



2023/0376(COD)

20.12.2023

*****I**

DRAFT REPORT

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

Committee on the Internal Market and Consumer Protection

Rapporteur: Laura Ballarín Cereza

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▬ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

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

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2023)0649),
 - 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 (C9-0384/2023),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the opinion of the Committee on Transport and Tourism,
 - having regard to the report of the Committee on the Internal Market and Consumer Protection (A9-0000/2023),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

**Proposal for a directive
Recital 2 a (new)**

Text proposed by the Commission

Amendment

***(2a) In order to reach its full potential
and deliver for consumers, this Directive***

should require the participation of traders to be mandatory in sectors dealing with a high number of consumer complaints, such as transport and tourism sectors, provided that it does not prevent the parties from exercising their right of access to the judicial system. Indeed, several studies have highlighted that transport and tourism sector are dealing with a high number of consumer complaints, especially in the field of air passengers rights. Where national legislation makes the participation in such procedures voluntary, Member States should ensure that traders that choose not to participate are required to make the explanation for such choice publicly available.

Or. en

Amendment 2

Proposal for a directive Recital 2 b (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 3

Proposal for a directive Recital 5

Text proposed by the Commission

(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 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

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 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).

2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC (OJ L 60I, 2.3.2018, 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 4

Proposal for a directive Recital 10

Text proposed by the Commission

(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 always have access to a review of automated procedures by a natural person.

Amendment

(10) Member States should ensure that ADR ***enables consumers*** to initiate and follow ADR procedures also offline if requested. ***They*** should also ***ensure*** 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 always have access to a review of automated procedures by a natural person.

Or. en

Amendment 5

Proposal for a directive Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) In order to enhance the trust of consumers and traders in ADR and to increase their participation in ADR procedures, it is fundamental to ensure that the functioning and the work of consumer ADR entities are of good quality. To this end, the expertise of the ADR entity staff should be developed. Staff participating in ADR procedures should therefore be required to undergo mandatory annual training to ensure that their existing knowledge is kept up to date.

Or. en

Amendment 6

Proposal for a directive Recital 11

Text proposed by the Commission

Amendment

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

(11) Member States should also enable ***those*** ADR entities ***which have sufficient knowledge and expertise*** 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.

Or. en

Amendment 7

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

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

Or. en

Amendment 8

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 9

Proposal for a directive Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) In many European countries, consumers are still insufficiently informed about the existence of and services offered by consumer ADR entities. In order to increase consumer awareness of ADR entities and of the traders participating in ADR procedures, traders should provide ADR information 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. The information should be included in the trader's general terms and conditions, and on the invoices that it issues. Furthermore, in order to facilitate communication, traders should set up a dedicated email address to enable consumers to contact them for the sole purpose of ADR procedures.

Or. en

Amendment 10

Proposal for a directive Recital 14 b (new)

Text proposed by the Commission

Amendment

(14b) A swift cooperation between the different actors involved in the enforcement of consumer rights is crucial to ensuring the overall consistency and coherence of the consumer enforcement system. Article 17 of Directive 2013/11/EU should be amended to include an obligation on ADR entities to report unfair commercial practices and terms and conditions to their national competent

***authorities or consumer organisation
whenever they become aware of them.***

Or. en

Amendment 11

Proposal for a directive

Recital 15

Text proposed by the Commission

(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.

Amendment

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

Or. en

Amendment 12

Proposal for a directive

Recital 17

Text proposed by the Commission

(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

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.

the ADR entities, as notified to it, ***directing consumers to a competent body to resolve their disputes. The Commission should ensure coordination between such digital interactive tool and other Union and national digital tools. When developing that tool, the Commission should consult relevant stakeholders, including European Consumer Centres, consumer organisations or other bodies dealing with consumer protection.***

Or. en

Amendment 13

Proposal for a directive Recital 17 a (new)

Text proposed by the Commission

Amendment

(17a) It is necessary for Member States to lay down penalties for infringements of this Directive and to ensure that they are enforced. The penalties should be effective, proportionate and dissuasive.

