***dispute between a consumer and a*** trader established in their territory ***could not be settled further to*** a complaint submitted directly by the consumer to the trader, the trader provides the consumer with the information referred to in paragraph 1, specifying whether he will make use of the relevant ADR entities to settle the dispute. That information shall be provided on paper or on another durable medium.

Amendment

5a. In article 13, paragraph 3 is replaced by the following:

“Member States shall ensure that, in cases where a trader established in their territory ***does not fully grant*** a complaint submitted directly by the consumer to the trader, the trader provides the consumer with the information referred to in paragraph 1, specifying whether he will make use of the relevant ADR entities to settle the dispute. That information shall be provided on paper or on another durable medium.”

Or. en

(32013L0011)

Amendment 110
Antonius Manders

Proposal for a directive
Article 1 – paragraph 1 – point 6
Directive 2013/11/EU
Article 14

Text proposed by the Commission

Amendment

1a. Member States shall ensure that consumers can carry out cross-border ADR procedures in an official language of the Member State that they are resident in. For this purpose, Member States may ensure that provide appropriate supports are provided to ADR entities, in particular interpretation support tools.

Or. en

Amendment 111
Dita Charanzová

Proposal for a directive
Article 1 – paragraph 1 – point 6
Directive 2013/11/EU
Article 14 – paragraph 2

Text proposed by the Commission

Amendment

Each Member State shall designate an ADR contact point in charge of the task referred to in paragraph 1. Each Member State shall communicate the name and contact details of its ADR contact point to the Commission. Member States shall confer responsibility for the operation of the ADR contact points on their centre belonging to the European Consumer Centres Network, or, if not possible, on consumer organisations or on any other body dealing with consumer protection.

2. Each Member State shall designate an ADR contact point in charge of the task referred to in paragraph 1. Each Member State shall communicate the name and contact details of its ADR contact point to the Commission. Member States shall confer responsibility for the operation of the ADR contact points on their centre belonging to the European Consumer Centres Network, or, if not possible, on consumer organisations or on any other body dealing with consumer protection ***and ensure that they have adequate budgetary and human resources.***

Or. en

Amendment 112
Dita Charanzová

Proposal for a directive
Article 1 – paragraph 1 – point 6
Directive 2013/11/EU
Article 14 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Consumers and traders engaged in cross-border disputes shall use the ADR contact point assigned based on the consumer's location.

Or. en

Amendment 113
Antonius Manders

Proposal for a directive
Article 1 – paragraph 1 – point 6
Directive 2013/11/EU
Article 14

Text proposed by the Commission

Amendment

The ADR contact points shall facilitate communication between the parties and the competent ADR entity, which **may** include, **in particular**:

3. The ADR contact points shall facilitate communication between the parties and the competent ADR entity, which shall include at least one of following:

Or. en

Amendment 114
Antonius Manders

Proposal for a directive
Article 1 – paragraph 1 – point 6
Directive 2013/11/EU
Article 14 – paragraph 3 – point (a a) (new)

Text proposed by the Commission

Amendment

(aa) assisting the parties and ADR entities, where necessary, with the

*translation of information, documentation
or procedural rules;*

Or. en

Amendment 115

Adam Bielan

Proposal for a directive

Article 1 – paragraph 1 – point 6

Directive 2013/11/EU

Article 14(3) b)

Text proposed by the Commission

providing the parties and ADR entities
with general information on EU *consumer*
rights;

Amendment

(b) providing the parties and ADR
entities with general information on
respective EU rights;

Or. en

Amendment 116

Antonius Manders

Proposal for a directive

Article 1 – paragraph 1 – point 6

Directive 2013/11/EU

Article 14 – paragraph 3 – point (b a) (new)

Text proposed by the Commission

Amendment

*(ba) providing the parties and ADR
entities with relevant information on the
consumer protection law of the Member
State;*

Or. en

Amendment 117

Dita Charanzová

Proposal for a directive

Article 1 – paragraph 1 – point 6

Directive 2013/11/EU

Article 14 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. When dealing with unfair commercial practices, the ADR entity shall only apply national law, European law or any other legal precedent from its Member State.

Or. en

Amendment 118
Antonius Manders

Proposal for a directive
Article 1 – paragraph 1 – point 6 a (new)
Directive 2013/11/EU
Article 15 paragraph 2

Present text

Member States shall **encourage** relevant consumer organisations and business associations **to** make publicly available on their websites, and by any other means they consider appropriate, the list of ADR entities referred to in Article 20(4).

