Basic information

2011/0373(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Alternative dispute resolution for consumer disputes (Directive on consumer ADR) Amending Directive 2009/22/EC 2003/0099(COD) Amending Regulation (EC) No 2006/2004 2003/0162(COD) Amended by 2023/0376(COD) **Subject** 3.45.05 Business policy, e-commerce, after-sales service, commercial distribution 4.60.06 Consumers' economic and legal interests	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
IMCO Internal Market and Consumer Protection	GRECH Louis (S&D)	30/11/2011
	Shadow rapporteur MAYER Hans-Peter (PPE) ROCHEFORT Robert (ALDE) RÜHLE Heide (Verts/ALE) FOX Ashley (ECR) DE JONG Dennis (GUE/NGL) SALVINI Matteo (EFD)	

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs (Associated committee)	BUŞOI Cristian-Silviu (ALDE)	01/02/2012

Committee for opinion on the legal basis	Rapporteur for opinion	Appointed
JURI Legal Affairs	LICHTENBERGER Eva (Verts/ALE)	17/07/2012

Council of the

Council configuration	Meetings	Date

European Union			
	Competitiveness (Internal Market, Industry, Research and Space)	3169	2012-05-30
	Competitiveness (Internal Market, Industry, Research and Space)	3208	2012-12-10
	Competitiveness (Internal Market, Industry, Research and Space)	3133	2011-12-05
	Agriculture and Fisheries	3234	2013-04-22

European Commission	Commission DG	Commissioner
	Health and Food Safety	BORG Tonio

European Economic and Social Committee

Key events

Date	Event	Reference	Summary
29/11/2011	Legislative proposal published	COM(2011)0793	Summary
05/12/2011	Debate in Council		Summary
13/12/2011	Committee referral announced in Parliament, 1st reading		
20/04/2012	Referral to associated committees announced in Parliament		
30/05/2012	Debate in Council		Summary
10/07/2012	Vote in committee, 1st reading		
16/10/2012	Committee report tabled for plenary, 1st reading	A7-0280/2012	Summary
10/12/2012	Debate in Council		Summary
12/03/2013	Decision by Parliament, 1st reading	T7-0066/2013	Summary
12/03/2013	Results of vote in Parliament		
12/03/2013	Debate in Parliament		
22/04/2013	Act adopted by Council after Parliament's 1st reading		
21/05/2013	Final act signed		
21/05/2013	End of procedure in Parliament		
18/06/2013	Final act published in Official Journal		

Technical information

Procedure reference	2011/0373(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Amending Directive 2009/22/EC 2003/0099(COD) Amending Regulation (EC) No 2006/2004 2003/0162(COD) Amended by 2023/0376(COD)

Legal basis	Treaty on the Functioning of the European Union TFEU 114-p1
Other legal basis	Rules of Procedure EP 165
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed
Committee dossier	IMCO/7/08130

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Amendments tabled in committee		PE489.695	04/06/2012	
Committee opinion	JURI	PE486.223	21/06/2012	
Committee draft report		PE487.749	23/07/2012	
Specific opinion	JURI	PE496.382	18/09/2012	
Committee report tabled for plenary, 1st reading/single reading		A7-0280/2012	16/10/2012	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0066/2013	12/03/2013	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00079/2012/LEX	21/05/2013	

European Commission

Document type	Reference	Date	Summary
Commission document (COM)	COM(2011)0791	29/11/2011	
Legislative proposal	COM(2011)0793	29/11/2011	Summary
Document attached to the procedure	SEC(2011)1408	29/11/2011	
Document attached to the procedure	SEC(2011)1409	29/11/2011	
Commission response to text adopted in plenary	SP(2013)306	30/04/2013	
Follow-up document	COM(2019)0425	25/09/2019	Summary
Follow-up document	COM(2023)0648	17/10/2023	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2011)0791	31/01/2012	
Contribution	PT_PARLIAMENT	COM(2011)0793	14/02/2012	
Contribution	BG_PARLIAMENT	COM(2011)0793	24/02/2012	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EDPS	Document attached to the procedure	N7-0066/2012 OJ C 136 11.05.2012, p. 0001	12/01/2012	Summary
EESC	Economic and Social Committee: opinion, report	CES0803/2012	29/03/2012	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Directive 2013/0011
OJ L 165 18.06.2013, p. 0063 Summary

Alternative dispute resolution for consumer disputes (Directive on consumer ADR)

2011/0373(COD) - 16/10/2012 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Internal Market and Consumer Protection adopted the report by Louis GRECH (S&D, MT) on the proposal for a Directive of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR).

