

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 I

GENERAL PROVISIONS

*Article 1*

**Subject matter**

The purpose of this Directive is, through the achievement of a high level of consumer protection, to contribute to the proper functioning of the internal market by ensuring 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. This Directive is without prejudice to national legislation making participation in such procedures mandatory, provided that such legislation does not prevent the parties from exercising their right of access to the judicial system.

*Article 2*

**Scope**

1 This Directive shall 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 which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution.

2 This Directive shall not apply to:

- a procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed or remunerated exclusively by the individual trader, unless Member States decide to allow such procedures as ADR procedures under this Directive and the requirements set out in Chapter II, including the specific requirements of independence and transparency set out in Article 6(3), are met;
- b procedures before consumer complaint-handling systems operated by the trader;
- c non-economic services of general interest;
- d disputes between traders;
- e direct negotiation between the consumer and the trader;
- f attempts made by a judge to settle a dispute in the course of a judicial proceeding concerning that dispute;
- g procedures initiated by a trader against a consumer;
- h health services provided by health professionals to patients to assess, maintain or restore their state of health, including the prescription, dispensation and provision of medicinal products and medical devices;
- i public providers of further or higher education.

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3 This Directive establishes harmonised quality requirements for ADR entities and ADR procedures in order to ensure that, after its implementation, consumers have access to high-quality, transparent, effective and fair out-of-court redress mechanisms no matter where they reside in the Union. Member States may maintain or introduce rules that go beyond those laid down by this Directive, in order to ensure a higher level of consumer protection.

4 This Directive acknowledges the competence of Member States to determine whether ADR entities established on their territories are to have the power to impose a solution.

### *Article 3*

#### **Relationship with other Union legal acts**

1 Save as otherwise set out in this Directive, if any provision of this Directive conflicts with a provision laid down in another Union legal act and relating to out-of-court redress procedures initiated by a consumer against a trader, the provision of this Directive shall prevail.

2 This Directive shall be without prejudice to Directive 2008/52/EC.

3 Article 13 of this Directive shall be without prejudice to provisions on consumer information on out-of-court redress procedures contained in other Union legal acts which shall apply in addition to that Article.

### *Article 4*

#### **Definitions**

1 For the purposes of this Directive:

- a 'consumer' means any natural person who is acting for purposes which are outside his trade, business, craft or profession;
- b 'trader' means any natural persons, or any legal person irrespective of whether privately or publicly owned, who is acting, including through any person acting in his name or on his behalf, for purposes relating to his trade, business, craft or profession;
- c 'sales contract' means any contract under which the trader transfers or undertakes to transfer the ownership of goods to the consumer and the consumer pays or undertakes to pay the price thereof, including any contract having as its object both goods and services;
- d 'service contract' means any contract other than a sales contract under which the trader supplies or undertakes to supply a service to the consumer and the consumer pays or undertakes to pay the price thereof;
- e 'domestic dispute' means a contractual dispute arising from a sales or service contract where, at the time the consumer orders the goods or services, the consumer is resident in the same Member State as that in which the trader is established;
- f 'cross-border dispute' means a contractual dispute arising from a sales or service contract where, at the time the consumer orders the goods or services, the consumer is resident in a Member State other than the Member State in which the trader is established;
- g 'ADR procedure' means a procedure, as referred to in Article 2, which complies with the requirements set out in this Directive and is carried out by an ADR entity;

- h ‘ADR entity’ means any entity, however named or referred to, which is established on a durable basis and offers the resolution of a dispute through an ADR procedure and that is listed in accordance with Article 20(2);
  - i ‘competent authority’ means any public authority designated by a Member State for the purposes of this Directive and established at national, regional or local level.
- 2 A trader is established:
- if the trader is a natural person, where he has his place of business,
  - if the trader is a company or other legal person or association of natural or legal persons, where it has its statutory seat, central administration or place of business, including a branch, agency or any other establishment.
- 3 An ADR entity is established:
- if it is operated by a natural person, at the place where it carries out ADR activities,
  - if the entity is operated by a legal person or association of natural or legal persons, at the place where that legal person or association of natural or legal persons carries out ADR activities or has its statutory seat,
  - if it is operated by an authority or other public body, at the place where that authority or other public body has its seat.