Amendment

6a. Article 15 paragraph 2 is amended as follows:

“Member States shall **ensure that** relevant consumer organisations and business associations make publicly available on their websites, **brochures, associated consumer protection and rights television programmes** and by any other means they consider appropriate, the list of ADR entities referred to in Article 20(4).”

Or. en

(32013L0011)

Amendment 119
Dita Charanzová

Proposal for a directive
Article 1 – paragraph 1 – point 6 a (new)
Directive 2013/11/EU
Article 17 – paragraph 5 (new)

Text proposed by the Commission

Amendment

6a. In Article 17, the following paragraph 5 is added:

“5. In case of an unfair commercial practice is brought to the attention of the ADR entity by a consumer, the principle of confidentiality shall not apply and the consumer ADR entity shall inform the competent national authority if there are serious suspicions that such a practice has occurred.”

Or. en

Amendment 120

Katrin Langensiepen

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 6 a (new)

Directive 2013/11/EU

Article 18

Present text

Article 18

Designation of competent authorities

1. Each Member State shall designate a competent authority which shall carry out the functions set out in Articles 19 and 20. 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. Each Member State shall communicate the competent authority or, where appropriate, the competent authorities, including the single point of contact it has designated, to the Commission.

2. The Commission shall establish a list of the competent authorities including, where appropriate, the single point of contact communicated to it in accordance with paragraph 1, and publish that list in the Official Journal of the European Union.

Amendment

6a. “Article 18

Designation of competent authorities

1. Each Member State shall designate a competent authority which shall carry out the functions set out in Articles 19 and 20. 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. Each Member State shall communicate the competent authority or, where appropriate, the competent authorities, including the single point of contact it has designated, to the Commission.

2. The Commission shall establish a list of the competent authorities including, where appropriate, the single point of contact communicated to it in accordance with paragraph 1, and publish that list in the Official Journal of the European Union.

3. Member States should ensure that competent authorities have the necessary resources and capacity to perform their

tasks and duties.

4. The natural persons working for competent authorities should be impartial and independent from the ADR entities that they supervise.”

Or. en

(Directive 2013/11/EU)

Amendment 121

Katrin Langensiepen

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 7

Directive 2013/11/EU

Article 19

Text proposed by the Commission

Amendment

7. In Article 19(3), points (f), (g) and (h) are deleted.

deleted

Or. en

Amendment 122

Katrin Langensiepen

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 7 a (new)

Directive 2013/11/EU

Article 20 – paragraph 2

Present text

Amendment

2. Each competent authority shall, on the basis of the assessment referred to in paragraph 1, list all the ADR entities that have been notified to it and fulfil the conditions set out in paragraph 1. That list shall include the following:

(a) the name, the contact details and the website addresses of the ADR entities referred to in the first subparagraph;

(b) their fees, if applicable;

7a. “2. Each competent authority shall, on the basis of the assessment referred to in paragraph 1, list all the ADR entities that have been notified to it and fulfil the conditions set out in paragraph 1. That list shall include the following:

(a) the name, the contact details and the website addresses of the ADR entities referred to in the first subparagraph;

(b) their fees, if applicable;

(c) the language or languages in which complaints can be submitted and the ADR procedure conducted;

(d) the types of disputes covered by the ADR procedure;

(e) the sectors and categories of disputes covered by each ADR entity; (f) the need for the physical presence of the parties or of their representatives, if applicable, including a statement by the ADR entity on whether the ADR procedure is or can be conducted as an oral or a written procedure;

(g) the binding or non-binding nature of the outcome of the procedure; and

(h) the grounds on which the ADR entity may refuse to deal with a given dispute in accordance with Article 5(4).

Each competent authority shall notify the list referred to in the first subparagraph of this paragraph to the Commission. If any changes are notified to the competent authority in accordance with the second subparagraph of Article 19(1), that list shall be updated without undue delay and the relevant information notified to the Commission.