The Committee on Legal Affairs was also consulted for an opinion on this report pursuant to Rule 50 of the Rules of Procedure (Associated committee).

The parliamentary committee responsible recommends that the position of the European Parliament adopted at first reading under the ordinary legislative procedure should be to amend the Commission's proposal as follows:

Legal base: Members call for the proposal to be based on Articles 114 and **169** of the Treaty on the Functioning of the European Union.

Scope: the Directive should ensure that in the event of contractual disputes arising from the sale of goods or the provision of services, that consumers can, on a voluntary basis, submit complaints against traders to entities offering **impartial, transparent, effective, independent, fast and fair alternative dispute resolution procedures**.

In order to achieve a high level of consumer protection it is important that the proposed Directive **applies to cross-border and domestic disputes**. This Directive shall also apply to those ADR entities which are set-up by national associations or groups of firms and which constitute a different legal entity from an individual trader.

Accessibility: Members consider it necessary that information on the ADR procedure should be provided in **a clear, comprehensible and easily accessible way** in the appropriate formats. Moreover, they have added a clause whereby ADR entities may refuse to deal with a given dispute on the grounds that it is frivous or vexacious, or that it has previously been considered by another ADR entity. In all cases of refusal on the grounds of procedural rules, ADR entities should provide the parties with a **statement of reasons** for their decision within 14 calendar days of receiving the application for ADR.

Member States may limit the admissibility of a dispute for ADR by setting **minimum thresholds** for the value of the claim, taking into account whether the value of the claim is disproportionately lower than the actual costs of the ADR procedure.

Another amendment also provides that a **court before which an action is brought** may, when appropriate and having regard to all circumstances of the case, invite the parties to use ADR in order to settle the dispute.

Independence: in addition to the requirement that persons responsible for ADR should be impartial, Members propose to introduce he requirement that these persons are also independent of all those who might have an interest in the outcome and should have **no conflict of interest** which could impede the reaching of a decision in a fair, impartial and independent manner.

Natural persons in charge of ADR should possess the **required skills**. Specific training programmes whould therefore be provided by Member States working together with the Commission.

Transparency: Members stress that ADR entities should be **accessible and transparent** and that the parties receive the information they need in order to take an informed decision before engaging in an ADR procedure. Parties should, for example, be informed of the requirement that an attempt be made by the consumer to reach an amicable resolution of the matter directly with the trader prior to an ADR procedure being instituted.

The report suggests that "**exemplary decisions**" are published reflecting the outcomes of significant disputes, in order to raise traders' standards and to facilitate the exchange of information and best practices.

Effectiveness: Members propose that ADR entities be required to **resolve both online and offline disputes** rapidly within 90 days from the time they officially open proceedings. This **timeframe could only be extended** at the discretion of the persons in charge of the ADR procedure where an extension is necessary to guarantee good quality dispute resolution in a particularly complex or technical dispute.

ADR procedures should preferably be **free of charge** for the consumer. In the event that costs are applied, the ADR procedure should be accessible, attractive and inexpensive for consumers.

Equity and freedom: the amendments introduced seek to authorise each party: (i) allow the parties to withdraw from the procedure at any stage if they are dissatisfied with the performance or the operation of the procedure; (ii) to express their point of view, to be provided with and **comment upon the arguments**, evidence, documents and facts put forward by the other party, including any statements and opinions given by experts, and to respond within a reasonable period.

Members also propose to:

- introduce a new article to protect the right of both parties to be informed of and choose whether to accept a binding decision. Furthermore, consumers cannot be subject to a binding decision if it was agreed before the dispute arises and if it deprives the consumer of their right to bring an action before the courts;
- lay down the **principle of legality** for disputes whereby the a solution is binding on the consumer, so as to ensure that consumers are not deprived of the protection afforded by the mandatory provisions of the law in force.

