

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)

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)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee⁽¹⁾,

Acting in accordance with the ordinary legislative procedure⁽²⁾,

Whereas:

- (1) Article 169(1) and point (a) of Article 169(2) of the Treaty on the Functioning of the European Union (TFEU) provide that the Union is to contribute to the attainment of a high level of consumer protection through measures adopted pursuant to Article 114 TFEU. Article 38 of the Charter of Fundamental Rights of the European Union provides that Union policies are to ensure a high level of consumer protection.
- (2) In accordance with Article 26(2) TFEU, the internal market is to comprise an area without internal frontiers in which the free movement of goods and services is ensured. The internal market should provide consumers with added value in the form of better quality, greater variety, reasonable prices and high safety standards for goods and services, which should promote a high level of consumer protection.
- (3) Fragmentation of the internal market is detrimental to competitiveness, growth and job creation within the Union. Eliminating direct and indirect obstacles to the proper functioning of the internal market and improving citizens' trust is essential for the completion of the internal market.
- (4) Ensuring access to simple, efficient, fast and low-cost ways of resolving domestic and cross-border disputes which arise from sales or service contracts should benefit consumers and therefore boost their confidence in the market. That access should apply to online as well as to offline transactions, and is particularly important when consumers shop across borders.

- (5) Alternative dispute resolution (ADR) offers a simple, fast and low-cost out-of-court solution to disputes between consumers and traders. However, ADR is not yet sufficiently and consistently developed across the Union. It is regrettable that, despite Commission Recommendations 98/257/EC of 30 March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes⁽³⁾ and 2001/310/EC of 4 April 2001 on the principles for out-of-court bodies involved in the consensual resolution of consumer disputes⁽⁴⁾, ADR has not been correctly established and is not running satisfactorily in all geographical areas or business sectors in the Union. Consumers and traders are still not aware of the existing out-of-court redress mechanisms, with only a small percentage of citizens knowing how to file a complaint with an ADR entity. Where ADR procedures are available, their quality levels vary considerably in the Member States and cross-border disputes are often not handled effectively by ADR entities.
- (6) The disparities in ADR coverage, quality and awareness in Member States constitute a barrier to the internal market and are among the reasons why many consumers abstain from shopping across borders and why they lack confidence that potential disputes with traders can be resolved in an easy, fast and inexpensive way. For the same reasons, traders might abstain from selling to consumers in other Member States where there is no sufficient access to high-quality ADR procedures. Furthermore, traders established in a Member State where high-quality ADR procedures are not sufficiently available are put at a competitive disadvantage with regard to traders that have access to such procedures and can thus resolve consumer disputes faster and more cheaply.
- (7) In order for consumers to exploit fully the potential of the internal market, ADR should be available for all types of domestic and cross-border disputes covered by this Directive, ADR procedures should comply with consistent quality requirements that apply throughout the Union, and consumers and traders should be aware of the existence of such procedures. Due to increased cross-border trade and movement of persons, it is also important that ADR entities handle cross-border disputes effectively.
- (8) As advocated by the European Parliament in its resolutions of 25 October 2011 on alternative dispute resolution in civil, commercial and family matters and of 20 May 2010 on delivering a single market to consumers and citizens, any holistic approach to the single market which delivers results for its citizens should as a priority develop simple, affordable, expedient and accessible system of redress.
- (9) In its Communication of 13 April 2011 entitled ‘Single Market Act — Twelve levers to boost growth and strengthen confidence — “Working together to create new growth”’, the Commission identified legislation on ADR which includes an electronic commerce (e-commerce) dimension, as one of the twelve levers to boost growth, strengthen confidence and make progress towards completing the Single Market.
- (10) In its conclusions of 24-25 March and 23 October 2011, the European Council invited the European Parliament and the Council to adopt, by the end of 2012, a first set of priority measures to bring a new impetus to the Single Market. Moreover, in its Conclusions of 30 May 2011 on the Priorities for relaunching the Single Market, the Council of the European Union highlighted the importance of e-commerce and

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agreed that consumer ADR schemes can offer low-cost, simple and quick redress for both consumers and traders. The successful implementation of those schemes requires sustained political commitment and support from all actors, without compromising the affordability, transparency, flexibility, speed and quality of decision-making by the ADR entities falling within the scope of this Directive.