Or. en

Amendment 14

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

Present text

Amendment

(-1) Article 1 is replaced by the following:

Article 1

Article 1

Subject matter

Subject matter

The purpose of this Directive is, through the achievement of a high level of

‘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.

consumer protection, to contribute to the proper functioning of the internal market by ensuring that consumers can, on a voluntary basis, submit complaints against traders to entities offering independent, impartial, transparent, effective, fast and fair alternative dispute resolution procedures.

This Directive requires the participation by traders in ADR procedures to be mandatory in the transport and tourism sector, whilst not preventing the parties from exercising their right of access to the judicial system.

This Directive is without prejudice to national legislation making participation in such procedures mandatory ***in economic sectors other than those referred to in the second subparagraph***, provided that such legislation does not prevent the parties from exercising their right of access to the judicial system.

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

Or. en

Amendment 15

Proposal for a directive

Article 1 – paragraph 1 – point 1

Directive 2013/11/EU

Article 2 – paragraph 1 – subparagraph 1 – point b – point i

Text proposed by the Commission

Amendment

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

Or. en

Amendment 16

Proposal for a directive

Article 1 – paragraph 1 – point 1

Directive 2013/11/EU

Article 2 – paragraph 1 – subparagraph 1 – point b – point iv

Text proposed by the Commission

Amendment

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

Or. en

Amendment 17

Proposal for a directive

Article 1 – paragraph 1 – point 1

Directive 2013/11/EU

Article 2 – paragraph 1 – subparagraph 1 – point b – point v

Text proposed by the Commission

Amendment

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

Or. en

Amendment 18

Proposal for a directive

Article 1 – paragraph 1 – point 1

Directive 2013/11/EU

Article 2 – paragraph 1 – subparagraph 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. en

Amendment 19

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***;

(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;

Or. en

Amendment 20

Proposal for a directive

Article 1 – paragraph 1 – point 3 – point b

Directive 2013/11/EU

Article 5 – paragraph 2 – point c

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 21

Proposal for a directive

Article 1 – paragraph 1 – point 3 – point b

Directive 2013/11/EU

Article 5 – paragraph 2 – point d

Text proposed by the Commission

(d) 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 into one procedure, ***on*** condition that the consumer concerned is informed and ***expressly agrees*** to that ***and that the ADR entity has sufficient knowledge and expertise to deal with the bundled cases***;

Or. en

Amendment 22

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

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

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.

Or. en

Amendment 23

Proposal for a directive

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

Directive 2013/11/EU

Article 6 – paragraph 6

Present text

6. For the purposes of point (a) of paragraph 1, Member States shall **encourage** ADR entities **to** provide training for natural persons in charge of ADR. ***If such training is provided,*** competent authorities shall monitor the training schemes established by ADR entities, on the basis of information communicated to them in accordance with point (g) of Article 19(3).

Amendment

3a. Article 6, paragraph 6 is replaced by the following:

‘6. For the purposes of point (a) of paragraph 1, Member States shall **ensure that** ADR entities provide **annual** training for natural persons in charge of ADR, **in particular in the area of consumer law and other relevant sectorial legislation.** Competent authorities shall monitor the training schemes established by ADR entities, on the basis of information communicated to them in accordance with point (g) of Article 19(3).’

Or. en

Amendment 24

Proposal for a directive

Article 1 – paragraph 1 – point 4

Directive 2013/11/EU

Article 7 – paragraph 2

Text proposed by the Commission

4. Article 7, paragraph 2 is amended as follows:

(a) in the introductory phrase, the first sentence is replaced by the following:

‘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.’

(b) point (h) is deleted.

