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NOTE

From:	General Secretariat of the Council
To:	Working Party on Consumer Protection and Information (Attachés) Working Party on Consumer Protection and Information
Subject:	Working Party meeting on 22 March - Presidency Flash

Delegations will find attached a Presidency Flash for the above-mentioned meeting.

Working Party Meeting of 22 March

Dear colleagues,

We would like to invite you to a full-day Working Party meeting on 22 March to continue our discussion on the proposal for a Directive amending Directive 2013/11/EU on **alternative dispute resolution** for consumer disputes and the proposal for a Regulation repealing Regulation 524/2013 and amending Regulations 2017/2394 and 2018/1724 with regards to the **discontinuation of the European ODR Platform**. The corresponding CM document for this meeting was issued through Delegates Portal (CM 2143/24).

We will start the meeting with a presentation by the EESC, which has been invited to present its opinion on the aforementioned proposals.

We will then continue the thorough **article-by-article examination of the two proposals**. We hope to finalize the first examination of the proposals on this day, starting with Block IV (Information and reporting requirements for ADR entities), continuing with Block V (Improving consumer assistance and the repeal of the ODR-platform), and ending with Block VI (Final provisions).

During the second half of this meeting, we would like to return to the topic of the **scope** of the ADR-Directive.

Regarding the extension of the **geographical scope** to third country traders, the Commission will present an explanatory table (WK 4188/24) which provides clarification on the application of the extended geographical scope, the possible scenarios and the corresponding procedures. After this presentation, delegations will be invited to provide their comments on this topic.

Next, if time allows, we would also like to return to the **material scope**. Following the discussions during the previous meetings and based on delegations' written contributions, the Presidency has prepared a revised version of Article 1(1) (document 7769/24), in order to clarify the envisaged material scope, which we would like to present and discuss with delegations during the meeting.

The aim of the Presidency, with this revised text, is to make a clear distinction in the scope between **obligations arising from the conclusion of a contract** and **non-contractual obligations**.

The revised material scope of the ADR-Directive concerns:

- **Obligations arising from the conclusion of a contract** (article 1.1.a): this concerns the situation where a consumer has concluded a contract with a trader, and a dispute arises in this context. In this case, ADR-entities have to take into account:

- **Pre-contractual obligations** (article 1.1.a., point (i)): the proposal specifies that this can, for example, include unfair commercial practices. It must be emphasized that this concerns the situation whereby a dispute arises only after a contract has been concluded.
- **Statutory rights** provided in Union law (article 1.1.a., point (ii)): the proposal specifies that this can, for example, include unfair terms, passenger and travellers' rights and the right to switch providers.
- **Non-contractual obligations** (article 1.1.b): the scope of the ADR-Directive would be extended to non-contractual situations where a consumer is denied the conclusion of a contract. An exhaustive list of the envisioned situations is provided:
 - Non-discrimination on the basis of nationality or place of residence;
 - Access to goods and services, including switching rights.

The extension to non-contractual obligations was retained, in order to provide consumers with the possibility to seek redress through ADR when they are confronted with geo-blocking.

Lastly, we have deleted the second subparagraph of Article 1(1) of the proposal. Given the minimum harmonization approach taken in the ADR directive, Member States can always broaden the scope of application if they so wish. This would be clarified in a recital.

We further propose to clarify in a recital that public enforcement authorities (monitoring and sanctioning) and ADR bodies (redress for the consumer) work in a complementary manner.

We will invite Member States to submit their updated **written comments** after the end of the article-by-article discussions on the proposal as well as the Presidency revised text on Article 1(1) regarding the material scope. The deadline for these written comments will be **29 March**.

The next Working Party meeting on the ADR and ODR proposals will take place on **22 April** in the morning. This half-day meeting will be in Attachés + Experts format (without interpretation) due to logistical reasons. During this meeting, we intend to continue the discussions on the material and geographical scope of the proposal, based on revised text proposals.

We look forward to continuing our discussion with you soon.

Kind regards,

The Belgian Presidency Team