

# Amending the Directive on alternative dispute resolution for consumer disputes

2023/0376(COD) - 13/03/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 605 votes to 7, with 13 abstentions, a 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.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the proposal as follows:

## **Scope**

Members consider 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.

The Directive should apply to out-of-court dispute settlement procedures between consumers residing in the EU and traders offering goods or services, including digital content and services, to those consumers, which involve an ADR entity with a view to facilitating an amicable solution concerning:

(1) contractual obligations stemming from sales contracts, including for the supply of digital content, or service contracts, including pre-contractual and post-contractual obligations and in particular in relation to:

- unfair commercial practices and terms;
- compulsory pre-contractual information;
- passenger and travellers' rights;
- remedies in the event of nonconformity of products and digital content; and
- access to deliveries.

(2) consumer rights applicable to noncontractual situations and provided in Union law concerning:

- non-discrimination on the basis of nationality or place of residence;
- access to services;
- right to switch providers;
- unfair commercial practices provided that the ADR entity is a sectorial coverage entity with the necessary knowledge about unfair commercial practices.

## ***Access to ADR entities and ADR procedures***

The resolution 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.

### ***Free of charge***

ADR procedures should preferably be free of charge to the consumer. If charges apply, they should not exceed a nominal fee. In addition, in order to make ADR procedures more accessible and attractive to consumers, such fees should be reimbursable.

### ***Reasons for refusing to comply with ADR procedures***

ADR entities should provide the competent authorities with a list of traders who systematically and unduly refuse to comply with ADR procedures. In addition, Member States should ensure that, where they do not comply with the outcome of an ADR procedure, traders are required to provide the other parties to the ADR procedure with a written explanation.

### ***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 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.

### ***Competent authorities***

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 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.