## CHAPTER II

### ACCESS TO AND REQUIREMENTS APPLICABLE TO ADR ENTITIES AND ADR PROCEDURES

#### *Article 5*

#### **Access to ADR entities and ADR procedures**

- 1 Member States shall facilitate access by consumers to ADR procedures and shall ensure that disputes covered by this Directive and which involve a trader established on their respective territories can be submitted to an ADR entity which complies with the requirements set out in this Directive.
- 2 Member States shall ensure that ADR entities:
- a 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;
  - b provide the parties, at their request, with the information referred to in point (a) on a durable medium;
  - c where applicable, enable the consumer to submit a complaint offline;
  - d enable the exchange of information between the parties via electronic means or, if applicable, by post;
  - e accept both domestic and cross-border disputes, including disputes covered by Regulation (EU) No 524/2013; and
  - f when dealing with disputes covered by this Directive, take the necessary measures to ensure that the processing of personal data complies with the rules on the protection of personal data laid down in the national legislation implementing Directive 95/46/EC in the Member State in which the ADR entity is established.

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3 Member States may fulfil their obligation under paragraph 1 by ensuring the existence of a residual ADR entity which is competent to deal with disputes as referred to in that paragraph for the resolution of which no existing ADR entity is competent. Member States may also fulfil that obligation by relying on ADR entities established in another Member State or regional, transnational or pan-European dispute resolution entities, where traders from different Member States are covered by the same ADR entity, without prejudice to their responsibility to ensure full coverage and access to ADR entities.

4 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 on the grounds that:

- a 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;
- b the dispute is frivolous or vexatious;
- c the dispute is being or has previously been considered by another ADR entity or by a court;
- d the value of the claim falls below or above a pre-specified monetary threshold;
- e the consumer has not submitted the complaint to the ADR entity within a pre-specified time limit, which shall not be set at less than one year from the date upon which the consumer submitted the complaint to the trader;
- f dealing with such a type of dispute would otherwise seriously impair the effective operation of the ADR entity.

Where, in accordance with its procedural rules, 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.

Such procedural rules shall not significantly impair consumers' access to ADR procedures, including in the case of cross-border disputes.

5 Member States shall ensure that, when ADR entities are permitted to establish pre-specified monetary thresholds in order to limit access to ADR procedures, those thresholds are not set at a level at which they significantly impair the consumers' access to complaint handling by ADR entities.

6 Where, in accordance with the procedural rules referred to in paragraph 4, an ADR entity is unable to consider a complaint that has been submitted to it, a Member State shall not be required to ensure that the consumer can submit his complaint to another ADR entity.

7 Where an ADR entity dealing with disputes in a specific economic sector is competent to consider disputes relating to a trader operating in that sector but which is not a member of the organisation or association forming or funding the ADR entity, the Member State shall be deemed to have fulfilled its obligation under paragraph 1 also with respect to disputes concerning that trader.

## *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

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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).

### *Article 7*

#### **Transparency**

1 Member States shall ensure that ADR entities make publicly available on their websites, on a durable medium upon request, and by any other means they consider appropriate, clear and easily understandable information on:

- a their contact details, including postal address and e-mail address;
- b the fact that ADR entities are listed in accordance with Article 20(2);
- c the natural persons in charge of ADR, the method of their appointment and the length of their mandate;
- d the expertise, impartiality and independence of the natural persons in charge of ADR, if they are employed or remunerated exclusively by the trader;
- e their membership in networks of ADR entities facilitating cross-border dispute resolution, if applicable;
- f the types of disputes they are competent to deal with, including any threshold if applicable;
- g 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 in accordance with Article 5(4);
- h the languages in which complaints can be submitted to the ADR entity and in which the ADR procedure is conducted;
- i the types of rules the ADR entity may use as a basis for the dispute resolution (for example legal provisions, considerations of equity, codes of conduct);
- j 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;
- k whether or not the parties can withdraw from the procedure;
- l the costs, if any, to be borne by the parties, including any rules on awarding costs at the end of the procedure;
- m the average length of the ADR procedure;
- n the legal effect of the outcome of the ADR procedure, including the penalties for non-compliance in the case of a decision having binding effect on the parties, if applicable;
- o the enforceability of the ADR decision, if relevant.