Information: traders should inform consumers about the name, address and website address of the ADR entity or entities by which they are covered. Traders should also specify whether or not they commit or are obliged to use those entities for the purpose of resolving disputes with consumers.

Guidelines: the Commission, after consulting the European Parliament, the Council and relevant stakeholders, should draw up guidelines for the implementation of this Directive. It should also facilitate cooperation and exchanges of experience between ADR entities.

Alternative dispute resolution for consumer disputes (Directive on consumer ADR)

2011/0373(COD) - 10/12/2012

The Council took note of the **progress made** on a draft Directive on Alternative Dispute Resolution (ADR) and a draft Regulation on Online Dispute Resolution (ODR), following the agreement reached on a general approach on 30 May.

The proposals aim to provide for simple, fast and affordable out-of-court settlement procedures for resolving disputes between consumers and traders arising from the sales of goods and services, through the intervention of an alternative dispute resolution entity.

ADR schemes help consumers engaged in disputes which they have been unable to resolve directly with the trader. These mechanisms have been developed differently across the EU, both publicly and privately, and the status of the decisions adopted by these bodies differs greatly. The initiative will ensure that ADR schemes are established where they are currently lacking and that consumers will always have the possibility of taking their disputes to an ADR.

A provisional agreement was reached between representatives of the European Parliament and the Council following informal negotiations that took place at the “trialogue” (a meeting between the Parliament, the Council and the Commission) of 5 December 2012. The first-reading agreement on both proposals will have to be confirmed by the co-legislators in accordance with their respective internal procedures.

Alternative dispute resolution for consumer disputes (Directive on consumer ADR)

2011/0373(COD) - 12/03/2013 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 617 votes to 51 with 5 abstentions a legislative resolution on the proposal for a directive of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009 /22/EC (Directive on Consumer ADR).

Parliament adopted its position in first reading following the ordinary legislative procedure. The amendments adopted in plenary are the result of a compromise negotiated between Parliament and Council. They amend the Commission proposal as follows:

Purpose and scope: the purpose of the Directive is, through the achievement of a high level of consumer protection, to ensure that consumers might, on a voluntary basis, submit complaints against traders to entities offering **independent, impartial, transparent, effective, fast and fair** alternative dispute resolution procedures.

The Directive provides that Member States will be permitted to maintain or introduce national provisions with regard to procedures not covered by the Directive. It acknowledges the competence of Member States to determine whether ADR entities established on their territories are to have the power to impose a solution.

The Directive will apply to **procedures for the out-of-court resolution of domestic and cross-border disputes** concerning contractual obligations stemming from sales contracts or service contracts between a trader established in the Union and a consumer resident in the Union through the intervention of an ADR entity. Confidentiality and privacy should be respected at all times during the ADR procedure.

The Directive will not apply to:

procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed or remunerated exclusively by the individual trader;

- non-economic services of general interest;
- disputes between traders;
- procedures initiated by a trader against a consumer;
- health services provided by health professionals;
- public providers of further or higher education.

Access to ADR entities and ADR procedures: Member States shall facilitate access by consumers to ADR procedures.

ADR entities must: (i) maintain an up-to-date website which provides the parties with **easy access to information concerning the ADR procedure,** and which enables consumers to submit a complaint and the requisite supporting documents online; (ii) provide the parties, at their request, with the information on a durable medium; (iii) where applicable, enable the consumer to submit a complaint off-line.

Member States may, at their discretion, permit ADR entities to maintain and introduce procedural rules that allow them to **refuse to deal with a given dispute**, for example, on the grounds that the dispute is frivolous or vexatious or that the consumer did not attempt to contact the trader concerned in order to discuss his complaint and seek, as a first step, to resolve the matter directly with the trader.

Where an ADR entity is unable to consider a dispute that has been submitted to it, that ADR entity shall provide both parties with a **reasoned explanation** of the grounds for not considering the dispute within three weeks of receiving the complaint file.

The Directive should allow traders established in a Member State to be covered by an ADR entity, which is **established in another Member State**.

Expertise, independence and impartiality: persons in charge of ADR must: (i) 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**; (ii) be appointed for a term of office of **sufficient duration** to ensure the independence of their actions; (iii) be **remunerated** in a way that is not linked to the outcome of the procedure.

