

Brussels, 17 July 2025
(OR. en)

11293/25

**Interinstitutional File:
2023/0376 (COD)**

**CONSOM 129
MI 507
JUSTCIV 129
COMPET 692
DIGIT 142
CODEC 968**

OUTCOME OF PROCEEDINGS

From:	General Secretariat of the Council
To:	Delegations
Subject:	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 - Analysis of the final compromise text with a view to agreement

Delegations will find in the Annex, for information, the text of the final compromise text with a view to an agreement of 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, approved by COREPER on 16 July 2025.

2023/0376 (COD)

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

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard the opinion of the European Economic and Social Committee,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Directive 2013/11/EU of the European Parliament and of the Council¹ was adopted in order to ensure that consumers within the Union have access to high quality alternative dispute resolution (“ADR”) procedures to resolve the contractual disputes arising from the sale of goods or provision of services by traders established in the Union to consumers resident in the Union. It provides for the availability of ADR procedures for all types of domestic and cross-border consumer disputes within the Union, ensuring that ADR procedures meet minimum quality standards. It requires Member States to monitor the performance of ADR entities. To increase consumer awareness and promote the use of ADR, it also provides that traders should be required to inform their consumers of the possibility to settle their dispute out-of-court through ADR procedures.

¹ Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (OJ L 165, 18.6.2013, p. 63).

- (2) In 2019 the Commission adopted a report on the implementation of the Directive 2013/11/EU and of Regulation (EU) No 524/2013 of the European Parliament and of the Council² which revealed that Directive 2013/11/EU has led to increased coverage of consumer markets by quality ADR entities throughout the Union. However, the report also identified that consumer and business uptake of ADR procedures was lagging behind in some sectors and Member States. One reason for this was the low level of awareness of traders and consumers about such procedures in Member States where they had only recently been introduced. Another reason was the lack of trust of consumers and traders in unregulated ADR entities. Data provided by national competent authorities in early 2022, as well as the evaluation of the implementation of the Directive 2013/11/EU conducted in 2023, suggest that the uptake remained relatively stable (apart from a small increase of cases related to *the* Covid-19 pandemic). Most stakeholders consulted in the context of that evaluation confirmed that the lack of awareness and understanding of ADR procedures by consumers, low engagement by traders, gaps in ADR coverage in certain Member States, high costs and complex national ADR procedures and differences in the competences of ADR entities, are frequent factors hindering the uptake of ADR procedures. There are additional barriers in cross-border ADR *procedures, such as* language, lack of knowledge of the applicable law, as well as specific access difficulties for vulnerable consumers.

² ***Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (OJ L 165, 18.6.2013, p. 1).***

- (3) Since at least two out of five online transactions **currently** made by consumers residing in the Union are with traders **established** in third countries, the scope of Directive 2013/11/EU should be extended to allow those third country traders **that are** willing to participate in an ADR procedure to do so, **when those** traders **direct their activities towards one or more Member States, within the meaning of Article 6(1), point (b) of Regulation (EC) No 593/2008 and Article 17(1), point (c), of Regulation (EU) No 1215/2012. Whether a third country trader is directing its activities towards one or more Member States can be determined on the basis of all relevant circumstances, including factors such as: the use of a language or a currency generally used in that Member State, the possibility of ordering products or services, the use of a relevant top-level domain, the availability of an application in the relevant national application store, the provision of local advertising or advertising in a language used in that Member State, or the handling of customer relations such as by providing customer service in a language generally used in that Member State. Member States should be able to lay out conditions for the participation in ADR procedures of traders established in third countries, in particular to avoid excessive burden on ADR entities. These conditions may include in particular the trader's consent to the resolution of the dispute on the basis of the law applicable in the Member State in which the consumer has their place of residence and the trader's commitment to the ADR procedural rules, including recurrent fees, where applicable.**
- (4) The complexity of consumer disputes has evolved significantly since the adoption of Directive 2013/11/EU. **Digitalisation** of goods and services, the growing importance of e-commerce and digital advertising in the formation of consumer contracts has resulted in a rise in the number of consumers being exposed to misleading online information and manipulative interfaces preventing them from making informed purchasing decisions. It is, therefore, necessary to clarify that contractual disputes arising from the sale of goods or services include digital content and digital services ■ .
- (4a) **When a contract is concluded between a consumer and a trader, consumers should be able to seek redress under Directive 2013/11/EU for practices that have harmed them, whether before or after the contract is concluded.**