2 Member States shall ensure that ADR entities make publicly available on their websites, on a durable medium upon request, and by any other means they consider appropriate, annual activity reports. Those reports shall include the following information relating to both domestic and cross-border disputes:

- a the number of disputes received and the types of complaints to which they related;

- b any systematic or significant problems that occur frequently and lead to disputes between consumers and traders; such information may be accompanied by recommendations as to how such problems can be avoided or resolved in future, in order to raise traders' standards and to facilitate the exchange of information and best practices;
- c the rate of disputes the ADR entity has refused to deal with and the percentage share of the types of grounds for such refusal as referred to in Article 5(4);
- d in the case of procedures referred to in point (a) of Article 2(2), the percentage shares of solutions proposed or imposed in favour of the consumer and in favour of the trader, and of disputes resolved by an amicable solution;
- e the percentage share of ADR procedures which were discontinued and, if known, the reasons for their discontinuation;
- f the average time taken to resolve disputes;
- g the rate of compliance, if known, with the outcomes of the ADR procedures;
- h cooperation of ADR entities within networks of ADR entities which facilitate the resolution of cross-border disputes, if applicable.

### *Article 8*

#### **Effectiveness**

Member States shall ensure that ADR procedures are effective and fulfil the following requirements:

- (a) the ADR procedure is available and easily accessible online and offline to both parties irrespective of where they are;
- (b) the parties have access to the procedure without being obliged to retain a lawyer or a legal advisor, but the procedure shall not deprive the parties of their right to independent advice or to be represented or assisted by a third party at any stage of the procedure;
- (c) the ADR procedure is free of charge or available at a nominal fee for consumers;
- (d) the ADR entity which has received a complaint notifies the parties to the dispute as soon as it has received all the documents containing the relevant information relating to the complaint;
- (e) the outcome of the ADR procedure is made available within a period of 90 calendar days from the date on which the ADR entity has received the complete complaint file. In the case of highly complex disputes, the ADR entity in charge may, at its own discretion, extend the 90 calendar days' time period. The parties shall be informed of any extension of that period and of the expected length of time that will be needed for the conclusion of the dispute.

### *Article 9*

#### **Fairness**

- 1 Member States shall ensure that in ADR procedures:
  - a the parties have the possibility, within a reasonable period of time, of expressing their point of view, of being provided by the ADR entity with the arguments, evidence,

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- documents and facts put forward by the other party, any statements made and opinions given by experts, and of being able to comment on them;
- b the parties are informed that they are not obliged to retain a lawyer or a legal advisor, but they may seek independent advice or be represented or assisted by a third party at any stage of the procedure;
  - c the parties are notified of the outcome of the ADR procedure in writing or on a durable medium, and are given a statement of the grounds on which the outcome is based.
- 2 In ADR procedures which aim at resolving the dispute by proposing a solution, Member States shall ensure that:
- a The parties have the possibility of withdrawing from the procedure at any stage if they are dissatisfied with the performance or the operation of the procedure. They shall be informed of that right before the procedure commences. Where national rules provide for mandatory participation by the trader in ADR procedures, this point shall apply only to the consumer.
  - b The parties, before agreeing or following a proposed solution, are informed that:
    - (i) they have the choice as to whether or not to agree to or follow the proposed solution;
    - (ii) participation in the procedure does not preclude the possibility of seeking redress through court proceedings;
    - (iii) the proposed solution may be different from an outcome determined by a court applying legal rules.
  - c The parties, before agreeing to or following a proposed solution, are informed of the legal effect of agreeing to or following such a proposed solution.
  - d The parties, before expressing their consent to a proposed solution or amicable agreement, are allowed a reasonable period of time to reflect.
- 3 Where, in accordance with national law, ADR procedures provide that their outcome becomes binding on the trader once the consumer has accepted the proposed solution, Article 9(2) shall be read as applicable only to the consumer.

#### *Article 10*

#### **Liberty**

- 1 Member States shall ensure that an agreement between a consumer and a trader to submit complaints to an ADR entity is not binding on the consumer if it was concluded before the dispute has materialised and if it has the effect of depriving the consumer of his right to bring an action before the courts for the settlement of the dispute.
- 2 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. Specific acceptance by the trader is not required if national rules provide that solutions are binding on traders.

