

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.

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.