

CONSUMER ALTERNATIVE DISPUTE RESOLUTION

Key points for consumers



The Consumer Voice in Europe

Why it matters to consumers

Consumer Alternative Dispute Resolution (ADR) gives consumers and traders the possibility to resolve their disputes out of court in a simple, fast, and cost-effective way. Since the adoption of the ADR Directive in 2013, ADR has not been running satisfactorily for consumers across all business sectors and EU Member States. Consumer ADR continues to be insufficiently known and used by consumers and traders. Regulatory changes are needed to ensure that consumer ADR truly delivers for European consumers.

This two-pager summarises BEUC's main recommendations for trilogue negotiations between the European Parliament and the Council on the Commission's proposal for a Directive amending Directive 2013/11/EU on alternative dispute resolution for consumer disputes of 17 October 2023 ([here](#)). BEUC's position paper can be found [here](#).

COMMISSION PROPOSAL

SCOPE: The Commission's proposal significantly widens the **material scope** of consumer ADR by making it available for almost all types of consumer disputes. Under the existing rules, consumer ADR is limited to disputes arising from contractual obligations from sales or services contracts.

The proposal also widens the **geographical scope** of consumer ADR and gives non-EU traders the option to participate on a voluntary basis in ADR procedures.

RECOMMENDATION FOR TRILOGUE

BEUC supports the **Parliament's proposal** to extend the **material scope** of consumer ADR under certain conditions. It is essential to give consumers the possibility to exercise the rights in a simple and cost-effective manner, especially when redress options may be lacking. However, it is also important to maintain the coherence of the whole consumer protection system and decision makers should encourage different players - ADR entities, consumer protection authorities and consumer organisations) to coordinate to avoid competence overlap, which can mislead consumers. In addition, due to Member States' diverse ADR landscapes and experience, competences should not be extended to all ADR schemes as only some ADR entities may be able to effectively endorse such extended responsibilities.

BEUC supports the **Commission's and Parliament's positions** extending the **geographical scope** of ADR to non-EU traders. BEUC further takes the view that they should be requested to adhere to a consumer ADR entity in the country/countries where they operate.



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TRADERS' OBLIGATIONS: The Commission's proposal did not make traders' participation in ADR mandatory.

It introduces an obligation for traders to respond within 20 working days to an ADR entity request as to whether they plan to participate in an ADR process against them or not.

QUALITY REQUIREMENTS FOR ADR ENTITIES: The Commission's proposal improves accessibility requirements for vulnerable consumers. It also grants consumers the right to request that the outcome of an ADR procedure be reviewed by a human being whenever the procedure was automated.

BETTER INTEGRATING ADR INTO THE CONSUMER ENFORCEMENT FRAMEWORK: Article 17 of the 2013 Directive provides that Member States shall ensure cooperation between ADR entities and national consumer authorities. The Commission's proposal did not make any additional change.

BEUC support the **Parliament's position**, as it:

- Makes traders' participation in ADR compulsory for air carriers. There is a high number of consumer complaints in this sector. Often consumers lack effective redress options whereas private claims vehicles proposing services to consumers against fees have multiplied.
- Requests ADR entities to communicate to competent authorities the name of traders that systematically and unduly refuse to comply with the outcomes of ADR procedures.
- Requests traders to respond within 15 working days and establishes penalties in case traders fail to do so. BEUC rejects the Council's position that ADR entities should have the right to presume that traders have refused to participate in case they do not respond. On the contrary, traders who do not respond should be presumed by default to have accepted to participate in the ADR procedure.
- Requests traders that do not comply with the outcome of an ADR procedure to provide the other party with written explanations.

Furthermore, BEUC **rejects the Commission's proposal** to remove the obligation currently falling on traders to inform consumers about the ADR entity by which they are covered as currently laid down under Art. 13(3). BEUC **supports the Council's position re-establishing this obligation**.

BEUC **support the Parliament's position** strengthening the quality requirements for ADR entities. This includes notably strengthening the independence requirements for ADR entities (especially for those entities that have kept close working relationships with traders, for instance because they are embedded into traders' structures, like it is the case for banks in some countries) and increasing the expertise and knowledge requirements for ADR staff. BEUC strongly believes that quality is key to enhance consumers' and traders' trust. Concerns about the insufficient independence (or perceived independence) of some ADR entities and the insufficient expertise of their staff continue to exist in some countries or sectors.

BEUC **welcomes the Commission's proposal** improving the accessibility to ADR entities for vulnerable consumers. There is today a growing number of ADR entities that have dematerialised their services and it should be possible for consumers without digital skills to easily contact and reach out to an ADR entity whenever they experience a problem.

BEUC supports the **Parliament's approach** further strengthening the cooperation between ADR entities and consumer authorities. ADR entities should inform competent authorities when they have suspicions of systemic sectorial problems and/or repeated unfair commercial practices. When they are informed about unfair commercial practices, ADR entities should also inform and signpost consumers to the entity (consumer organisations, authorities, or others) which may be in the best position to assist them.