## Article 11

### Legality

1 Member States shall ensure that in ADR procedures which aim at resolving the dispute by imposing a solution on the consumer:

- a in a situation 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;
- b in a situation involving a conflict of laws, where the law applicable to the sales or service contract is determined in accordance with Article 6(1) and (2) of Regulation (EC) No 593/2008, the solution imposed by the ADR entity 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 in which he is habitually resident;
- c in a situation involving a conflict of laws, where the law applicable to the sales or service contract is determined in accordance with Article 5(1) to (3) of the Rome Convention of 19 June 1980 on the law applicable to contractual obligations, the solution imposed by the ADR entity shall not result in the consumer being deprived of the protection afforded to him by the mandatory rules of the law of the Member State in which he is habitually resident.

2 For the purposes of this Article, ‘habitual residence’ shall be determined in accordance with Regulation (EC) No 593/2008.

## Article 12

### Effect of ADR procedures on limitation and prescription periods

1 Member States shall ensure that parties who, in an attempt to settle a dispute, have recourse to ADR procedures the outcome of which is not binding, are not subsequently 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.

2 Paragraph 1 shall be without prejudice to provisions on limitation or prescription contained in international agreements to which Member States are party.

## CHAPTER III

### INFORMATION AND COOPERATION

## Article 13

### Consumer information by traders

1 Member States shall ensure that traders established on their territories inform consumers about the ADR entity or ADR entities by which those traders are covered, when

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those traders commit to or are obliged to use those entities to resolve disputes with consumers. That information shall include the website address of the relevant ADR entity or ADR entities.

2 The information referred to in paragraph 1 shall be provided in a clear, comprehensible and easily accessible way on the traders' website, where one exists, and, if applicable, in the general terms and conditions of sales or service contracts between the trader and a consumer.

3 Member States shall ensure that, in cases where a dispute between a consumer and a trader established in their territory could not be settled further to a complaint submitted directly by the consumer to the trader, the trader provides the consumer with the information referred to in paragraph 1, specifying whether he will make use of the relevant ADR entities to settle the dispute. That information shall be provided on paper or on another durable medium.

#### *Article 14*

### **Assistance for consumers**

1 Member States shall ensure that, with regard to disputes arising from cross-border sales or service contracts, consumers can obtain assistance to access the ADR entity operating in another Member State which is competent to deal with their cross-border dispute.

2 Member States shall confer responsibility for the task referred to in paragraph 1 on their centres of the European Consumer Centre Network, on consumer organisations or on any other body.

#### *Article 15*

### **General information**

1 Member States shall ensure that ADR entities, the centres of the European Consumer Centre Network and, where appropriate, the bodies designated in accordance with Article 14(2) make publicly available on their websites, by providing a link to the Commission's website, and whenever possible on a durable medium at their premises, the list of ADR entities referred to in Article 20(4).

2 Member States shall encourage relevant consumer organisations and business associations to make publicly available on their websites, and by any other means they consider appropriate, the list of ADR entities referred to in Article 20(4).

3 The Commission and Member States shall ensure appropriate dissemination of information on how consumers can access ADR procedures for resolving disputes covered by this Directive.

4 The Commission and the Member States shall take accompanying measures to encourage consumer organisations and professional organisations, at Union and at national level, to raise awareness of ADR entities and their procedures and to promote ADR take-up by traders and consumers. Those bodies shall also be encouraged to provide consumers with information about competent ADR entities when they receive complaints from consumers.

## *Article 16*

### **Cooperation and exchanges of experience between ADR entities**

- 1 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.
- 2 The Commission shall support and facilitate the networking of national ADR entities and the exchange and dissemination of their best practices and experiences.
- 3 Where a network of ADR entities facilitating the resolution of cross-border disputes exists in a sector-specific area within the Union, Member States shall encourage ADR entities that deal with disputes in that area to become a member of that network.
- 4 The Commission shall publish a list containing the names and contact details of the networks referred to in paragraph 3. The Commission shall, when necessary, update this list.

## *Article 17*

### **Cooperation between ADR entities and national authorities enforcing Union legal acts on consumer protection**

- 1 Member States shall ensure cooperation between ADR entities and national authorities entrusted with the enforcement of Union legal acts on consumer protection.
- 2 This cooperation shall in particular include mutual exchange of information on practices in specific business sectors about which consumers have repeatedly lodged complaints. It shall also include the provision of technical assessment and information by such national authorities to ADR entities where such assessment or information is necessary for the handling of individual disputes and is already available.
- 3 Member States shall ensure that cooperation and mutual information exchanges referred to in paragraphs 1 and 2 comply with the rules on the protection of personal data laid down in Directive 95/46/EC.
- 4 This Article shall be without prejudice to provisions on professional and commercial secrecy which apply to the national authorities enforcing Union legal acts on consumer protection. ADR entities shall be subject to rules of professional secrecy or other equivalent duties of confidentiality laid down in the legislation of the Member States where they are established.