- (4b) *The material scope of Directive 2013/11/EU should cover, for example, situations arising from the pre-contractual phase when a contract has been concluded between a consumer and a trader, such as where a consumer concludes a contract based on misleading advertisement in regards to a specific price promotion, which falls within the scope of Directive 2005/29/EC of the European Parliament and of the Council³. Other examples include situations related to the provision of compulsory precontractual information as provided for in articles 5 and 6 of Directive 2011/83/EU of the European Parliament and the Council⁴, 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 the Council⁵, the right to receive pre-journey information provided for in article 9, paragraph 1, of Regulation (EU) No 2021/782 of the European Parliament and the Council⁶, 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 Council⁷, or the provision of pre-contractual information related to package travel as provided for in article 5 of Directive (EU) 2015/2302 of the European Parliament and the Council⁸.*

³ *Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (Unfair Commercial Practices Directive) (OJ L 149, 11.6.2005, p. 22).*

⁴ *Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64).*

⁵ *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).*

⁶ *Regulation (EU) 2021/782 of the European Parliament and of the Council of 29 April 2021 on rail passengers' rights and obligations (recast) (OJ L 172, 17.5.2021, p. 1).*

⁷ *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).*

⁸ *Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC (OJ L 326, 11.12.2015, p. 1).*

- (4c) *Submitting a dispute to an ADR entity does not preclude the consumer to refer the matter to another body, such as consumer associations or public enforcement authorities, neither does it prevent those other bodies from taking appropriate action to address the practice in question. Where applicable, public enforcement authorities and ADR entities work in a complementary manner. While public enforcement authorities may contribute significantly to consumer redress, by seeking remedial commitments for the benefit of consumers and/or facilitating follow-on damages actions, it is equally important that consumers are able to seek redress with the intervention of an ADR entity without prejudice to the competences of the relevant public enforcement authorities.*
- (4d) *Consumer rights and obligations of traders towards consumers related to sales and service contracts also concern situations where consumers invoke their rights relating to the legal guarantee, in accordance with articles 5 up to 8, 10 and 11 of Directive (EU) 2019/771 of the European Parliament and of the Council⁹. Disputes can also arise regarding the contractual phase, among others, with regards to unfair terms as provided for in articles 3 up to 6 of Council Directive 93/13/EEC¹⁰, the right to switch providers as provided for in article 25 of Regulation (EU) 2023/2854 of the European Parliament and of the Council¹¹, passenger and travellers' rights as provided for in article 7 of Directive (EU) 2015/2302 or general consumer rights as provided for in articles 7 up to 18 of Directive 2011/83/EU.*

⁹ *Directive (EU) 2019/771 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the sale of goods, amending Regulation (EU) 2017/2394 and Directive 2009/22/EC, and repealing Directive 1999/44/EC (OJ L 136, 22.5.2019, p. 28).*

¹⁰ *Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, 21.4.1993, p. 29).*

¹¹ *Regulation (EU) 2023/2854 of the European Parliament and of the Council of 13 December 2023 on harmonised rules on fair access to and use of data and amending Regulation (EU) 2017/2394 and Directive (EU) 2020/1828 (Data Act) (OJ L, 2023/2854, 22.12.2023).*

(4e) *Consumer rights and obligations of traders towards consumers related to sales and service contracts can also be related to disputes arising after the contract is terminated. This is the case, among others, with regards to obligations of traders to refrain from using content provided or created by the consumer, as provided for in article 16, paragraph 3, of Directive (EU) 2019/770 of the European Parliament and of the Council¹².*

■

(6) *Taking into account the minimum harmonisation nature of Directive 2013/11/EU, Member States ■ have the right to apply ADR procedures ■ to disputes **relating** to other ■ rights **provided for in** Union and national law, such as rights **arising** from Articles 101 and 102 TFEU. **Furthermore, it is up to the Member States to determine which ADR entity is competent for which type of dispute.***

(7) Where a dispute arises between a provider of an online platform and a recipient of that service in relation to that provider's activities in moderating illegal or harmful content on its platform, Article 21 of Regulation (EU) 2022/2065 of the European Parliament and of the Council¹³ on out-of-court dispute settlement applies to that dispute, in accordance with Article 2(4) of that Regulation, given that it lays down more detailed rules in relation to such disputes.

(8) The definitions ■ should ■ reflect the *extended* scope of Directive 2013/11/EU.

