

Amending the Directive on alternative dispute resolution for consumer disputes

2023/0376(COD) - 17/10/2023 - Legislative proposal

PURPOSE: to offer all consumers and professionals better access to high-quality, cost-effective out-of-court dispute resolution adapted to digital markets.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Directive 2013/11/EU of the European Parliament and of the Council on consumer Alternative Dispute Resolution (ADR Directive) gives EU consumers the possibility to resolve their disputes stemming from contractual obligations against traders established in the EU using quality out-of-court procedures.

The Directive, however, was drafted more than 10 years ago and does not cater well for disputes resulting from **new consumer market trends**. Indeed, EU consumers are purchasing much more online including from non-EU traders. This means that consumers need efficient procedures to handle disputes which are becoming more and more complex.

The 2023 Commission evaluation of the implementation of the ADR Directive across the EU concluded that ADR, notably cross-border ADR, is still under-used in many Member States. The scope of the ADR Directive, which is narrowly defined, is not fit to resolve a wide range of disputes that arise, notably in digital markets.

The evaluation conclusions triggered the Commission to reflect on a legislative proposal to amend the current ADR Directive to make it better fit notably for digital markets.

CONTENT: this proposal aims to amend the ADR Directive to make it better fit to modern consumer markets.

Scope

The ADR Directive current scope is limited to disputes which stem from contractual obligations for the sale of goods or services.

Through this revision, the Commission is proposing to extend the scope to voluntary ADR processes against any traders selling goods or services, including **digital content and digital services**, to consumers residing in the EU and to disputes related to pre-contractual stages during which consumer rights exist irrespective of whether the consumer ultimately concludes a contract. This, for example, relates to misleading advertising, missing, unclear or misleading information, unfair terms or guarantee rights.

Moreover, the extended scope aims to cover disputes related to other key statutory rights of consumers such as the right not to be subjected to geo-blocking practices, to switch telecommunication providers or to access to basic financial services.

Definitions

The Commission proposes to amend the definitions of 'domestic disputes' and 'cross border disputes' in order to cover all disputes related to key statutory rights of consumers. Moreover, the new definition of a 'cross-border dispute' aims to also cover cases where the trader is established outside of the Union.

Access to ADR entities and ADR procedures

With the proposed extension of the scope, professionals established outside the EU will also be able to participate (on a voluntary basis) in ADR procedures. Therefore, the Commission proposes to create an obligation for Member States to establish ADR entities which will be competent to deal with such disputes between consumers and **professionals from third countries**.

The proposal:

- refers to the possibility for vulnerable consumers to send and access documents in a non-digital format;
- accentuates the needs of vulnerable consumers to have an easy access to ADR procedures by means of inclusive tools;
- ensures the right for the revision of an automated procedure by a natural person;
- strengthens the possibility already existing in certain Member States for ADR entities to bundle similar cases against one specific trader to save ADR resources and time for the trader and consumers concerned, giving the right to the consumers concerned to object to such bundling;
- introduces the **duty to reply** on traders with the objective to incentivise them to participate more in ADR. Although they are not obliged to participate in ADR, unless specifically provided for in national legislation or EU sector-specific legislation, it is proposed that they are obliged to reply to a request by an ADR entity, within a period not exceeding 20 working days, as to whether they plan to participate in an ADR process against them, or not.

Information obligations

The proposal provides for the removal of the obligation on traders to provide consumers with information about ADR entities if they do not intend to take part in a procedure. In order to reduce the administrative burden on ADR entities, the Commission proposes to remove the obligation for ADR entities to inform competent ADR authorities regarding: (a) an assessment of the effectiveness of ADR networks, b) information on the training provided to staff and c) an assessment of how they intend to improve their performance.

Consumer assistance

Relevant bodies, and in particular the **European Consumer Centres (ECCs)**, would be given a new role in assisting consumers in cross-border disputes, while the Commission should put in place user-friendly digital tools to help consumers be signposted to a competent body to resolve their disputes.