## CHAPTER IV

### THE ROLE OF COMPETENT AUTHORITIES AND THE COMMISSION

#### *Article 18*

##### **Designation of competent authorities**

1 Each Member State shall designate a competent authority which shall carry out the functions set out in Articles 19 and 20. Each Member State may designate more than one competent authority. If a Member State does so, it shall determine which of the competent authorities designated is the single point of contact for the Commission. Each Member State shall communicate the competent authority or, where appropriate, the competent authorities, including the single point of contact it has designated, to the Commission.

2 The Commission shall establish a list of the competent authorities including, where appropriate, the single point of contact communicated to it in accordance with paragraph 1, and publish that list in the *Official Journal of the European Union*.

#### *Article 19*

##### **Information to be notified to competent authorities by dispute resolution entities**

1 Member States shall ensure that dispute resolution entities established on their territories, which intend to qualify as ADR entities under this Directive and be listed in accordance with Article 20(2), notify to the competent authority the following:

- a their name, contact details and website address;
- b information on their structure and funding, including information on the natural persons in charge of dispute resolution, their remuneration, term of office and by whom they are employed;
- c their procedural rules;
- d their fees, if applicable;
- e the average length of the dispute resolution procedures;
- f the language or languages in which complaints can be submitted and the dispute resolution procedure conducted;
- g a statement on the types of disputes covered by the dispute resolution procedure;
- h the grounds on which the dispute resolution entity may refuse to deal with a given dispute in accordance with Article 5(4);
- i a reasoned statement on whether the entity qualifies as an ADR entity falling within the scope of this Directive and complies with the quality requirements set out in Chapter II.

In the event of changes to the information referred to in points (a) to (h), ADR entities shall without undue delay notify those changes to the competent authority.

2 Where Member States decide to allow procedures as referred to in point (a) of Article 2(2), they shall ensure that ADR entities applying such procedures notify to the competent authority, in addition to the information and statements referred to in paragraph 1, the information necessary to assess their compliance with the specific additional requirements of independence and transparency set out in Article 6(3).

3 Member States shall ensure that ADR entities communicate to the competent authorities every two years information on:

- a the number of disputes received and the types of complaints to which they related;
- b the percentage share of ADR procedures which were discontinued before an outcome was reached;
- c the average time taken to resolve the disputes received;
- d the rate of compliance, if known, with the outcomes of the ADR procedures;
- e any systematic or significant problems that occur frequently and lead to disputes between consumers and traders. The information communicated in this regard may be accompanied by recommendations as to how such problems can be avoided or resolved in future;
- f where applicable, an assessment of the effectiveness of their cooperation within networks of ADR entities facilitating the resolution of cross-border disputes;
- g where applicable, the training provided to natural persons in charge of ADR in accordance with Article 6(6);
- h an assessment of the effectiveness of the ADR procedure offered by the entity and of possible ways of improving its performance.

## *Article 20*

### **Role of the competent authorities and of the Commission**

1 Each competent authority shall assess, in particular on the basis of the information it has received in accordance with Article 19(1), whether the dispute resolution entities notified to it qualify as ADR entities falling within the scope of this Directive and comply with the quality requirements set out in Chapter II and in national provisions implementing it, including national provisions going beyond the requirements of this Directive, in conformity with Union law.

2 Each competent authority shall, on the basis of the assessment referred to in paragraph 1, list all the ADR entities that have been notified to it and fulfil the conditions set out in paragraph 1.

That list shall include the following:

- a the name, the contact details and the website addresses of the ADR entities referred to in the first subparagraph;
- b their fees, if applicable;
- c the language or languages in which complaints can be submitted and the ADR procedure conducted;
- d the types of disputes covered by the ADR procedure;
- e the sectors and categories of disputes covered by each ADR entity;
- f the need for the physical presence of the parties or of their representatives, if applicable, including a statement by the ADR entity on whether the ADR procedure is or can be conducted as an oral or a written procedure;
- g the binding or non-binding nature of the outcome of the procedure; and
- h the grounds on which the ADR entity may refuse to deal with a given dispute in accordance with Article 5(4).