¹² *Directive (EU) 2019/770 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the supply of digital content and digital services (OJ L 136, 22.5.2019, p. 1).*

¹³ *Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (OJ L 277, 27.10.2022, p. 1)*

- (8a) *Digital content and digital services are often supplied online under contracts in which the consumer does not pay a price but provides the trader with personal data instead of money. Directive 2013/11/EU currently only applies to contracts for which the consumer pays or undertakes to pay a price, therefore it excludes contracts for which the consumer provides personal data to the trader without paying a price. Given that there are contracts where the consumer provides or undertakes to provide personal data instead of the payment of a price, the definitions of 'sales contract' and 'service contract' should be adapted and the definitions of 'goods', 'digital content' and 'digital service' should be added.*
- (9) To ensure that ADR procedures are well-suited for the digital age where communication takes place online, including in a cross-border context, it is necessary to ensure swift and fair processes for all consumers. Member States should ensure that ADR entities established in their territories have the competence to provide dispute resolution procedures in disputes between traders established outside of the Union and consumers residing in their territory.
- (10) *Under Directive 2013/11/EU Member States are obliged to ensure that the ADR procedure is available and easily accessible online and offline.* Member States should ensure that, *when ADR entities enable consumers to initiate and follow ADR procedures through digital tools, such as online interfaces and online complaint forms*, those tools can be used by all consumers, including vulnerable consumers or those with varying levels of digital literacy. *ADR entities which are public bodies are already covered by Directive (EU) 2016/2102 of the European Parliament and of the Council¹⁴. ADR entities which are private bodies should strive to follow the same accessibility standards as much as possible and feasible.*

¹⁴ *Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies (OJ L 327, 2.12.2016, p. 1).*

- (10a) Member States should ensure that the natural persons in charge of ADR possess necessary knowledge and skills in the field of alternative or judicial resolution of consumer disputes, as well as a general understanding of law. To that end, Member States should also ensure that ADR entities, when necessary, provide training for natural persons in charge of ADR. The training should be adapted to the actual and the required level of expertise of the natural persons in charge of ADR.*
- (10aa) In order to satisfy the requirement of submitting complaints and the requisite supporting documents online in a traceable manner, ADR entities should at least acknowledge the receipt on a durable medium and provide means to identify the complaint for further communications.*
- (10b) Technological advances may contribute to automation of dispute resolution allowing to reach faster and more consistent outcomes. Automated means that are used to help ADR reach an outcome may carry certain risks of bias and opacity. Therefore, the use of such means in the decision-making process should be fully transparent and the parties to the ADR procedure should be informed in advance of their use. Furthermore, parties to an ADR procedure using automated means in the decision-making process should be able to request that the outcome of the procedure is reviewed by a natural person from the ADR entity. That natural person should meet the requirements of Article 6(1) of Directive 2013/11/EU in terms of the necessary expertise, independence and impartiality. The decision-making process should be understood as actions which influence the decisions on whether or not to deal with the dispute or decisions concerning the outcome of the dispute and as excluding purely administrative or technical tasks.*

- (11) *In various situations, for instance mass flight cancellations during the COVID-19 pandemic, ADR procedures proved to be important mechanisms to deal with the increased number of consumer issues. Therefore, Member States should allow ADR entities to bundle ■ cases ■ , to make ADR outcomes consistent for consumers subjected to the same illegal practice, and more cost-efficient for ADR entities and for traders, for example where bundling leads to faster or more coherent dispute resolution. Member States should ensure that consumers are informed of such bundling, in order to be able to decide whether or not they want to participate in the procedure that involves bundling. Member States should also have the possibility to lay down additional conditions for the bundling. For instances, such further conditions could foresee that consumers could object to the bundling or that the consumer's explicit consent is required, and whether in case of objections or lack of explicit consent the procedure would continue without bundling or would be discontinued. Additional conditions could also include requirements for a specified level of similarity of the cases and rules on how to identify similar cases to bundle them. It is clarified that the requirement for the natural persons in charge of the ADR to possess the necessary knowledge and skills in the field of alternative or judicial resolution of consumer disputes set out in in this directive also applies to the bundling of cases.*
- (12) Member States should *ensure that ADR entities do not refuse to deal with a dispute where a trader introduces disproportionate rules on internal complaint-handling systems before the case can be referred to an ADR entity. For instance, in certain market sectors, some consumers face undue burden such as multiple mandatory steps in complaint-handling, or the obligation to prove that a specific part of a company's after sales service was contacted.*

