

22 May 2024

Joint statement on the EU Proposal revising the directive on Alternative Dispute Resolution (Directive 2013/11/EU)

We are writing to you regarding the revision of Directive 2013/11/EU on Alternative Dispute Resolution. The business community has always been a strong supporter of alternative means to resolve consumer disputes (ADRs). These bodies have demonstrated throughout the years that they can be a more cost-effective and speedier mechanism than courts to resolve disputes between consumers and companies.

We took note of the Commission's proposal to revise the directive in order to make the system more fit for purpose, and we note that the European Parliament has already adopted its first reading resolution in March 2024.

ADRs have specific characteristics (e.g. voluntary in nature, diversity in procedures, financing, composition, etc.) which enable them to operate more effectively than courts and deliver reliable redress to consumers. We welcome adjustments to the current legal framework as long as they do not disrupt the way ADRs have been functioning in Europe. Hence, in the ongoing revision we call for the following principles to be upheld:

- There is **no need for a substantive increase in the material scope of ADRs**: the proposal (supported by EP resolution) extends the scope to disputes concerning non-contractual practices, meaning that an ADR body (e.g. mediator, arbitrator, ombudsman, etc.) could be called upon to intervene, even though no contract has been concluded between a professional/company and a consumer, for example in cases concerning unfair commercial practices or the assessment of geo-blocking practices. It is not the role of ADRs to deal with such practices which fall within the remit of national supervisory authorities. The investigation of infringements and breaches of this type require investigative powers that belong solely to those authorities. The spirit of alternative dispute resolution is not to punish nor pursue infringements but to encourage the amicable settlement of disputes arising from the performance of a contract between a professional and a consumer. Adding such powers would require also adding corresponding responsibilities and liabilities for which those bodies that operate ADRs might not be equipped nor motivated to take on board.
- The **voluntary nature of these means should be preserved**. Therefore, it is not appropriate to introduce a duty of the professional to notify whether or not he takes part in the ADR, in any event when there is an automatic sanction attached to it.

Thank you in advance for taking into consideration these key elements in the preparation of the Council General approach. We remain at your disposal should you have any questions on the above.



List of co-signatories:

BUSINESSEUROPE (<https://www.business europe.eu>)

BusinessEurope is the leading advocate for growth and competitiveness at European level, standing up for companies across the continent and actively campaigning on the issues that most influence their performance. We speak for enterprises of all sizes in 36 European countries whose national business federations are our direct members.

Eurochambres (<https://www.eurochambres.eu>)

Established in 1958 as a direct response to the creation of the European Economic Community. Eurochambres acts as the eyes, ears and voice of the Chambers and business community. The association represents more than 20 million businesses through its members and a network of 1700 regional and local chambers across Europe.

SMEunited (<https://www.smeunited.eu>)

SMEunited, formerly known as UEAPME, is the association of crafts and SMEs in Europe with around 70 member organisations from over 30 European countries. SMEunited is a recognised employers' organisation and European Social Partner and acts on behalf of crafts and SMEs in the European Social Dialogue and in discussions with the EU institutions.