Transparency: ADR entities must make publicly available on their websites, or on a durable medium upon request, **clear and easily understandable information** on: (i) their contact details, including postal address and e-mail address; (ii) the expertise, impartiality and independence of the natural persons in charge of ADR, if they are employed or remunerated exclusively by the trader; (iii) the procedural rules governing the resolution of a dispute and the grounds on which the ADR entity may refuse to deal with a given dispute; (iv) any preliminary requirements the parties may have to meet before an ADR procedure can be instituted, including the requirement that an attempt be made by the consumer to resolve the matter directly with the trader; (v) whether or not the parties can withdraw from the procedure; (vi) the average length of the ADR procedure; (vii) the legal effect of the outcome of the ADR procedure, including the penalties for non-compliance; (viii) the enforceability of the ADR decision.

Effectiveness: the ADR procedure must be **available and easily accessible online** and offline to both parties irrespective of where they are. The parties have access to the procedure **without being obliged to retain a lawyer** or a legal advisor. Furthermore, ADR procedure must be free of charge or available **at a nominal fee** for consumers. Lastly, the outcome of the ADR procedure must be made available within a period of 90 calendar days from the date on which the ADR entity has received the complete complaint file.

Liberty: Member States shall ensure that in ADR procedures which aim at resolving the dispute by **imposing a solution**, the solution imposed may be binding on the parties only if they were informed of its binding nature in advance and specifically accepted this.

Legality: in ADR procedures which aim at resolving the dispute by imposing a solution on the consumer, **where there is no conflict of laws**, the solution imposed shall not result in the consumer being deprived of the protection afforded to him by the provisions that cannot be derogated from by agreement by virtue of the law of the Member State where the consumer and the trader are habitually resident.

In a situation involving a conflict of laws, where the law applicable to the sales or service contract is determined in accordance with Regulation (EC) No 593/2008 (Rome I), the solution imposed by the ADR entity shall not result in the consumer being deprived of the protection afforded to him by the provisions that cannot be derogated from by agreement by virtue of the law of the Member State in which he is habitually resident.

The right to an effective remedy: ADR procedures should not be designed to replace court procedures and should not deprive consumers or traders of their rights to seek redress before the courts.

Information to be given by traders: traders who commit to use ADR entities to resolve disputes with consumers should inform consumers of the address and website of the ADR entity or entities by which they are covered. That information should be provided in a clear, comprehensible and easily accessible way on the trader's website, where one exists, and if applicable in the general terms and conditions of sales or service contracts between the trader and the consumer.

Monitoring of ADR entities: each Member States should designate **a competent authority or authorities**, which should perform this function. Member States should ensure that ADR entities, the European Consumer Centre Network, and, where appropriate, the bodies designated in accordance with the Directive **publish that list** on their website by providing a link to the Commission's website, and whenever possible on a durable medium at their premises.

Alternative dispute resolution for consumer disputes (Directive on consumer ADR)

2011/0373(COD) - 21/05/2013 - Final act

PURPOSE : to contribute to the proper functioning of the internal market and protect consumers, by ensuring that consumers can submit complaints against traders to entities offering alternative dispute resolution procedures.

LEGISLATIVE ACT : Directive 2013/11/EU of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR).

CONTENT : the aim of the Directive is to ensure 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**. The directive and Regulation (EU) No 524/2013 of the European Parliament and of the Council on online dispute resolution are legislative acts which are linked and complementary.

Scope: the Directive will apply to procedures for the out-of- court resolution of domestic and cross-border disputes concerning contractual obligations stemming from **sales contracts or service contracts between a trader established in the Union and a consumer resident in the Union** through the intervention of an ADR entity. **Confidentiality and privacy** should be respected at all times during the ADR procedure.

The Directive does not apply to non-economic services of general interest or to health care services provided by healthcare professionals.

The Directive establishes **harmonised quality requirements** for ADR entities and ADR procedures. Member States may maintain or introduce rules that go beyond those laid down by the Directive. They will have the competence to determine whether ADR entities established on their territories are to have the power to impose a solution.

Access to ADR entities and ADR procedures: the directive provides that Member States shall facilitate access by consumers to ADR procedures. ADR entities must maintain **an up-to-date website which provides the parties with easy access to information concerning the ADR procedure**, and which enables consumers to submit a complaint and the requisite supporting documents online.