- (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. *In any event, Member States should ensure that once a competent ADR entity decides to consider a consumer complaint in accordance with its procedural rules, that entity will contact and invite the trader concerned to participate in the procedure, irrespective of whether the participation of the trader is mandatory or not.* To encourage traders' participation in the ADR procedures and to ensure due and swift ADR procedures, traders *established in the Union* should be required *to reply* within a specific period to enquiries made by ADR entities on whether they *agree* to participate *in* the proposed procedure. *The aim of the duty to reply is to engage traders to participate in the ADR procedures and to ensure that ADR entities and consumers know whether or not the trader will participate in the procedure. However, the trader's reply should not be required when the applicable law provides for the mandatory participation in the ADR procedure or when the trader is contractually obliged to participate in the ADR procedure. This is without prejudice to any procedural rules that allow ADR entities to close the ADR procedure when the trader is not participating in that procedure within the time periods set by this Directive. The trader's reply should also not be required when the ADR entity is entitled to reach an outcome even if the trader did not participate in the procedure. The consumer should be informed of the extension of the time period given to the trader to reply, if applicable.*
- (13a) *The time period for the trader to inform the ADR entity whether or not it intends to participate in the ADR procedure should be, in principle, no more than 20 working days. However, in certain exceptional cases of a complex nature or in exceptional circumstances, the ADR entity should be entitled to extend that time period in order to give the trader the opportunity to analyse the dispute thoroughly and to choose whether or not it wants to participate in an ADR procedure. In any case, that time period should not exceed 30 working days. The consumer should be informed of the extension of the deadline to reply, if applicable. If a trader fails to reply to the ADR entity within the prescribed deadline, that ADR entity may consider the non-reply as a refusal of the trader to participate, close the case and should inform the consumer accordingly.*

- (14) To reduce information and reporting requirements and to save costs for ADR entities *and* national competent authorities ■ , reporting and information requirements should be simplified and the amount of information provided by ADR entities to the competent authorities should be reduced. *Among others, ADR entities should make publicly available, at least every two years, their activity reports. However, Member States should be allowed to set shorter reporting periods, for example reporting periods of one year. ADR entities should also have the possibility to communicate those activity reports to the relevant competent authorities with a view to comply with other reporting obligations under Directive 2013/11/EU, as long as they include all elements of information required.*
- (14a) *ADR procedures should preferably be free of charge for the consumer. In the event that costs are applied, those costs should not exceed a nominal fee. Furthermore, in order to increase the accessibility and attractiveness of ADR procedures to consumers, Member States should encourage ADR entities to reimburse consumers the nominal fee paid where and to the extent that their complaint is justified. It is important to clarify that such reimbursement is to be made by Member States, in full compliance with the principles of subsidiarity and proportionality, and not by other entities, such as the other party to the ADR procedure.*
- (14aa) *In order to genuinely relieve the workload of ADR entities and give them more time to submit their reports to the competent authorities, the date of submission of the four-yearly report under Article 20 should be extended by a few months.*
- (14b) *In many Member States, consumers are still insufficiently informed about the existence and services proposed by ADR entities. In order to increase consumer awareness about ADR entities and 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. Traders should also provide such information in their general terms and conditions.*

- (14ba) *The trader’s obligation to specify, where a dispute following a complaint of a consumer could not be settled further, whether or not he intends to make use of the relevant ADR entities to settle the dispute should be removed, as it is covered by the obligation for the trader to inform the ADR entity whether or not he intends to participate in the ADR procedure.***
- (14c) *A swift cooperation between the different actors involved in the enforcement of consumer rights is crucial to ensure the overall consistency and coherence of the consumer enforcement system. The cooperation between ADR entities and national authorities entrusted with the enforcement of Union legal acts on consumer protection should also include mutual exchange of information on practices in specific business sectors, for example unfair commercial practices or terms, about which consumers have repeatedly lodged complaints. It is important to clarify that ADR entities are not competent to decide whether a practice described in consumer complaints constitutes an unfair commercial practice, so they would inform about potentially unfair commercial practices and terms.***
- (14ca) *To ensure that ADR entities function properly and effectively, competent authorities should conduct necessary checks on the functioning and activities of the ADR entities in order to monitor compliance with the requirements of this Directive as and when appropriate, e.g. when they receive duly justified complaints by a party of an ADR procedure that give cause for concern as to a systematic non-compliance of an ADR entity with the requirements of this Directive.***
- (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 **and will be part of the network established by the latter.*****

- (15x) In order to ensure that ADR entities, competent authorities and contact points are able to fulfil their tasks efficiently, in particular the tasks introduced by this Directive, they should have sufficient human, material and financial resources at their disposal. It should remain possible for Member States to determine the appropriate forms of funding for this purpose.*
- (15a) For reasons of efficiency and effectiveness, the Commission has proposed to discontinue the European Online Dispute Resolution Platform established pursuant to Regulation (EU) No 524/2013 and to repeal that Regulation by a separate act. In those circumstances, the relevant tasks of the contact points set out in article 7 of Regulation (EU) No 524/2013 should be taken over by the ADR contact points. Those tasks entail, among others and upon request, providing information to parties involved in a dispute and facilitating communication between the parties and the competent ADR.*
- (15aa) To ensure procedural fairness, consumers engaging in cross-border disputes should engage with the ADR contact point determined by the consumer's place of residence, thereby discouraging selective choice of ADR contact points for convenience or advantageous outcomes.*