- (11) Given the increasing importance of online commerce and in particular cross-border trade as a pillar of Union economic activity, a properly functioning ADR infrastructure for consumer disputes and a properly integrated online dispute resolution (ODR) framework for consumer disputes arising from online transactions are necessary in order to achieve the Single Market Act's aim of boosting citizens' confidence in the internal market.
- (12) This Directive and Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes⁽⁵⁾ are two interlinked and complementary legislative instruments. Regulation (EU) No 524/2013 provides for the establishment of an ODR platform which offers consumers and traders a single point of entry for the out-of-court resolution of online disputes, through ADR entities which are linked to the platform and offer ADR through quality ADR procedures. The availability of quality ADR entities across the Union is thus a precondition for the proper functioning of the ODR platform.
- (13) This Directive should not apply to non-economic services of general interest. Non-economic services are services which are not performed for economic consideration. As a result, non-economic services of general interest performed by the State or on behalf of the State, without remuneration, should not be covered by this Directive irrespective of the legal form through which those services are provided.
- (14) This Directive should not apply to health care services as defined in point (a) of Article 3 of Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare⁽⁶⁾.
- (15) The development within the Union of properly functioning ADR is necessary to strengthen consumers' confidence in the internal market, including in the area of online commerce, and to fulfil the potential for and opportunities of cross-border and online trade. Such development should build on existing ADR procedures in the Member States and respect their legal traditions. Both existing and newly established properly functioning dispute resolution entities that comply with the quality requirements set out in this Directive should be considered as 'ADR entities' within the meaning of this Directive. The dissemination of ADR can also prove to be important in those Member States in which there is a substantial backlog of cases pending before the courts, preventing Union citizens from exercising their right to a fair trial within a reasonable time.
- (16) This Directive should apply to disputes between consumers and traders concerning contractual obligations stemming from sales or services contracts, both online and offline, in all economic sectors, other than the exempted sectors. This should include disputes arising from the sale or provision of digital content for remuneration. This Directive should apply to complaints submitted by consumers against traders. It should

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not apply to complaints submitted by traders against consumers or to disputes between traders. However, it should not prevent Member States from adopting or maintaining in force provisions on procedures for the out-of-court resolution of such disputes.

- (17) Member States should be permitted to maintain or introduce national provisions with regard to procedures not covered by this Directive, such as internal complaint handling procedures operated by the trader. Such internal complaint handling procedures can constitute an effective means for resolving consumer disputes at an early stage.
- (18) The definition of ‘consumer’ should cover natural persons who are acting outside their trade, business, craft or profession. However, if the contract is concluded for purposes partly within and partly outside the person’s trade (dual purpose contracts) and the trade purpose is so limited as not to be predominant in the overall context of the supply, that person should also be considered as a consumer.
- (19) Some existing Union legal acts already contain provisions concerning ADR. In order to ensure legal certainty, it should be provided that, in the event of conflict, this Directive is to prevail, except where it explicitly provides otherwise. In particular, this Directive should be without prejudice to Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters⁽⁷⁾, which already sets out a framework for systems of mediation at Union level for cross-border disputes, without preventing the application of that Directive to internal mediation systems. This Directive is intended to apply horizontally to all types of ADR procedures, including to ADR procedures covered by Directive 2008/52/EC.
- (20) ADR entities are highly diverse across the Union but also within the Member States. This Directive should cover any entity that is established on a durable basis, offers the resolution of a dispute between a consumer and a trader through an ADR procedure and is listed in accordance with this Directive. This Directive may also cover, if Member States so decide, dispute resolution entities which impose solutions which are binding on the parties. However, an out-of-court procedure which is created on an ad hoc basis for a single dispute between a consumer and a trader should not be considered as an ADR procedure.
- (21) Also ADR procedures are highly diverse across the Union and within Member States. They can take the form of procedures where the ADR entity brings the parties together with the aim of facilitating an amicable solution, or procedures where the ADR entity proposes a solution or procedures where the ADR entity imposes a solution. They can also take the form of a combination of two or more such procedures. This Directive should be without prejudice to the form which ADR procedures take in the Member States.
- (22) Procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed or receive any form of remuneration exclusively from the trader are likely to be exposed to a conflict of interest. Therefore, those procedures should, in principle, be excluded from the scope of this Directive, unless a Member State decides that such procedures can be recognised as ADR procedures under this Directive and provided that those entities are in complete conformity with the specific requirements on independence and impartiality laid down in this Directive. ADR