Member States may, at their discretion, permit ADR entities to maintain and introduce procedural rules that **allow them to refuse to deal with a given dispute**, for example, on the grounds that the consumer did not attempt to contact the trader concerned in order to discuss his complaint and seek, as a first step, to resolve the matter directly with the trader, or that the dispute is frivolous or vexatious.

Where an ADR entity is unable to consider a dispute that has been submitted to it, that ADR entity shall provide both parties with a **reasoned explanation** of the grounds for not considering the dispute within three weeks of receiving the complaint file.

Expertise, independence and impartiality: persons in charge of ADR must: (i) 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; (ii) be appointed for a term of office of sufficient duration to ensure the independence of their actions, and not be liable to be relieved from their duties without just cause; (iii) be remunerated in a way that is not linked to the outcome of the procedure.

Transparency: ADR entities must make publicly available on their websites, on a durable medium upon request, **clear and easily understandable information** on: (i) their contact details, including postal address and e-mail; (ii) address; (ii) the expertise, impartiality and independence of the natural persons in charge of ADR; (iii) the procedural rules governing the resolution of a dispute and the grounds on which the ADR entity may refuse to deal with a given dispute; (iv) the languages in which complaints can be submitted; (v) any preliminary requirements the parties may have to meet before an ADR procedure can be instituted, including the requirement that an attempt be made by the consumer to resolve the matter directly with the trader; (vi) whether or not the parties can withdraw from the procedure; (vii) the average length of the ADR procedure; (viii) the legal effect of the outcome of the ADR procedure, including the penalties for non-compliance ; (ix) the enforceability of the ADR decision, if relevant.

Effectiveness: the ADR procedure must be available and easily accessible online and offline to both parties irrespective of where they are. The parties must have access to the procedure without being obliged to retain a lawyer or a legal advisor. Furthermore, the ADR procedure must be free of charge or available at a nominal fee for consumers. Lastly, the outcome of the ADR procedure must be made available within a period of 90 calendar days from the date on which the ADR entity has received the complete complaint file.

Liberty: Member States shall ensure that in ADR procedures which aim at resolving the dispute by imposing a solution, the solution imposed may be binding on the parties only if they were informed of its binding nature in advance and specifically accepted this.

Legality: in ADR procedures which aim at resolving the dispute by imposing a solution on the consumer, where there is no conflict of laws, the solution imposed shall not result in the consumer being deprived of the protection afforded to him by the provisions that cannot be derogated from by agreement by virtue of the law of the Member State where the consumer and the trader are habitually resident.

Right to a judicial remedy: parties who have recourse to ADR procedures the outcome of which is not binding, must not subsequently be prevented from initiating judicial proceedings in relation to that dispute as a result of the expiry of limitation or prescription periods during the ADR procedure.

Information and cooperation: so that consumers are able to identify quickly which ADR entities are competent to deal with their complaint, **traders must inform consumers of the address and website of the ADR entity or entitie**s by which they are covered.

Member States shall ensure that ADR entities cooperate in the resolution of cross-border disputes and conduct regular exchanges of best practices as regards the settlement of both cross-border and domestic disputes.

Monitoring of ADR entities: each Member State must designate a competent authority to carry out this task. Member States must ensure that ADR entities, the European Consumer Centre Network, and, where appropriate, the bodies designated in accordance with this Directive **publish that list on their website** by providing a link to the Commission's website, and whenever possible on a durable medium at their premises.

ENTRY INTO FORCE : 08/07/2013.

TRANSPOSITION : 09/07/2015.

Alternative dispute resolution for consumer disputes (Directive on consumer ADR)

2011/0373(COD) - 29/11/2011 - Legislative proposal

PURPOSE: to contribute to the functioning of the internal market and to the achievement of a high level of consumer protection by ensuring that disputes between consumers and traders can be submitted to entities offering impartial, transparent, effective and fair alternative dispute resolution procedures.

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

BACKGROUND: a substantial proportion of European consumers encounter **problems when buying goods and services in the internal market**. In 2010, this was the case for approximately 20% of European consumers. These problems are often left unresolved. The losses incurred by European consumers because of problems with purchased goods or services are estimated at 0.4% of the EU GDP.