- (15b) *ADR contact points should provide assistance, upon request, to consumers intending to submit a cross-border dispute to an ADR entity. Their role should be limited to offering support and guidance and should not involve submitting complaints on behalf of consumers or representing them in the dispute. The assistance provided should facilitate communication between the parties and the ADR entity and may include identifying the competent ADR entity, providing information regarding procedural rules, helping to prepare and transmit relevant documentation. Such facilitation may also involve, where appropriate, providing the results of the machine translation of information, documents or procedural rules. ADR contact points may also provide general information on consumer rights under Union and national law, and inform the parties of other available means of redress where a dispute cannot be resolved through ADR. Consumers and traders may seek assistance from the ADR contact point in the Member State of their residence or establishment, respectively. Taking into account the minimum harmonisation nature of Directive 2013/11/EU, Member States have the possibility of allowing ADR contact points to provide assistance to consumers and traders when accessing ADR entities also with regards to domestic disputes. Such extended assistance could include providing assistance to vulnerable consumers, for example, consumers with no or limited access to digital technologies.*
- (16) Despite the fact that ADR procedures are meant to be simple, consumers may be assisted by a third party of their choice, *such as consumer organisations or businesses that offer management services of claims* during ADR procedures. *Assistance could include helping consumers submit a request and other documents, advising them on the possible claims and following the overall process and allowing parties to reach an amicable settlement.* Member States should ensure that *providers of* such assistance *do so* in full transparency, in particular regarding the *procedural rules and costs as well as* possible fees required in exchange for the assistance. *Such assistance to consumers should be provided in good faith.*

(16b) *It remains to be the case that this Directive applies to disputes between traders and consumers. Disputes between traders do not fall within the scope of this Directive. Member States may, in accordance with Union law, facilitate access to ADR procedures for the self-employed or microenterprises so that such businesses have the possibility to benefit from independent, impartial, transparent, effective, fast and fair alternative dispute resolution systems.*

(17) *To ensure that consumers are able to easily find a suitable ADR entity, especially in a cross-border context, the Commission should develop, promote and maintain a user-friendly digital interactive tool that provides information on consumer redress, including information on using ADR in cross-border context, as well as links to information on consumer rights. The digital interactive tool should aim to assist consumers to understand appropriate redress solutions for their specific case and to take the appropriate action. It should contain direct links to the complaint form, where available, of ADR entities and a machine translation function for ADR entities and ADR contact points. Furthermore, the tool should host the list of the ADR contact points notified to the Commission. While the Commission is already obliged to publish the list of the ADR entities on its website continuously, the additional functions of the tool, such as direct links to the complaint forms and the machine translation, should be available as soon as possible and no later than three months after the ADR Directive enters into force.*

(18) Therefore, Directive 2013/11/EU should be amended accordingly.

- (19) As Regulation (EU) No 524/2013 is to be repealed by a separate act, it is also necessary to amend Directives (EU) 2015/2302¹⁵, (EU) 2019/2161¹⁵ and (EU) 2020/1828¹⁶ of the European Parliament and of the Council, as a consequence of that repeal,
- (19a) *In establishing and implementing measures promoting participation of the traders and consumers in the alternative dispute resolution procedures, Member States should pay particular attention to specific business sectors with low participation level of traders in ADR procedures, and practices in those sectors about which consumers have repeatedly lodged complaints, as demonstrated by available data and complaint statistics. This is particularly the case in the transport and tourism sector, especially in the field of air passengers' rights. Alternatively to measures promoting participation of the traders in the alternative dispute resolution procedures in those sectors, Member States may decide to introduce mandatory participation in ADR procedures of traders in those sectors.*
- (19aa) *The ADR Directive already gives Member States the possibility of adopting measures at national level making traders participation in ADR procedures mandatory, provided that those national measures do not prevent the parties from exercising their right of access to the judicial system. Several Member States have already adopted national measures for the mandatory participation of traders in ADR procedures in some specific sectors of the economy. Mandatory participation in specific sectors, has brought benefits for both consumers and traders. It contributes to increasing the trust and confidence of traders in the ADR scheme, and traders are therefore more inclined to implement the ADR decisions. The mandatory participation also brings tangible benefits for consumers, making it easier, faster, and less expensive to resolve disputes with traders, and therefore increasing the trust and confidence of consumers in the ADR procedures.*

¹⁵ *Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU of the European Parliament and of the Council as regards the better enforcement and modernisation of Union consumer protection rules (OJ L 328, 18.12.2019, p. 7).*

¹⁶ *Directive (EU) 2020/1828 of the European Parliament and the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers (OJ L 409, 4.12.2020, p.1).*