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- entities offering dispute resolution through such procedures should be subject to regular evaluation of their compliance with the quality requirements set out in this Directive, including the specific additional requirements ensuring their independence.
- (23) This Directive should not apply to procedures before consumer-complaint handling systems operated by the trader, nor to direct negotiations between the parties. Furthermore, it should not apply to attempts made by a judge to settle a dispute in the course of a judicial proceeding concerning that dispute.
- (24) Member States should ensure that disputes covered by this Directive can be submitted to an ADR entity which complies with the requirements set out in this Directive and is listed in accordance with it. Member States should have the possibility of fulfilling this obligation by building on existing properly functioning ADR entities and adjusting their scope of application, if needed, or by providing for the creation of new ADR entities. This Directive should not preclude the functioning of existing dispute resolution entities operating within the framework of national consumer protection authorities of Member States where State officials are in charge of dispute resolution. State officials should be regarded as representatives of both consumers' and traders' interests. This Directive should not oblige Member States to create a specific ADR entity in each retail sector. When necessary, in order to ensure full sectoral and geographical coverage by and access to ADR, Member States should have the possibility to provide for the creation of a residual ADR entity that deals with disputes for the resolution of which no specific ADR entity is competent. Residual ADR entities are intended to be a safeguard for consumers and traders by ensuring that there are no gaps in access to an ADR entity.
- (25) This Directive should not prevent Member States from maintaining or introducing legislation on procedures for out-of-court resolution of consumer contractual disputes which is in compliance with the requirements set out in this Directive. Furthermore, in order to ensure that ADR entities can operate effectively, those entities should have the possibility of maintaining or introducing, in accordance with the laws of the Member State in which they are established, procedural rules that allow them to refuse to deal with disputes in specific circumstances, for example where a dispute is too complex and would therefore be better resolved in court. However, procedural rules allowing ADR entities to refuse to deal with a dispute should not impair significantly consumers' access to ADR procedures, including in the case of cross-border disputes. Thus, when providing for a monetary threshold, Member States should always take into account that the real value of a dispute may vary among Member States and, consequently, setting a disproportionately high threshold in one Member State could impair access to ADR procedures for consumers from other Member States. Member States should not be required to ensure that the consumer can submit his complaint to another ADR entity, where an ADR entity to which the complaint was first submitted has refused to deal with it because of its procedural rules. In such cases Member States should be deemed to have fulfilled their obligation to ensure full coverage of ADR entities.
- (26) This Directive should allow traders established in a Member State to be covered by an ADR entity which is established in another Member State. In order to improve the coverage of and consumer access to ADR across the Union, Member States should

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have the possibility of deciding to rely on ADR entities established in another Member State or regional, transnational or pan-European ADR entities, where traders from different Member States are covered by the same ADR entity. Recourse to ADR entities established in another Member State or to transnational or pan-European ADR entities should, however, be without prejudice to Member States' responsibility to ensure full coverage by and access to ADR entities.

- (27) This Directive should be without prejudice to Member States maintaining or introducing ADR procedures dealing jointly with identical or similar disputes between a trader and several consumers. Comprehensive impact assessments should be carried out on collective out-of-court settlements before such settlements are proposed at Union level. The existence of an effective system for collective claims and easy recourse to ADR should be complementary and they should not be mutually exclusive procedures.
- (28) The processing of information relating to disputes covered by this Directive should comply with the rules on the protection of personal data laid down in the laws, regulations and administrative provisions of the Member States adopted pursuant to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data⁽⁶⁾.
- (29) Confidentiality and privacy should be respected at all times during the ADR procedure. Member States should be encouraged to protect the confidentiality of ADR procedures in any subsequent civil or commercial judicial proceedings or arbitration.
- (30) Member States should nevertheless ensure that ADR entities make publicly available any systematic or significant problems that occur frequently and lead to disputes between consumers and traders. The information communicated in this regard could 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.
- (31) Member States should ensure that ADR entities resolve disputes in a manner that is fair, practical and proportionate to both the consumer and the trader, on the basis of an objective assessment of the circumstances in which the complaint is made and with due regard to the rights of the parties.
- (32) The independence and integrity of ADR entities is crucial in order to gain Union citizens' trust that ADR mechanisms will offer them a fair and independent outcome. The natural person or collegial body in charge of ADR should be independent of all those who might have an interest in the outcome and should have no conflict of interest which could impede him or it from reaching a decision in a fair, impartial and independent manner.
- (33) The natural persons in charge of ADR should only be considered impartial if they cannot be subject to pressure that potentially influences their attitude towards the dispute. In order to ensure the independence of their actions, those persons should also be appointed for a sufficient duration, and should not be subject to any instructions from either party or their representative.