The Commission has adopted two Recommendations on consumer ADR and established two networks dealing with ADR (ECC-NET and FIN-Net). A number of EU sector-specific legislation contains a clause on ADR and Directive 2008/52/CE (the Mediation Directive) promotes the amicable settlement of disputes, including consumer disputes. However, the **analysis of the current situation identified the following main shortcomings which hinder the effectiveness of ADR**: gaps in the coverage, the lack of consumer and business awareness as well as the uneven quality of ADR procedures.

The lack of effective ADR poses particular challenges in the context of cross-border transactions (e.g. language barriers, potentially higher costs, differences in legislation between Member States).

In view of the problems identified, the Commission undertook to propose measures on ADR that ensure that all consumer complaints can be submitted to an ADR entity and that disputes arising from cross-border transactions could be more easily resolved.

A proposal for a regulation on establishing a European platform facilitating out-of-court resolution of disputes is presented at the same time as this proposal.

IMPACT ASSESSMENT: the Commission has carried out a detailed impact assessment, analysing a range of policy options for (i) ADR coverage, information and quality and(ii) ODR for cross-border e-commerce transactions. The impact assessment concluded that only a **combination of two instruments** on ADR and ODR can ensure access to impartial, transparent, effective and fair means to resolve domestic and cross-border consumer disputes out-of-court.

A **Framework Directive** is the most appropriate way to ensure full ADR coverage in all Member States.

LEGAL BASIS: Article 114 TFEU.

CONTENT: the proposal aims to ensure that that disputes between consumers and traders can be submitted to **entities offering impartial, transparent, effective and fair alternative dispute resolution procedures.**

The main points of the proposal are as follows:

Ensuring that ADR procedures exist for all consumer disputes: Member States must ensure that all disputes between a consumer and a trader arising from the sale of goods or the provision of services can be submitted to an ADR entity, including through online means.

The proposal applies to ADR entities that seek to resolve disputes between consumers and traders out-of-court through the intervention of a dispute resolution entity. It covers in particular mediation procedures but also non-judicial procedures of an adjudicatory nature, such as procedures before consumer complaint boards, arbitration and conciliation procedures. The proposal does not apply to consumer complaint handling systems operated by the trader nor to dispute resolution entities where the natural persons in charge of dispute resolution are employed exclusively by the trader. It also excludes direct negotiations between the parties.

Information on ADR and cooperation: consumers must be able to find information on the competent ADR entity in the main commercial documents provided by the trader and, where a trader has a website, on that website. In addition, traders will have to inform consumers on whether or not they commit to use ADR in relation to complaints lodged against them by a consumer.

Member States shall ensure that consumers can obtain assistance when they are involved in a cross-border dispute. They may delegate responsibility for this task to their centres of the European Consumer Centre Network (ECC-net), which currently performs the function of guiding consumers to the ADR entities competent to deal with their cross-border disputes.

ADR entities will be encouraged to become members of networks of ADR entities in sector-specific areas when they deal with disputes in that area.

The proposal contains provisions ensuring the respect of strict guarantees of confidentiality and data protection, in compliance with the relevant Union legislation.

Quality of ADR entities: the proposal aims at ensuring that ADR entities respect the quality principles of impartiality, transparency, effectiveness and fairness. It provides that the parties should receive all the information they need to take an informed decision before engaging in an ADR procedure. Based on the results of existing studies, the proposal requires that disputes should be resolved within 90 days. It also provides that they should be free of charge or of moderate costs for consumers.

Monitoring: in each Member State, a competent authority will be in charge of monitoring the functioning of ADR entities established on its territory. The competent authorities will inter alia assess, on the basis of information notified to them by ADR entities, whether a given ADR entity respects the quality requirements laid down by the proposal. In addition, the competent authorities will publish regular reports on the development and functioning of ADR entities. Every three years, the Commission will report to the European Parliament and the Council on the application of the Directive.

BUDGETARY IMPLICATIONS: the proposal has no implications for the EU budget.

Alternative dispute resolution for consumer disputes (Directive on consumer ADR)

2011/0373(COD) - 05/12/2011

The Commission made a presentation on two legislative proposals submitted on 29 November

2011: a draft directive on Alternative Dispute Resolution (ADR) and a draft regulation on On-line Dispute Resolution (ODR).

