

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 (Directive on consumer ADR)

CHAPTER II

ACCESS TO AND REQUIREMENTS APPLICABLE TO ADR ENTITIES AND ADR PROCEDURES

Article 6

Expertise, independence and impartiality

1 Member States shall ensure that the natural persons in charge of ADR possess the necessary expertise and are independent and impartial. This shall be guaranteed by ensuring that such persons:

- a 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;
- b are appointed for a term of office of sufficient duration to ensure the independence of their actions, and are not liable to be relieved from their duties without just cause;
- c are not subject to any instructions from either party or their representatives;
- d are remunerated in a way that is not linked to the outcome of the procedure;
- e without undue delay disclose to the ADR entity any circumstances that may, or may be seen to, affect their independence and impartiality or give rise to a conflict of interest with either party to the dispute they are asked to resolve. The obligation to disclose such circumstances shall be a continuing obligation throughout the ADR procedure. It shall not apply where the ADR entity comprises only one natural person.

2 Member States shall ensure that ADR entities have in place procedures to ensure that in the case of circumstances referred to in point (e) of paragraph 1:

- a the natural person concerned is replaced by another natural person that shall be entrusted with conducting the ADR procedure; or failing that
- b the natural person concerned refrains from conducting the ADR procedure and, where possible, the ADR entity proposes to the parties to submit the dispute to another ADR entity which is competent to deal with the dispute; or failing that
- c the circumstances are disclosed to the parties and the natural person concerned is allowed to continue to conduct the ADR procedure only if the parties have not objected after they have been informed of the circumstances and their right to object.

This paragraph shall be without prejudice to point (a) of Article 9(2).

Where the ADR entity comprises only one natural person, only points (b) and (c) of the first subparagraph of this paragraph shall apply.

3 Where Member States decide to allow procedures referred to in point (a) of Article 2(2) as ADR procedures under this Directive, they shall ensure that, in addition to the general requirements set out in paragraphs 1 and 5, those procedures comply with the following specific requirements:

- a the natural persons in charge of dispute resolution are nominated by, or form part of, a collegial body composed of an equal number of representatives of consumer organisations and of representatives of the trader and are appointed as result of a transparent procedure;
- b the natural persons in charge of dispute resolution are granted a period of office of a minimum of three years to ensure the independence of their actions;
- c the natural persons in charge of dispute resolution commit not to work for the trader or a professional organisation or business association of which the trader is a member for a period of three years after their position in the dispute resolution entity has ended;
- d the dispute resolution entity does not have any hierarchical or functional link with the trader and is clearly separated from the trader's operational entities and has a sufficient budget at its disposal, which is separate from the trader's general budget, to fulfil its tasks.

4 Where the natural persons in charge of ADR are employed or remunerated exclusively by a professional organisation or a business association of which the trader is a member, Member States shall ensure that, in addition to the general requirements set out in paragraphs 1 and 5, they have a separate and dedicated budget at their disposal which is sufficient to fulfil their tasks.

This paragraph shall not apply where the natural persons concerned form part of a collegial body composed of an equal number of representatives of the professional organisation or business association by which they are employed or remunerated and of consumer organisations.

5 Member States shall ensure that ADR entities where the natural persons in charge of dispute resolution form part of a collegial body provide for an equal number of representatives of consumers' interests and of representatives of traders' interests in that body.

6 For the purposes of point (a) of paragraph 1, Member States shall encourage ADR entities to provide training for natural persons in charge of ADR. If such training is provided, competent authorities shall monitor the training schemes established by ADR entities, on the basis of information communicated to them in accordance with point (g) of Article 19(3).