Each competent authority shall notify the list referred to in the first subparagraph of this paragraph to the Commission. If any changes are notified to the competent authority in accordance with the second subparagraph of Article 19(1), that list shall be updated without undue delay and the relevant information notified to the Commission.

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If a dispute resolution entity listed as ADR entity under this Directive no longer complies with the requirements referred to in paragraph 1, the competent authority concerned shall contact that dispute resolution entity, stating the requirements the dispute resolution entity fails to comply with and requesting it to ensure compliance immediately. If the dispute resolution entity after a period of three months still does not fulfil the requirements referred to in paragraph 1, the competent authority shall remove the dispute resolution entity from the list referred to in the first subparagraph of this paragraph. That list shall be updated without undue delay and the relevant information notified to the Commission.

3 If a Member State has designated more than one competent authority, the list and its updates referred to in paragraph 2 shall be notified to the Commission by the single point of contact referred to in Article 18(1). That list and those updates shall relate to all ADR entities established in that Member State.

4 The Commission shall establish a list of the ADR entities notified to it in accordance with paragraph 2 and update that list whenever changes are notified to the Commission. The Commission shall make publicly available that list and its updates on its website and on a durable medium. The Commission shall transmit that list and its updates to the competent authorities. Where a Member State has designated a single point of contact in accordance with Article 18(1), the Commission shall transmit that list and its updates to the single point of contact.

5 Each competent authority shall make publicly available the consolidated list of ADR entities referred to in paragraph 4 on its website by providing a link to the relevant Commission website. In addition, each competent authority shall make publicly available that consolidated list on a durable medium.

6 By 9 July 2018, and every four years thereafter, each competent authority shall publish and send to the Commission a report on the development and functioning of ADR entities. That report shall in particular:

- a identify best practices of ADR entities;
- b point out the shortcomings, supported by statistics, that hinder the functioning of ADR entities for both domestic and cross-border disputes, where appropriate;
- c make recommendations on how to improve the effective and efficient functioning of ADR entities, where appropriate.

7 If a Member State has designated more than one competent authority in accordance with Article 18(1), the report referred to in paragraph 6 of this Article shall be published by the single point of contact referred to in Article 18(1). That report shall relate to all ADR entities established in that Member State.

## CHAPTER V

### FINAL PROVISIONS

#### *Article 21*

#### **Penalties**

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted in particular pursuant to Article 13 and shall take all

measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

#### *Article 22*

### **Amendment to Regulation (EC) No 2006/2004**

In the Annex to Regulation (EC) No 2006/2004, the following point is added:

20. Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes (OJ L 165, 18.6.2013, p. 63): Article 13..

#### *Article 23*

### **Amendment to Directive 2009/22/EC**

In Annex I to Directive 2009/22/EC the following point is added:

14. Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes (OJ L 165, 18.6.2013, p. 63): Article 13..

#### *Article 24*

### **Communication**

- 1 By 9 July 2015, Member States shall communicate to the Commission:
  - a where appropriate, the names and contact details of the bodies designated in accordance with Article 14(2); and
  - b the competent authorities including, where appropriate, the single point of contact, designated in accordance with Article 18(1).

Member States shall inform the Commission of any subsequent changes to this information.

- 2 By 9 January 2016, Member States shall communicate to the Commission the first list referred to in Article 20(2).

- 3 The Commission shall transmit to the Member States the information referred to in point (a) of paragraph 1.

#### *Article 25*

### **Transposition**

- 1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 9 July 2015. They shall forthwith communicate to the Commission the text of those provisions.

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*Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

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When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2 Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

#### *Article 26*

##### **Report**

By 9 July 2019, and every four years thereafter, the Commission shall submit to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Directive. That report shall consider the development and the use of ADR entities and the impact of this Directive on consumers and traders, in particular on the awareness of consumers and the level of adoption by traders. That report shall be accompanied, where appropriate, by proposals for amendment of this Directive.

#### *Article 27*

##### **Entry into force**

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

#### *Article 28*

##### **Addressees**

This Directive is addressed to the Member States.

Done at Strasbourg, 21 May 2013.

*For the European Parliament*

*The President*

M. SCHULZ

*For the Council*

*The President*

L. CREIGHTON