Amendment

deleted

Amendment 25

Proposal for a directive

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

Directive 2013/11/EU

Article 7 – paragraph 2 – point g

Present text

(g) the rate of compliance, if known, with the outcomes of the ADR procedures;

Amendment

4a. In Article 7, paragraph 2, point (g) is replaced by the following:

'(g) the rate of compliance, if known, with the outcomes of the ADR procedures *and the traders who systematically and without justification refuse to comply with the outcomes of ADR procedures;*'

Or. en

Amendment 26

Proposal for a directive

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

Directive 2013/11/EU

Article 11a

Text proposed by the Commission

Amendment

4b. The following article is inserted:

'Article 11a

Member States shall ensure that, where they do not comply with the outcome of an ADR procedure, irrespective of whether the outcome of that procedure is binding, traders are required to provide the other parties to the ADR procedure with a written explanation.'

Or. en

Amendment 27

Proposal for a directive

Article 1 – paragraph 1 – point 4 c (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

4c. Article 13, paragraph 2 is replaced by the following:

"2. The information referred to in paragraph 1 shall be provided:

(a) on the traders' website, where one exists, ***in a clear, prominent, comprehensible and easily accessible way, and clearly separated from other information available on traders' website;***

(b) in the general terms and conditions of sales or service contracts between the trader and a consumer; ***and***

(c) ***on the invoices issued by the trader.***

2a. Traders shall set up a dedicated email address allowing consumers to contact them for the sole purpose of ADR procedures."

Or. en

Amendment 28

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2013/11/EU

Article 13 – paragraph 3

Text proposed by the Commission

5. In article 13, paragraph 3 is

Amendment

deleted

deleted.

Or. en

Amendment 29

Proposal for a directive

Article 1 – paragraph 1 – point 6

Directive 2013/11/EU

Article 14 – paragraph 2

Text proposed by the Commission

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.

Amendment

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, 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 30

Proposal for a directive

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

Directive 2013/11/EU

Article 17 – paragraph 2

Present text

2. This cooperation shall in particular include mutual exchange of information on practices in specific business sectors about which consumers have repeatedly lodged

Amendment

6a. In Article 17, paragraph 2 is replaced by the following:

2. This cooperation shall in particular include mutual exchange of information on practices in specific business sectors about which 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 available.

complaints. *It shall also include an obligation for ADR entities to direct consumers to consumer protection authorities and/or consumer organisations whenever they report misleading market practices, as well as to report to competent authorities whenever they become aware of unfair commercial practices and terms and conditions.* 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 available.’

Or. en

Amendment 31

Proposal for a directive

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

Directive 2013/11/EU

Article 18 – paragraph 1

Present text

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.

Amendment

6b. In Article 18, paragraph 1 is replaced by the following:

‘1. Each Member State shall designate a competent authority which shall carry out the functions set out in Articles 19 and 20. ***Member States shall ensure that their competent authorities have sufficient budgetary and other resources, including a sufficient number of competent personnel, with the necessary expertise, and that they have the procedures and other arrangements in place for the proper performance of their duties.*** 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.’

Or. en

Amendment 32

Proposal for a directive

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

Directive 2013/11/EU

Article 19 – paragraph 3

Present text

3. Member States shall ensure that ADR entities communicate to the competent authorities *every two years* information on:

(d) the rate of compliance, if known, with the outcomes of the ADR procedures;

Amendment

6c. In Article 19, paragraph 3 is amended as follows:

(a) the introductory part is replaced by the following:

‘3. Member States shall ensure that ADR entities communicate *annually* to the competent authorities information on:‘

(b) point (d) is replaced by the following:

‘(d) the rate of compliance, if known, with the outcomes of the ADR procedures *and the traders who systematically and without justification refuse to comply with the outcomes of ADR procedures.*’

Or. en

Amendment 33

Proposal for a directive

Article 1 – paragraph 1 – point 7

Directive 2013/11/EU

Article 19 – paragraph 3 – points f, g and h

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 34

Proposal for a directive

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

Directive 2013/11/EU

Article 20 – paragraph 5

Present text

Amendment

5. Each competent authority shall make publicly available the consolidated list of ADR entities referred to in paragraph 4 on its website by providing a link to the relevant Commission website. In addition, each competent authority shall make publicly available that consolidated list on a durable medium.

