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2016/0189 (NLE)

Proposal for a

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)**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

The draft Decision of the EEA Joint Committee (annexed to the proposed Council Decision) aims to amend Annex XIX (Consumer protection) to the EEA Agreement in order to allow the EEA EFTA States (Norway, Iceland, and Liechtenstein) to participate in the European online dispute resolution system.

This shall be achieved through the incorporation of Regulation (EU) No 524/2013 on online dispute resolution for consumer disputes¹ (hereafter "ODR Regulation"), Commission Implementing Regulation (EU) 2015/1051² and Directive 2013/11/EU on alternative dispute resolution for consumer disputes³ (hereafter "ADR Directive") into the EEA Agreement.

- **Consistency with existing policy provisions in the policy area**

The annexed draft Joint Committee Decision extends the already existing EU policy to the EEA EFTA States.

- **Consistency with other Union policies**

The extension of the EU acquis in the EEA EFTA States, through its incorporation into the EEA Agreement is conducted in conformity with the objectives and principles of this Agreement aiming at establishing a dynamic and homogeneous European Economic Area, based on common rules and equal conditions of competition.

These efforts cover all policies in the area of the free movement of goods, persons, services and capital, as well as flanking and horizontal policies specified in the EEA Agreement.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legislation to be incorporated into the EEA Agreement is based on Article 114 of the Treaty on the Functioning of the European Union.

Article 1(3) of Council Regulation (EC) No 2894/94⁴ concerning arrangements for implementing the EEA Agreement provides that the Council establishes the position to be adopted on the Union's behalf on such Decisions, on a proposal from the Commission.

The Commission in cooperation with the EEAS submits the Draft Decision of the EEA Joint Committee for adoption by the Council as the Union's position. The Commission would hope to be able to present it in the EEA Joint Committee at the earliest possible opportunity.

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).

³ 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).

⁴ OJ L 305, 30.11.1994, p. 6–8

- **Subsidiarity (for non-exclusive competence)**

The proposal complies with the subsidiarity principle for the following reason.

The objective of this proposal, namely to ensure the homogeneity of the Internal Market cannot be sufficiently achieved by the Member States and can therefore, by reason of the effects, be better achieved at Union level.

The process of incorporation of the EU acquis into the EEA Agreement is conducted in conformity with the Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements for implementing the Agreement on the European Economic Area which confirms the approach taken.

- **Proportionality**

In accordance with the principle of proportionality, the proposal does not go beyond what is necessary in order to achieve its objective – to ensure the homogeneity of the Internal Market.

- **Choice of the instrument**

In conformity with Article 98 of the EEA Agreement, the chosen instrument is the EEA Joint Committee decision. The EEA Joint Committee shall ensure the effective implementation and operation of the EEA Agreement. To this end, it shall take decisions in the cases provided for in this Agreement.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Collection and use of expertise**

In the framework of the preparation of the legislation in question, several studies had been conducted by the Commission on consumer alternative dispute resolution and addressed issues linked to online dispute resolution tools.

- **Impact assessment**

In the framework of the preparation of the legislation in question the Commission has carried out a detailed impact assessment, analysing a range of policy options for both "*Alternative dispute resolution coverage, information and quality*" and "*On-line dispute resolution for cross-border e-commerce transactions*".

The attached EEA Joint Committee Decision aims to extend the current system to the EEA EFTA States.

4. BUDGETARY IMPLICATIONS

Incorporation of this legislation into the EEA Agreement has minor budgetary implications. However, these costs are already covered by the appropriations already foreseen under the financial programming of the "Consumer programme" (Budget line 33.04.01) in which Iceland and Norway participate. No additional appropriations are foreseen.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The proposal foresees that the Commission and Iceland shall endeavour to improve the translation functions provided by the On-line-Dispute Resolution platform (hereafter "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.

- **Detailed explanation of the specific provisions of the proposal**

The ODR platform shall be accessible in all the languages referred to in Article 129(1) of the EEA Agreement, which includes Norwegian and Icelandic.

By way of derogation from Article 5(4)(e) of the ODR Regulation, the ODR platform's translation functions into and from the Icelandic language shall initially be available only as regards the result of an alternative dispute resolution (ADR) procedure transmitted by an ADR entity.

Specific transitional modalities need to be established for the other exchanges on the ODR platform until the quality of translations of the automated translation tool used by the ODR platform is comparable to that of other languages.

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 transitional modalities in the attached EEA Joint Committee Decision

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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 1994⁵ concerning arrangements for implementing the Agreement on the European Economic Area, and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

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 Council⁶ is to be incorporated into the EEA Agreement.
- (4) Commission Implementing Regulation (EU) 2015/1051⁷ is to be incorporated into the EEA Agreement.
- (5) Directive 2013/11/EU of the European Parliament and of the Council⁸ 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,

⁵ OJ L 305, 30.11.1994, p. 6–8.

⁶ 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).

⁷ 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).

⁸ 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).

HAS ADOPTED THIS DECISION:

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*