



Council of the
European Union

114270/EU XXV. GP
Eingelangt am 06/09/16

Brussels, 6 September 2016
(OR. en)

10597/16

Interinstitutional File:
2016/0189 (NLE)

AELE 51
EEE 36
N 45
ISL 33
FL 37
CONSOM 161
JUSTCIV 179

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee concerning an amendment to Annex XIX (Consumer protection) to the EEA Agreement (Alternative Dispute Settlement System)

COUNCIL DECISION (EU) 2016/...

of ...

**on the position to be adopted,
on behalf of the European Union, within the EEA Joint Committee
concerning an amendment to Annex XIX (Consumer protection)
to the EEA Agreement (Alternative Dispute Settlement System)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114, in conjunction with Article 218(9), thereof,

Having regard to Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements for implementing the Agreement on the European Economic Area¹, and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

¹ OJ L 305, 30.11.1994, p. 6.

Whereas:

- (1) The Agreement on the European Economic Area ('the EEA Agreement') entered into force on 1 January 1994.
- (2) Pursuant to Article 98 of the EEA Agreement, the EEA Joint Committee may decide to amend, inter alia, Annex XIX (Consumer protection) to the EEA Agreement.
- (3) Regulation (EU) No 524/2013 of the European Parliament and of the Council¹ is to be incorporated into the EEA Agreement.
- (4) Commission Implementing Regulation (EU) 2015/1051² is to be incorporated into the EEA Agreement.

¹ 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).

² Commission Implementing Regulation (EU) 2015/1051 of 1 July 2015 on the modalities for the exercise of the functions of the online dispute resolution platform, on the modalities of the electronic complaint form and on the modalities of the cooperation between contact points provided for in Regulation (EU) No 524/2013 of the European Parliament and of the Council on online dispute resolution for consumer disputes (OJ L 171, 2.7.2015, p. 1).

- (5) Directive 2013/11/EU of the European Parliament and of the Council¹ is to be incorporated into the EEA Agreement.
- (6) Annex XIX (Consumer protection) to the EEA Agreement should therefore be amended accordingly.
- (7) The position of the Union within the EEA Joint Committee should therefore be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

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).

Article 1

The position to be adopted, on behalf of the Union, within the EEA Joint Committee on the proposed amendment to Annex XIX (Consumer protection) to the EEA Agreement, shall be based on the draft Decision of the EEA Joint Committee attached to this Decision.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

For the Council

The President

DRAFT

DECISION OF THE EEA JOINT COMMITTEE No ...

of ...

amending Annex XIX (Consumer protection) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area ('the EEA Agreement'), and in particular Article 98 thereof,

Whereas:

- (1) 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/EC¹ is to be incorporated into the EEA Agreement.
- (2) It is necessary to establish specific transitional modalities pending full implementation of the translation function of the online dispute resolution platform referred to in Article 5 of Regulation (EU) No 524/2013 as regards the Icelandic language.
- (3) Commission Implementing Regulation (EU) 2015/1051 of 1 July 2015 on the modalities for the exercise of the functions of the online dispute resolution platform, on the modalities of the electronic complaint form and on the modalities of the cooperation between contact points provided for in Regulation (EU) No 524/2013 of the European Parliament and of the Council on online dispute resolution for consumer disputes² is to be incorporated into the EEA Agreement.

¹ OJ L 165, 18.6.2013, p. 1.

² OJ L 171, 2.7.2015, p. 1.

- (4) 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/EC¹ is to be incorporated into the EEA Agreement.
- (5) Annex XIX to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

¹ OJ L 165, 18.6.2013, p. 63.

Article 1

Annex XIX to the EEA Agreement shall be amended as follows:

1. The following is added in point 7d (Directive 2009/22/EC of the European Parliament and of the Council):

' , amended by:
 - **32013 R 0524:** Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 (OJ L 165, 18.6.2013, p. 1),
 - **32013 L 0011:** Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 (OJ L 165, 18.6.2013, p. 63).'
2. The following indents are added in point 7f (Regulation (EC) No 2006/2004 of the European Parliament and of the Council):

' – **32013 R 0524:** Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 (OJ L 165, 18.6.2013, p. 1),
 - **32013 L 0011:** Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 (OJ L 165, 18.6.2013, p. 63).'

3. The following is inserted after point 7i (Directive 2011/83/EU of the European Parliament and of the Council):

'7j. **32013 R 0524**: 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).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) As regards the EFTA States, the ODR platform referred to in Article 5 of the Regulation shall be accessible within 40 working days from the entry into force of Decision of the EEA Joint Committee No .../... of ... [this EEA Joint Committee decision].
- (b) The ODR platform shall be accessible in all the languages referred to in Article 129(1) of the EEA Agreement.

- (c) By way of derogation from Article 5(4)(e) of the Regulation, the ODR platform's translation functions into and from the Icelandic language shall initially be available only as regards the result of an ADR procedure transmitted by an ADR entity. Iceland shall ensure that users of the ODR platform may obtain the translation of all other information into and from the Icelandic language through its ODR contact point, where that information is necessary for the resolution of the dispute and is exchanged through the ODR platform in another language. Information on these modalities as regards the Icelandic language shall be provided on the homepage of the ODR platform.

The Commission and Iceland shall endeavour to improve the translation functions provided by the ODR platform as regards the Icelandic language to ensure comparable quality of all functions to that offered for the other languages and shall regularly inform the EEA Joint Committee of their progress. When the translation functions ensure comparable quality as regards the Icelandic language to that offered for the other languages, the EEA Joint Committee shall without undue delay take a decision to terminate the measures laid down in this point.

- 7ja. **32015 R 1051**: Commission Implementing Regulation (EU) 2015/1051 of 1 July 2015 on the modalities for the exercise of the functions of the online dispute resolution platform, on the modalities of the electronic complaint form and on the modalities of the cooperation between contact points provided for in Regulation (EU) No 524/2013 of the European Parliament and of the Council on online dispute resolution for consumer disputes (OJ L 171, 2.7.2015, p. 1).
- 7k. **32013 L 0011**: 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).

The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) references to other acts in the Directive shall be considered relevant to the extent and in the form that those acts are incorporated into the Agreement.

(b) as regards the EFTA States, Article 11(2) shall read as follows:

"2. For the purposes of this Article, 'habitual residence' shall be determined in accordance with the following:

(a) The habitual residence of companies and other bodies, corporate or unincorporated, shall be the place of central administration;

The habitual residence of a natural person acting in the course of his business activity shall be his principal place of business;

(b) Where the contract is concluded in the course of the operations of a branch, agency or any other establishment, or if, under the contract, performance is the responsibility of such a branch, agency or establishment, the place where the branch, agency or any other establishment is located shall be treated as the place of habitual residence;

(c) For the purposes of determining the habitual residence, the relevant point in time shall be the time of the conclusion of the contract."

- (c) in Article 18(2), the following shall be added:

"The Commission shall include on that list competent authorities and single points of contact designated by the EFTA States."

- (d) in Article 20(4), the following shall be inserted after the words "notified to the Commission.":

"The Commission shall include on that list the ADR entities established in the EFTA States and listed in accordance with paragraph 2."'

Article 2

The texts of Regulation (EU) No 524/2013, Implementing Regulation (EU) 2015/1051 and Directive 2013/11/EU in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on [...], provided that all the notifications under Article 103(1) of the EEA Agreement have been made*.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels,

*For the EEA Joint Committee
The President*

*The Secretaries
to the EEA Joint Committee*

* [No constitutional requirements indicated.] [Constitutional requirements indicated.]