7a. In Article 20, paragraph 5 is replaced by the following:

"5. Each competent authority shall make publicly available the consolidated list of ADR entities referred to in paragraph 4 on its website by providing a link to the relevant Commission website. In addition, each competent authority shall make publicly available that consolidated list on a durable medium. ***Each competent authority shall make publicly available the list of traders who systematically and without justification refuse to comply with the outcomes of ADR procedures.***"

Or. en

Amendment 35

Proposal for a directive

Article 1 – paragraph 1 – point 8

Directive 2013/11/EU

Article 20 – paragraph 8

Text proposed by the Commission

Amendment

8. The Commission shall develop and maintain a digital interactive tool that

8. The Commission shall develop and maintain a ***user-friendly*** digital interactive

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.

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, **directing consumers to a competent body to resolve their disputes.**

The Commission shall be responsible for coordinating this digital interactive tool and national digital tools, where appropriate.

When developing the tool, the Commission shall consult relevant stakeholders, including European Consumer Centres, consumer organisations or other bodies dealing with consumer protection.

Or. en

Amendment 36

Proposal for a directive

Article 1 – paragraph 1 – point 8 a (new)

Directive 2013/11/EU

Article 21

Present text

Article 21

Penalties

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.

Amendment

8a. Article 21 is replaced by the following:

Article 21

Penalties

1. Member States shall lay down rules on penalties applicable to infringements of national provisions adopted **pursuant to this Directive**, in particular **Article 5(8) and** Article 13 and shall take all measures necessary to ensure they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

2. Member States shall ensure that the following non-exhaustive and indicative criteria are taken into account for the imposition of penalties, where

appropriate:

- (a) the nature, gravity, scale and duration of the infringement;*
- (b) any action taken by the trader to mitigate or remedy the damage suffered by consumers;*
- (c) any previous infringements by the trader;*
- (d) the financial benefits gained or the losses avoided by the trader as a result of the infringement, if the relevant data are available;*
- (e) penalties imposed on the trader for the same infringement in other Member States in cross-border cases where information about such penalties is available through the mechanism established by Regulation (EU) 2017/2394 of the European Parliament and of the Council ;*
- (f) any other aggravating or mitigating factors applicable to the circumstances of the case.*

3. Member States shall, by ... [24 months from the entry into force of this amending Directive] notify the Commission of the rules and of the measures referred to in paragraph 1 and shall notify it without delay of any subsequent amendment affecting them.'

Or. en

EXPLANATORY STATEMENT

The Alternative Dispute Resolution for consumers (ADR) Directive from 2013 aimed to ensure that consumers within the EU have access to high-quality out-of-court processes to resolve their contractual disputes against traders established in the EU. Nevertheless, the 2019 Commission's report on the application of the ADR Directive and the ODR Regulation concluded that the ADR/ODR framework is not reaching its full potential. In addition, according to the Commission's 2023 Consumer scoreboard, despite a quarter of consumers having experienced a problem worthy of complaint, a third of them did not act due to lengthy procedure times, small amounts involved, or low confidence in a satisfactory solution to the problem. This results in only 300,000 eligible disputes annually in the EU.

The Commission's proposal on the revision of the ADR Directive aims to adapt to disputes resulting from new consumer market trends, which contain much more online purchasing, including from non-EU traders. The proposal extends the scope of the ADR Directive to include all kinds of consumer disputes including consumer rights applicable to non-contractual and pre-contractual situations, and to include traders established outside the EU. The proposal introduces a new digital interactive tool that provides general information on consumer redress and links to the webpages of the notified ADR entities.