(19ab) Member States should have in place measures promoting participation of the traders and consumers in the alternative dispute resolution procedures. Such measures could be of financial or non-financial nature. Measures of non-financial nature could include information campaigns, participation certificates. Measures of financial nature could, for example, take the form of preferential fee or treatment for compliant traders, participation without any cost for traders and consumers, reimbursement of the costs for a specific number of ADR procedures to facilitate familiarization with their benefits, provision of employees training schemes and co-financing the creation of sectorial alternative dispute resolution entities.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2013/11/EU

Directive 2013/11/EU is amended as follows:

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(1) In Article 2, paragraph 1 is replaced by the following:

- ‘1. This Directive shall apply to procedures for the out-of-court resolution of ***domestic disputes, cross-border disputes and third country trader*** disputes between a ***consumer*** resident in the Union and a ***trader*** through the intervention of an ADR entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution ***where a sales or service contract, including digital content and services contracts, is concluded between a consumer and a trader where the consumer pays or undertakes to pay the price, and where a dispute arises relating to pre-contractual and contractual obligations. This Directive shall also apply where the trader supplies or undertakes to supply digital content which is not supplied on a tangible medium or a digital service to the consumer and the consumer provides or undertakes to provide personal data to the trader. It shall not apply to cases falling under the exceptions provided for in Article 4(2)(b) of Directive (EU) 2019/2161.***

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(2) ■ Article 4(1) *is amended as follows:*

‘(a) *points (c), (d), (e) and (f) are replaced by the following:*

‘(c) *‘sales contract’ means any contract under which the trader transfers or undertakes to transfer ownership of goods to the consumer, including any contract having as its object both goods and services;*

(ca) *‘goods’ means any good as defined in point (5) of Article 2 of Directive (EU) 2019/771;*

(cb) *‘digital content’ means digital content as defined in point (1) of Article 2 of Directive (EU) 2019/770;*

(d) *‘service contract’ means any contract other than a sales contract under which the trader supplies or undertakes to supply a service, including a digital service, to the consumer;*

(da) *‘digital service’ means a digital service as defined in point (2) of Article 2 of Directive (EU) 2019/770;*

(e) *‘domestic dispute’ means a dispute between a consumer and a trader, related to contractual obligations as referred to in article **Article** 2(1), where, **at the time the consumer orders the goods or services**, the consumer is resident in the same Member State as that in which the trader is established;*

(f) *‘cross-border dispute’ means a dispute between a consumer and a trader, related to contractual obligations ■ as referred to in article **Article** 2(1), where, **at the time the consumer orders the goods or services**, the consumer is resident in a Member State other than the Member State in which the trader is established;’.*

(fa) ‘third country trader dispute’ means a dispute between a consumer and a trader, related to contractual obligations as referred to in Article 2(1), where, at the time the consumer orders the goods or services, the consumer is resident in a Member State and the trader is established outside of the Union and directs its activities towards that Member State, within the meaning of Article 6(1), point (b) of Regulation (EC) No 593/2008 and Article 17(1), point (c), of Regulation (EU) No 1215/2012; █

█

(3) Article 5 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. █ Member States shall facilitate access by consumers to ADR procedures and ensure that disputes covered by this Directive which involve a trader established on their respective territories █ can be submitted to an ADR entity which complies with the requirements set out in this Directive

1a. Each Member State shall also facilitate access by consumers residing in their respective territories, to ADR procedures for the resolution of third country trader disputes covered by this Directive and ensure that those disputes can be submitted to an ADR entity which complies with the requirements set out in this Directive, following a joint request by the consumer and the third country trader. Member States may make that access conditional on the parties' agreement to the resolution of the dispute on the basis of the law applicable in the Member State in which the ADR entity is established and the consumer has their place of residence and the trader's commitment to the ADR procedural rules, including recurrent fees, where applicable. Member States may set out additional conditions, ensuring that dealing with such cases does not seriously impair the effective operation of the ADR entities. The trader's and consumers' agreement on the applicable law for the resolution of the dispute under the first subparagraph shall not result in the consumer being deprived of the protection afforded to them 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.’