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- (34) In order to ensure the absence of any conflict of interest, natural persons in charge of ADR should disclose any circumstances that might affect their independence and impartiality or give rise to a conflict of interest with either party to the dispute they are asked to resolve. This could be any financial interest, direct or indirect, in the outcome of the ADR procedure or any personal or business relationship with one or more of the parties during the three years prior to assuming the post, including any capacity other than for the purposes of ADR in which the person concerned has acted for one or more of the parties, for a professional organisation or a business association of which one of the parties is a member or for any other member thereof.
- (35) There is a particular need to ensure the absence of such pressure where the natural persons in charge of ADR are employed or receive any form of remuneration from the trader. Therefore, specific requirements should be provided for in the event that Member States decide to allow dispute resolution procedures in such cases to qualify as ADR procedures under this Directive. Where natural persons in charge of ADR are employed or receive any form of remuneration exclusively from a professional organisation or a business association of which the trader is a member, they should have at their disposal a separate and dedicated budget sufficient to fulfil their tasks.
- (36) It is essential for the success of ADR, in particular in order to ensure the necessary trust in ADR procedures, that the natural persons in charge of ADR possess the necessary expertise, including a general understanding of law. In particular, those persons should have sufficient general knowledge of legal matters in order to understand the legal implications of the dispute, without being obliged to be a qualified legal professional.
- (37) The applicability of certain quality principles to ADR procedures strengthens both consumers' and traders' confidence in such procedures. Such quality principles were first developed at Union level in Recommendations 98/257/EC and 2001/310/EC. By making some of the principles established in those Commission Recommendations binding, this Directive establishes a set of quality requirements which apply to all ADR procedures carried out by an ADR entity which has been notified to the Commission.
- (38) This Directive should establish quality requirements of ADR entities, which should ensure the same level of protection and rights for consumers in both domestic and cross-border disputes. This Directive should not prevent Member States from adopting or maintaining rules that go beyond what is provided for in this Directive.
- (39) ADR entities should be accessible and transparent. In order to ensure the transparency of ADR entities and of ADR procedures it is necessary that the parties receive the clear and accessible information they need in order to take an informed decision before engaging in an ADR procedure. The provision of such information to traders should not be required where their participation in ADR procedures is mandatory under national law.
- (40) A properly functioning ADR entity should conclude online and offline dispute resolution proceedings expeditiously within a timeframe of 90 calendar days starting on the date on which the ADR entity has received the complete complaint file including all relevant documentation pertaining to that complaint, and ending on the date on

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which the outcome of the ADR procedure is made available. The ADR entity which has received a complaint should notify the parties after receiving all the documents necessary to carry out the ADR procedure. In certain exceptional cases of a highly complex nature, including where one of the parties is unable, on justified grounds, to take part in the ADR procedure, ADR entities should be able to extend the timeframe for the purpose of undertaking an examination of the case in question. The parties should be informed of any such extension, and of the expected approximate length of time that will be needed for the conclusion of the dispute.

- (41) ADR procedures should preferably be free of charge for the consumer. In the event that costs are applied, the ADR procedure should be accessible, attractive and inexpensive for consumers. To that end, costs should not exceed a nominal fee.
- (42) ADR procedures should be fair so that the parties to a dispute are fully informed about their rights and the consequences of the choices they make in the context of an ADR procedure. ADR entities should inform consumers of their rights before they agree to or follow a proposed solution. Both parties should also be able to submit their information and evidence without being physically present.
- (43) An agreement between a consumer and a trader to submit complaints to an ADR entity should not be 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. Furthermore, in ADR procedures which aim at resolving the dispute by imposing a solution, the solution imposed should 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 should not be required if national rules provide that such solutions are binding on traders.
- (44) In ADR procedures which aim at resolving the dispute by imposing a solution on the consumer, in a situation where there is no conflict of laws, the solution imposed should 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. 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 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I)⁽⁹⁾, the solution imposed by the ADR entity should 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 the consumer is habitually resident. 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⁽¹⁰⁾, the solution imposed by the ADR entity should not result in the consumer being deprived of the protection afforded to the consumer by the mandatory rules of the law of the Member State in which the consumer is habitually resident.

