

Amending the Directive on alternative dispute resolution for consumer disputes

2023/0376(COD) - 26/02/2024 - Committee report tabled for plenary, 1st reading/single reading

The Committee on the Internal Market and Consumer Protection adopted the report by Laura BALLARÍN CEREZA (S&D, ES) 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.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

Scope

The report stated that in order to reach its full potential and deliver for consumers, the proposed Directive should require participation to be mandatory for air carriers falling under the scope of Regulation (EC) No 261/2004, provided that it does not prevent the parties from exercising their right of access to the judicial system. This is the case, given that several studies have highlighted the high number of consumer complaints in the transport and tourism sector, especially in the field of air passenger rights.

Access to ADR entities and ADR procedures

The report stressed that Member States may facilitate access by self-employed or micro enterprises to ADR procedures. Member States should ensure that ADR entities:

- maintain an up-to-date website which provides the parties with easy access to information concerning the ADR procedure;
- ensure that consumers can submit complaints in the Member State in which they reside;
- ensure that parties to the dispute have access to review by a natural person, who is independent and impartial.

Member States should ensure that traders established in their territories that are contacted by an ADR entity from their own Member State 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 should not exceed 15 working days. However, an extension to this deadline up to a maximum of 20 working days may be granted in the case of complex disputes or as a result of exceptional circumstances, such as a period of high activity or an external crisis.

Assistance for consumers

Consumers and traders engaged in cross-border disputes should use the ADR contact point assigned on the basis of the consumer's place of residence and the ADR entity of the Member State in which he or she is resident.

Cooperation between ADR entities and national authorities enforcing Union legal acts on consumer protection

This cooperation should include mutual exchange of information on practices in specific business sectors about which consumers have repeatedly lodged complaints. It should also, where appropriate, include an obligation for ADR entities to direct consumers to the national authorities whenever they report unfair commercial practices. In addition, it should also, where appropriate, include an obligation on ADR entities to report unfair commercial practices and terms and conditions to those national authorities whenever they become aware of them.

When an unfair commercial practice is brought to the attention of the ADR entity by a consumer, the principle of confidentiality should not apply. If there are credible reasons to suspect that such a practice has occurred, the ADR entity should inform the national competent authority thereof, and, if appropriate, should keep it informed about the outcome of the dispute.

Designation of competent authorities

Each Member State should designate a competent authority which should carry out the relevant functions. Member States should ensure that their competent authorities have the necessary resources, including sufficient budgetary and other resources, such as a sufficient number of competent personnel, expertise, procedures and other arrangements for the proper performance of their duties. The natural persons working for competent authorities should be impartial and independent from the ADR entities that they supervise.

Role of the competent authorities and of the Commission

The report stated that the competent Authorities should conduct regular checks into the functioning and activities of the ADR entities to monitor compliance with the requirements of this Directive. The Commission should develop and maintain a user-friendly digital interactive tool that provides general information on consumer redress, practical information about how consumers can avail themselves of ADR procedures in a cross-border context and links to the webpages of the ADR entities notified to it, directing consumers to a competent body to resolve their disputes.