(b) **■** paragraph 2 *is* replaced by the following:

‘2. Member States shall ensure that ADR entities:

- (a) *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 complaints and the requisite supporting documents online in a traceable manner;*
- (b) *enable consumers to choose whether to submit complaints and other supporting documents and to access ADR in a digital or a non-digital format. When ADR entities offer digital ADR procedures, they shall do so through easily accessible and inclusive tools;*

■

- (c) *where applicable, inform the parties in advance in a clear, comprehensible and easily accessible way about the use of automated means in the ADR decision-making process and ensure that the parties to the dispute have the right to request that the outcome of the ADR procedure be reviewed by a natural person from the ADR entity meeting the requirements of Article 6(1), when automated means were used in the ADR decision-making process;*
- (ca) *inform the parties to the dispute of their right to request that the outcome of the ADR procedure be reviewed by a natural person as referred to in point (c);*

- (d) may bundle ■ cases *on* condition that:
- a) the consumer concerned is informed *of the bundling*;
 - b) *the natural persons in charge of the ADR procedures have sufficient knowledge to deal with the case in accordance with Article 6.*
Member States may define additional conditions for the bundling.
 - (e) *accept domestic, cross-border and where applicable third country trader disputes;*
 - (f) *when dealing with disputes covered by this Directive, take the necessary measures to ensure that the processing of personal data complies with the rules on the protection of personal data laid down in Regulation (EU) 2016/679 of the European Parliament and of the Council¹⁷.*

(c) in paragraph 4, point (a) is replaced by the following:

‘(a) the consumer did not attempt to contact the trader concerned in order to discuss the complaint and seek, as a first step, to resolve the matter directly with the trader, without introducing disproportionate rules about the format *or substance* of such contact;’

(d) the following *paragraphs are* added:■

7a. *Member States shall ensure that once a competent ADR entity decides to consider a consumer complaint in accordance with its procedural rules, that entity will contact and invite the trader concerned to participate in the procedure, irrespective of whether the participation of the trader is mandatory or not.*

¹⁷ *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).*’

8. Member States shall ensure that traders established in their territories that are contacted by **a competent** ADR entity ■, inform that ADR entity whether, or not, they **agree** to participate in the proposed procedure. **The trader shall** reply **to the ADR entity** within a reasonable period of time, **which** shall not exceed 20 working days. **In the case of complex disputes or in exceptional circumstances, the relevant ADR entity may extend that time period, which in any event shall not exceed 30 working days. ADR entity shall inform the consumer of the extension of the deadline to reply, if applicable. When the trader fails to reply within the time period set out in the second subparagraph, the ADR entity may presume that the trader has refused to participate in the procedure, may close the case and shall inform the consumer accordingly. The consequences of the failure to reply shall be set out in the national legislation.**

The duty to reply referred to in the first subparagraph shall not apply in the following cases:

- (a) where the trader's participation is mandatory;*
- (b) where ADR outcomes can be reached without the trader's consent to participate; or*
- (c) where the trader is already committed contractually to use ADR entities to resolve disputes with consumers.*

(3a) Article 6 is amended as follows:

- (a) paragraph 1, point (a) is replaced by the following:*

‘(a) 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 and, when dealing with cross-border cases, a general understanding of private international law;’

(b) *in paragraph 3 the following point is inserted:*

‘(aa) where a dispute is handled by an ADR entity and the natural persons in charge of dispute resolution are employed or remunerated exclusively by the individual trader, the ADR entity shall only have access to data strictly related to the case and specifically provided by the trader or the consumer.’

(c) *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 necessary training for natural persons in charge of ADR. 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).’

(4) *Article 7 is amended as follows:*

(a) *In paragraph 1 the following point is added:*

(p) if applicable, contact information of national authorities enforcing Union and national legal acts on unfair commercial practices and terms.

(b) *Paragraph 2 is amended as follows:*

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

*‘Member States shall ensure that, **at least every 2 years**, ADR entities make **activity reports** publicly available on their websites. **In addition, Member States shall require ADR entities to provide, upon request, those activity reports** on a durable medium ■ and by any other means **that ADR entities** consider appropriate ■ .’*

(b) *point (h) is deleted.*

■

(4b) *The following article is inserted:*

‘Article X

1. Member States shall have in place measures to promote the participation of traders and consumers in the alternative dispute resolution procedures.’

(5) ■ Article 13 *is amended as follows:*

(a) *paragraph 2 is replaced by the following:*

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

- (a) *on the traders’ website, where it exists, in a clear, prominent, comprehensible and easily accessible way;*
- (b) *in the general terms and conditions of sales or service contracts between the trader and a consumer.’*

(b) *paragraph 3 is replaced by the following:*

‘3. Member States shall ensure that, in cases where a dispute between a consumer and a trader established in their territories could not be resolved further to a complaint submitted directly by the consumer to the trader, the trader is required to provide the consumer with the information referred to in paragraph 1.’

(6) Article 14 *is replaced by the following:*

‘Article 14

Assistance in cross-border disputes

1. Member States shall ensure that, with regard to cross-border disputes, consumers and traders are able to obtain assistance to ***facilitate their*** access ***to*** the ADR entity or entities competent to deal with their cross-border dispute.