If a dispute resolution entity listed as ADR entity under this Directive no longer complies with the requirements referred to in paragraph 1, the competent authority concerned shall contact that dispute resolution entity, stating the requirements the dispute resolution entity fails to comply with and requesting it to ensure compliance immediately. If the dispute resolution entity after a period of three months still does not fulfil the requirements referred to in paragraph 1, the competent authority shall remove the dispute resolution entity from the list referred to in the first subparagraph of this paragraph. That list shall be updated without undue delay and the relevant information notified to the Commission.

(c) the language or languages in which complaints can be submitted and the ADR procedure conducted;

(d) the types of disputes covered by the ADR procedure;

(e) the sectors and categories of disputes covered by each ADR entity; (f) the need for the physical presence of the parties or of their representatives, if applicable, including a statement by the ADR entity on whether the ADR procedure is or can be conducted as an oral or a written procedure;

(g) the binding or non-binding nature of the outcome of the procedure; and

(h) the grounds on which the ADR entity may refuse to deal with a given dispute in accordance with Article 5(4).

Each competent authority shall notify the list referred to in the first subparagraph of this paragraph to the Commission. If any changes are notified to the competent authority in accordance with the second subparagraph of Article 19(1), that list shall be updated without undue delay and the relevant information notified to the Commission.

Competent Authorities shall conduct regular checks into the functioning and activities of the certified ADR entities to monitor compliance with the requirements of this regulation.

If a dispute resolution entity listed as ADR entity under this Directive no longer complies with the requirements referred to in paragraph 1, the competent authority concerned shall contact that dispute resolution entity, stating the requirements the dispute resolution entity fails to comply with and requesting it to ensure compliance immediately. If the dispute resolution entity after a period of three months still does not fulfil the requirements referred to in paragraph 1, the competent authority shall remove the dispute resolution entity from the list referred to in the first subparagraph of this paragraph. That list shall be updated without undue delay and the relevant information notified to the Commission.”

Or. en

(Directive 2013/11/EU)

Amendment 123

Katrin Langensiepen

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 7 b (new)

Directive 2013/11/EU

Article 20 – paragraph 6

Present text

6. By 9 July 2018, and every **four** years thereafter, each competent authority shall publish and send to the Commission a report on the development and functioning of ADR entities. That report shall in particular:

- (a) identify best practices of ADR entities;
- (b) point out the shortcomings, supported by statistics, that hinder the functioning of ADR entities for both domestic and cross-border disputes, where appropriate;
- (c) make recommendations on how to improve the effective and efficient

Amendment

7b. “6. By 9 July 2018, and every **two** years thereafter, each competent authority shall publish and send to the Commission a report on the development and functioning of ADR entities. That report shall in particular:

- (a) identify best practices of ADR entities;
- (b) point out the shortcomings, supported by statistics, that hinder the functioning of ADR entities for both domestic and cross-border disputes, where appropriate;
- (c) make recommendations on how to improve the effective and efficient

functioning of ADR entities, where appropriate.

functioning of ADR entities, where appropriate.

Competent Authorities shall make publicly available a summary of the reports summarising their activities and recommendations to ADR entities.”

Or. en

(Directive 2013/11/EU)

Amendment 124
Antonius Manders

Proposal for a directive
Article 1 – paragraph 1 – point 8
Directive 2013/11/EU
Article 20 – paragraph 8

Text proposed by the Commission

The Commission shall develop and maintain a digital interactive tool that provides general information on consumer redress and links to the webpages of the ADR entities notified to it in accordance with paragraph 2 of this Article..

Amendment

8. The Commission shall develop and maintain a digital interactive tool that provides general information on consumer redress, ***practical information about how to avail of ADR procedures in a cross-border context*** and links to the webpages of the ADR entities notified to it in accordance with paragraph 2 of this Article.

Or. en

Amendment 125
Antonius Manders

Proposal for a directive
Article 1 – paragraph 1 – point 8 a (new)
Directive 2013/11/EU
Article 21

Present text

Penalties

Member States shall lay down the rules on penalties applicable to infringements of the

Amendment

8a. Article 21 is amended as follows:

“Penalties *and enforcement measures*

Member States shall lay down the rules on penalties applicable to infringements of the

national provisions adopted in particular pursuant to Article 13 and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

national provisions adopted in particular pursuant to Article 13 and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. ***Member States shall take necessary enforcement measures to ensure that traders comply with Article 5 paragraph 8.***

Or. en

(32013L0011)

Justification

Enforcement measures are necessary to ensure that traders comply with the duty to reply