

Alternative dispute resolution for consumer disputes (Directive on consumer ADR)

2011/0373(COD) - 21/05/2013 - Final act

PURPOSE : to contribute to the proper functioning of the internal market and protect consumers, by ensuring that consumers can submit complaints against traders to entities offering alternative dispute resolution procedures.

LEGISLATIVE ACT : Directive 2013/11/EU of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR).

CONTENT : the aim of the Directive is to ensure that consumers can, on a voluntary basis, submit complaints against traders to **entities offering independent, impartial, transparent, effective, fast and fair alternative dispute resolution procedures**. The directive and [Regulation \(EU\) No 524/2013](#) of the European Parliament and of the Council on online dispute resolution are legislative acts which are linked and complementary.

Scope: the Directive will apply to procedures for the out-of- court resolution of domestic and cross-border disputes concerning contractual obligations stemming from **sales contracts or service contracts between a trader established in the Union and a consumer resident in the Union** through the intervention of an ADR entity. **Confidentiality and privacy** should be respected at all times during the ADR procedure.

The Directive does not apply to non-economic services of general interest or to health care services provided by healthcare professionals.

The Directive establishes **harmonised quality requirements** for ADR entities and ADR procedures. Member States may maintain or introduce rules that go beyond those laid down by the Directive. They will have the competence to determine whether ADR entities established on their territories are to have the power to impose a solution.

Access to ADR entities and ADR procedures: the directive provides that Member States shall facilitate access by consumers to ADR procedures. ADR entities must maintain **an up-to-date website which provides the parties with easy access to information concerning the ADR procedure**, and which enables consumers to submit a complaint and the requisite supporting documents online.

Member States may, at their discretion, permit ADR entities to maintain and introduce procedural rules that **allow them to refuse to deal with a given dispute**, for example, on the grounds that the consumer did not attempt to contact the trader concerned in order to discuss his complaint and seek, as a first step, to resolve the matter directly with the trader, or that the dispute is frivolous or vexatious.

Where an ADR entity is unable to consider a dispute that has been submitted to it, that ADR entity shall provide both parties with a **reasoned explanation** of the grounds for not considering the dispute within three weeks of receiving the complaint file.

Expertise, independence and impartiality: persons in charge of ADR must: (i) possess the necessary knowledge and skills in the field of alternative or judicial resolution of consumer disputes, as well as a

general understanding of law; (ii) be appointed for a term of office of sufficient duration to ensure the independence of their actions, and not be liable to be relieved from their duties without just cause; (iii) be remunerated in a way that is not linked to the outcome of the procedure.

Transparency: ADR entities must make publicly available on their websites, on a durable medium upon request, **clear and easily understandable information** on: (i) their contact details, including postal address and e-mail; (ii) address; (ii) the expertise, impartiality and independence of the natural persons in charge of ADR; (iii) the procedural rules governing the resolution of a dispute and the grounds on which the ADR entity may refuse to deal with a given dispute; (iv) the languages in which complaints can be submitted; (v) any preliminary requirements the parties may have to meet before an ADR procedure can be instituted, including the requirement that an attempt be made by the consumer to resolve the matter directly with the trader; (vi) whether or not the parties can withdraw from the procedure; (vii) the average length of the ADR procedure; (viii) the legal effect of the outcome of the ADR procedure, including the penalties for non-compliance ; (ix) the enforceability of the ADR decision, if relevant.

Effectiveness: the ADR procedure must be available and easily accessible online and offline to both parties irrespective of where they are. The parties must have access to the procedure without being obliged to retain a lawyer or a legal advisor. Furthermore, the ADR procedure must be free of charge or available at a nominal fee for consumers. Lastly, the outcome of the ADR procedure must be made available within a period of 90 calendar days from the date on which the ADR entity has received the complete complaint file.

Liberty: Member States shall ensure that in ADR procedures which aim at resolving the dispute by imposing a solution, the solution imposed may be binding on the parties only if they were informed of its binding nature in advance and specifically accepted this.

Legality: in ADR procedures which aim at resolving the dispute by imposing a solution on the consumer, where there is no conflict of laws, the solution imposed shall not result in the consumer being deprived of the protection afforded to him by the provisions that cannot be derogated from by agreement by virtue of the law of the Member State where the consumer and the trader are habitually resident.

Right to a judicial remedy: parties who have recourse to ADR procedures the outcome of which is not binding, must not subsequently be prevented from initiating judicial proceedings in relation to that dispute as a result of the expiry of limitation or prescription periods during the ADR procedure.

Information and cooperation: so that consumers are able to identify quickly which ADR entities are competent to deal with their complaint, **traders must inform consumers of the address and website of the ADR entity or entities** by which they are covered.

Member States shall ensure that ADR entities cooperate in the resolution of cross-border disputes and conduct regular exchanges of best practices as regards the settlement of both cross-border and domestic disputes.

Monitoring of ADR entities: each Member State must designate a competent authority to carry out this task. Member States must ensure that ADR entities, the European Consumer Centre Network, and, where appropriate, the bodies designated in accordance with this Directive **publish that list on their website** by providing a link to the Commission's website, and whenever possible on a durable medium at their premises.

ENTRY INTO FORCE : 08/07/2013.

TRANSPOSITION : 09/07/2015.