2. Each Member State shall designate an ADR contact point ***responsible for*** the task referred to in paragraph 1 ***and*** 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 ***which belongs*** to the European Consumer Centres Network, or, if not possible, on consumer organisations or on any other body dealing with consumer protection.
- 2a. ***When requesting assistance in cross-border disputes, consumers shall use the ADR contact point assigned on the basis of the consumer's place of residence, and traders shall use the ADR contact point in their place of establishment***
3. ***Member States shall ensure that, upon request*** the ADR contact points ■ facilitate communication between the parties and the competent ADR entity. ***Such facilitation shall include at least the following tasks:***
 - (a) assisting with the submission of the complaint and, where appropriate, relevant documentation;
 - (aa) ***supporting the parties, where necessary, by providing the results of machine translation of information, documentation or procedural rules;***
 - (b) providing the parties ■ with general information on ■ consumer rights ***at Union and at their national level***
 -
 - (c) providing the parties with explanations on the procedural rules applied by the specific ADR entities;
 - (d) informing the complainant party of other means of redress when a dispute cannot be resolved through an ADR procedure.
4. Member States may grant ADR contact points the right to provide assistance referred to in this Article to consumers and traders when accessing ADR entities also with regard to domestic disputes.

5. *Member States shall require that in performing their activities, all actors assisting consumers in cross-border or domestic disputes shall provide relevant information to consumers in full transparency, including information regarding procedural rules and any applicable fees, and shall do so acting in good faith.'*

(6a) *In article 17, paragraph 3 is replaced by the following:*

- '3. Member States shall ensure that cooperation and mutual information exchanges referred to in paragraphs 1 and 2 comply with the rules on the protection of personal data laid down in Regulation (EU) 2016/679.'*

(6b) *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, including on unfair commercial practices or terms. 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.'*

(8) **■** *Article 20 is amended as follows:*

(a) *in paragraph 1, the following subparagraph is inserted:*

'Additionally, competent authorities shall conduct necessary checks on the functioning and activities of the ADR entities to monitor compliance with the requirements of this Directive.'

(aa) *in paragraph 6 the first sentence is amended as follows:*

- '6. By 9 July 2018, and by 1 November every four years thereafter, each competent authority shall publish and send to the Commission a report on the development and functioning of ADR entities.'*

(b) *the following paragraphs are added:*

‘8. *By [three months after the entry into force of this Directive], The Commission shall develop a user-friendly digital interactive tool that provides information on consumer redress, including information on using ADR in cross-border context, as well as links to information on consumer rights. The tool shall also host the list of the ADR entities in accordance with paragraph 4 of this Article, and of the ADR contact points notified under Article 14(2) of this Directive, including the link to their websites. The Commission shall promote this interactive tool and ensure its technical maintenance. The tool shall include a machine translation function available to the ADR entities and the ADR contact points free of charge. Member States are encouraged to provide a prominent link to this Commission tool on any national websites serving a similar purpose. Competent authorities shall inform contact points and ADR entities of the machine translation function referred to in the first subparagraph.*

9. *The Commission shall create a network of ADR contact points.’.*

■

(9) In article 24, the following paragraph 4 is added:

‘4. By [26 months after entry into force] Member States shall communicate to the Commission the names and contact details of the ADR contact points designated in accordance with Article 14(2).’

Article 2

Amendment to Directive (EU) 2015/2302

In Article 7(2) of Directive (EU) 2015/2302, point (g) is replaced by the following:

- ‘(g) information on available in-house complaint handling procedures and on alternative dispute resolution (‘ADR’) mechanisms pursuant to Directive 2013/11/EU of the European Parliament and of the Council¹⁸ and, where applicable, on the ADR entity by which the trader is covered;’

Article 3

Amendment to Directive (EU) 2019/2161

In Article 5 of Directive (EU) 2019/2161, point (b) is replaced by the following:

- ‘(b) submit a complaint to the competent centre of the European Consumer Centres Network, depending on the parties involved.’

Article 4

Amendment to Directive (EU) 2020/1828

In Annex I to Directive (EU) 2020/1828, point (44) is deleted.

Article 5

Transposition

1. By [**26 months** after entry into force], Member States shall adopt and publish the measures necessary to comply with Article 1 of this Directive. They shall immediately inform the Commission thereof.

They shall apply those measures from [**32 months after entry into force**].

¹⁸ Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR) (OJ L 165, 18.6.2013, p. 63).’’

2. By [**26 months** after entry into force] *of this Directive*, Member States shall adopt and publish the measures necessary to comply with Articles 2, 3 and 4 of this Directive. They shall immediately inform the Commission thereof.

They shall apply those measures from [**32 months after entry into force**].

3. When Member States adopt the measures referred to in paragraphs 1 and 2, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.
4. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

Article 6

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Article 7

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament

For the Council

The President

The President