ADR schemes, also known as "out-of-court mechanisms", have been set up across Europe to help citizens engaged in the resolution of disputes which they have been unable to resolve directly with the trader. These mechanisms have been developed differently across the EU, either publicly or privately, and the status of the decisions adopted by these bodies differs greatly from one Member State to another.

The Commission conducted a public consultation on this subject from18 January and 15 March 2011.

In addition, **the Council adopted conclusion on the results of the first Single Market Forum** (SIMFO), which took place in Krakow, Poland, on 3 and 4 October 2011. The SIMFO, which was organised jointly by the European Parliament, the Commission and the Polish presidency, is intended to be the starting point of a permanent platform for debate among EU institutions, stakeholders and citizens on the development of the internal market.

In its conclusions, the Council:

- attaches great importance to ensuring that European businesses and consumers purchasing goods and services (online, offline, cross-border or domestically) have access to efficient, affordable and simple means of resolving their disputes with traders, taking into account diversity of different national Alternative Dispute Resolution schemes;
- believes that it is essential to increase businesses' and citizens' knowledge and understanding of Alternative Dispute Resolution schemes throughout Europe;
- stresses that simple, efficient and affordable Online Dispute Resolution systems allowing consumers to solve effectively their problems when shopping on-line are crucial for improving confidence in the digital Single Market.

Alternative dispute resolution for consumer disputes (Directive on consumer ADR)

2011/0373(COD) - 12/01/2012 - Document attached to the procedure

Opinion of the European Data Protection Supervisor on the legislative proposals on alternative and online dispute resolution for consumer disputes.

On 6 December 2011, the EDPS received the proposals for alternative dispute resolution for consumer disputes (ADR) and online dispute resolution for consumer disputes (ODR) for consultation.

This Opinion aims at analysing the provisions on processing of personal data in the proposals.

It will focus on the ODR proposal, as it involves a centralised processing of personal data related to disputes through an online platform.

The EDPS welcomes the fact that data protection principles have been integrated in the text, in particular as regards the purpose and access limitation, the limitation of the retention period and the security measures. However, he recommends:

-clarifying the responsibilities of the controllers and informing data subjects accordingly: the legislative part of the ODR proposal should specify at least to which of the controllers data subjects should address their requests of access, rectification, blocking and erasure; and which controller would be accountable in case of specific breaches of the data protection legislation (for example, for security breaches). Data subjects should also be informed accordingly;

-clarifying the limitation of access rights: the EDPS welcomes these limitations of the purpose and the access rights. However, it is not clear whether all ODR facilitators (at least 54) will have access to personal data related to all the disputes. He recommends clarifying that every ODR facilitator will have access only to the data needed to fulfil his or her obligations under the Regulation;

-complementing the provisions on security: the EDPS recommends adding also a reference to the need to conduct a privacy impact assessment (including a risk assessment) and to the fact that compliance with data protection legislation and data security should be periodically audited and reported. Furthermore, he recalls that the development of IT tools for the establishment of the ODR platform should integrate privacy and data protection from the very early design stage (privacy by design), including the implementation of tools enabling users to better protect personal data (such as authentication and encryption) ;

-mentioning the need to consult the EDPS on delegated and implementing acts related to the processing of personal data.

The EDPS would also like to stress that the processing of personal data in the framework of the ODR platform may be subject to prior checking by the EDPS and by national data protection authorities.

Alternative dispute resolution for consumer disputes (Directive on consumer ADR)

2011/0373(COD) - 30/05/2012

The Council agreed on a **general approach** concerning a draft directive on Alternative Dispute Resolution (ADR) and a draft regulation on On-line Dispute Resolution (ODR), pending the opinion of the European Parliament.

The objective of both proposals is to provide for simple, fast and affordable out-of-court settlement procedures designed to resolve disputes between consumers and traders arising from the sales of goods and services.

The initiative will ensure the establishment of ADR schemes where none exist today and define a common framework for ADR in the EU Member States by setting out common minimum quality principles in order to ensure that all ADR entities are impartial, transparent and efficient.

Existing national ADR schemes should be able to continue to operate within the new framework. The ADR system will be supplemented by an ODR mechanism involving the setting up of a European on-line dispute resolution platform (this will be an interactive website accessible electronically and free of charge in all languages of the Union).