The Rapporteur agrees that the ADR Directive needs to be modernised in order to improve efficiency and quality of ADR procedures, and give consumers more opportunities to settle their disputes outside of court in a way that is quicker, cheaper, and more convenient. The Rapporteur welcomes the revision of the ADR procedure, however, regrets that the Commission has only partially addressed the structural problems of the ADR procedures, such as the low engagement in ADR among businesses and consumers, the consumers unawareness, and the lack of trust among consumers and traders in ADR entities. Therefore, the draft report aims to increase the level of ambition of the Commission's proposal with a two-fold objective: raising consumer awareness and increasing traders' participation in ADR procedures.

When it comes to the **material scope** proposed by the Commission, the Rapporteur believes that an extension to non-contractual and pre-contractual obligations could lead to confusion for consumers and traders, and a lack of the necessary resources and expertise to handle the dispute for ADR entities. Therefore, the Rapporteur is proposing a reasonable extension of the material scope of consumer ADR, and suggests including specific statutory consumer rights not yet covered under the current Directive, such as non-discrimination on the basis of nationality or place of residence, the right to switch providers, passenger and travellers' rights and mandatory pre-contractual trader obligations. Furthermore, the Rapporteur welcomes the extension of the **geographical scope** to include the possibility for traders established outside the EU to participate (on a voluntary basis) in ADR procedures.

Regarding **trader participation in ADR procedures**, the Rapporteur is suggesting to address the issue from two perspectives: (1) traders' participation in ADR procedures, and (2) traders' compliance with the outcome of such procedures. The Rapporteur therefore suggests mandatory trader participation in the fields of tourism and transport, due to high numbers of consumer complaints. For those sectors where national legislation makes the participation in ADR procedures voluntary, the Rapporteur introduces an obligation for traders to explain why they choose not to participate in the procedure. The Rapporteur welcomes the new obligation for

traders to respond to a request made by an ADR entity whether they plan to participate in an ADR procedure against them or not. However, the Rapporteur believes that 10 working days would allow for a sufficient time frame for the traders to reply (instead of 20 working days as proposed by the Commission).

In order to increase traders' participation in the ADR procedures, the Rapporteur propose that traders who unfairly and consistently disregard the outcomes of ADR procedures will have their names made publicly known by the Member States, and that they will be required to give written explanations to the other parties to the ADR procedure in the event that they do not comply with its decision.

Furthermore, the Rapporteur strongly believe that the ADR revision should be an opportunity to **improve consumers and traders awareness and their trust in the ADR procedures**. That is why the Rapporteur is proposing better consumer awareness by establishing obligatory ADR information to be provided: on the trader's website, which should be separated from other information, in the general terms and conditions and on the invoices issued by the trader. Besides the given information, traders will have to set up a dedicated email address allowing consumers to contact them solely for the purposes of ADR procedures. In order to improve expertise and knowledge, the Rapporteur proposes mandatory annual training for ADR staff to ensure that their knowledge is continuously updated to reach a higher interest in out-of-court dispute resolution. The proposed training will cover the area of consumer law and other relevant sectorial legislation.

When it comes to the **reporting obligations for ADR entities**, the Commission proposes to remove some reporting requirements currently imposed on consumer ADR entities, in particular information about the training provided by ADR entities of their staff or an assessment of the effectiveness of the ADR procedure offered by the entity and of possible ways of improving their performance. The Rapporteur disagrees with the removal of reporting obligations, that are allowing competent authorities to carry an effective supervision of ADR entities.

**ANNEX: ENTITIES OR PERSONS
FROM WHOM THE RAPPORTEUR HAS RECEIVED INPUT**

Pursuant to Article 8 of Annex I to the Rules of Procedure, the rapporteur declares that she has received input from the following entities or persons in the preparation of the draft report:

Entity and/or person
BEUC - The European Consumer Organization
European Consumer Center Germany
Centro Europeu do Consumidor Portugal
FACUA - consumidores en accion
European Consumer Center Sweden
Agencia Catalana de Consum
Business Europe
European Advertising Standards Alliance
Ecommerce Europe
Amazon Europe
European Consumer Center France
Representación Permanente de España Ante la Unión Europea

The list above is drawn up under the exclusive responsibility of the rapporteur.