In its current draft version, the directive would apply to disputes submitted by consumers against traders in almost all areas of commercial activity across the EU.

Alternative dispute resolution for consumer disputes (Directive on consumer ADR)

2011/0373(COD) - 25/09/2019 - Follow-up document

The Commission presented a report on the application of Directive 2013/11/EU of the European Parliament and of the Council on alternative dispute resolution for consumer disputes (ADR) and Regulation (EU) No 524/2013 of the European Parliament and of the Council on online dispute resolution (ODR) for consumer disputes.

Settling consumer disputes out of court holds considerable potential for consumers, retailers and the administration of justice in general. Directive 2013 /11/EU and Regulation (EU) No 524/2013 aim to tap that potential by providing a legislative framework that ensures that consumers have access to high-quality ADR procedures for settling their contractual disputes with traders, including via a multilingual web-based ODR platform.

Application of the legislative framework

Consumer ADR and ODR has become an integral part of the EU's toolbox for the public and private enforcement of consumer law. Today, EU consumers have access to high-quality ADR procedures across the Union and in virtually all retail sectors, regardless of whether the dispute is domestic or cross-border and whether the purchase was made online or offline.

Directive 2013/11/EU has consolidated and complemented consumer ADR in the Member States, and upgraded its quality. Member States with previously no ADR culture have added consumer ADR to their national consumer dispute resolution landscapes.

Overall, the transparency of ADR entities and procedures has increased considerably, case handling times have been reduced, ADR entities offer more staff training and users are more satisfied with the services provided by ADR entities. The establishment of high-quality ADR infrastructures has also provided an incentive for traders to review and improve their internal complaint handling processes.

A number of Member States have established additional or more stringent quality requirements – either in the implementing legislation itself or by endowing their national competent authorities with the power to establish additional or more stringent requirements for the ADR entities under their supervision.

The German implementing legislation requires in addition that those persons be fully qualified lawyers or certified mediators. Under the Czech, Spanish, French, Lithuanian and Finnish implementing legislation consumer ADR is always free of charge for the consumer.

A potential that is still under-used

While the availability and quality of ADR has been reinforced in the entire Union, the uptake of the new framework is diverse across Member States. Overall, the new ADR framework is still underused. Based on the evidence gathered for this report, three main challenges can be identified that currently limit the framework's full effectiveness:

(1) ADR awareness and perceptions: ADR awareness has increased among both consumers and retailers, awareness levels are still insufficient in some regions and retail sectors. Overall, ADR awareness is lower in SMEs than in large retailers. Traders sometimes consider ADR entities to represent consumers' interests and therefore perceive them as biased in favour of the consumer. The situation is compounded by the diversity of the ADR landscapes that feature a large array of ADR models, names and procedures.

(2) Navigating the national ADR landscapes: The diversity of ADR landscapes makes them difficult to navigate for consumers and traders, in particular in the Member States with a large number of certified ADR entities. Overall, there is less clarity about the ADR entity to which consumers and traders can turn when there is more than one ADR entity per retail sector. A specific difficulty in navigating a Member State's ADR landscape arises when it features ADR entities whose scope is limited to specific aspects of a dispute in a given retail sector – to the effect that the consumer might need to turn to two ADR entities to have his or her issue dealt with fully.

(3) Traders' participation in ADR procedures: While overall traders' participation in ADR has slowly, but steadily increased since 2014, currently only one in three retailers is willing to use ADR. In a number of regions and retail sectors, the ADR models currently offered yield only insufficient participation rates for traders.

Emergence of a community of stakeholders

The European legislative framework for consumer ADR and ODR rests on a logic of shared responsibility and cooperation. The diversity of the national ADR landscapes and the exchanges between ADR stakeholders across Member States have created an 'ADR laboratory' where ADR models and design options are compared and critically assessed and emerging best practice is identified, shared and increasingly implemented.

Follow-up

The Commission will continue to facilitate the development of a Union-wide community of ADR stakeholders including, inter alia, ADR entities, consumer and business representatives, national competent authorities, regulators and academics.

In that context, the Commission will for example convene the second Union-wide ADR Assembly in 2020, further promote ADR and ODR in its 2019 communication campaign on consumer law and continue to support the capacity building by ADR entities through grants.