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- (45) The right to an effective remedy and the right to a fair trial are fundamental rights laid down in Article 47 of the Charter of Fundamental Rights of the European Union. Therefore, ADR procedures should not be designed to replace court procedures and should not deprive consumers or traders of their rights to seek redress before the courts. This Directive should not prevent parties from exercising their right of access to the judicial system. In cases where a dispute could not be resolved through a given ADR procedure whose outcome is not binding, the parties should subsequently not be prevented from initiating judicial proceedings in relation to that dispute. Member States should be free to choose the appropriate means to achieve this objective. They should have the possibility to provide, inter alia, that limitation or prescription periods do not expire during an ADR procedure.
- (46) In order to function efficiently, ADR entities should have sufficient human, material and financial resources at their disposal. Member States should decide on an appropriate form of funding for ADR entities on their territories, without restricting the funding of entities that are already operational. This Directive should be without prejudice to the question of whether ADR entities are publicly or privately funded or funded through a combination of public and private funding. However, ADR entities should be encouraged to specifically consider private forms of funding and to utilise public funds only at Member States' discretion. This Directive should not affect the possibility for businesses or for professional organisations or business associations to fund ADR entities.
- (47) When a dispute arises it is necessary that consumers are able to identify quickly which ADR entities are competent to deal with their complaint and to know whether or not the trader concerned will participate in proceedings submitted to an ADR entity. Traders who commit to use ADR entities to resolve disputes with consumers should inform consumers of the address and website of the ADR entity or entities by which they are covered. That information should be provided in a clear, comprehensible and easily accessible way on the trader's website, where one exists, and if applicable in the general terms and conditions of sales or service contracts between the trader and the consumer. Traders should have the possibility of including on their websites, and in the terms and conditions of the relevant contracts, any additional information on their internal complaint handling procedures or on any other ways of directly contacting them with a view to settling disputes with consumers without referring them to an ADR entity. Where a dispute cannot be settled directly, the trader should provide the consumer, on paper or another durable medium, with the information on relevant ADR entities and specify if he will make use of them.
- (48) The obligation on traders to inform consumers about the ADR entities by which those traders are covered should be without prejudice to provisions on consumer information on out-of-court redress procedures contained in other Union legal acts, which should apply in addition to the relevant information obligation provided for in this Directive.
- (49) This Directive should not require the participation of traders in ADR procedures to be mandatory or the outcome of such procedures to be binding on traders, when a consumer has lodged a complaint against them. However, in order to ensure that consumers have

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access to redress and that they are not obliged to forego their claims, traders should be encouraged as far as possible to participate in ADR procedures. Therefore, this Directive should be without prejudice to any national rules making the participation of traders in such procedures mandatory or subject to incentives or sanctions or making their outcome binding on traders, provided that such legislation does not prevent the parties from exercising their right of access to the judicial system as provided for in Article 47 of the Charter of Fundamental Rights of the European Union.

- (50) In order to avoid an unnecessary burden being placed on ADR entities, Member States should encourage consumers to contact the trader in an effort to solve the problem bilaterally before submitting a complaint to an ADR entity. In many cases, doing so would allow consumers to settle their disputes swiftly and at an early stage.
- (51) Member States should involve the representatives of professional organisations, business associations and consumer organisations when developing ADR, in particular in relation to the principles of impartiality and independence.
- (52) Member States should ensure that ADR entities cooperate on the resolution of cross-border disputes.
- (53) Networks of ADR entities, such as the financial dispute resolution network ‘FIN-NET’ in the area of financial services, should be strengthened within the Union. Member States should encourage ADR entities to become part of such networks.
- (54) Close cooperation between ADR entities and national authorities should strengthen the effective application of Union legal acts on consumer protection. The Commission and the Member States should facilitate cooperation between the ADR entities, in order to encourage the exchange of best practice and technical expertise and to discuss any problems arising from the operation of ADR procedures. Such cooperation should be supported, inter alia, through the Union’s forthcoming Consumer Programme.
- (55) In order to ensure that ADR entities function properly and effectively, they should be closely monitored. For that purpose, each Member States should designate a competent authority or competent authorities which should perform that function. The Commission and competent authorities under this Directive should publish and update a list of ADR entities that comply with this Directive. Member States should 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. Furthermore, Member States should also encourage relevant consumer organisations and business associations to publish the list. Member States should also ensure the appropriate dissemination of information on what consumers should do if they have a dispute with a trader. In addition, competent authorities should publish regular reports on the development and functioning of ADR entities in their Member States. ADR entities should notify to competent authorities specific information on which those reports should be based. Member States should encourage ADR entities to provide such information using Commission Recommendation 2010/304/EU of 12 May 2010 on the use of a harmonised methodology for classifying and reporting consumer complaints and enquiries⁽¹¹⁾.

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- (56) It is necessary for Member States to lay down rules on penalties for infringements of the national provisions adopted to comply with this Directive and to ensure that those rules are implemented. The penalties should be effective, proportionate and dissuasive.
- (57) Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation)⁽¹²⁾ should be amended to include a reference to this Directive in its Annex so as to reinforce cross-border cooperation on enforcement of this Directive.
- (58) Directive 2009/22/EC of the European Parliament and of the Council of 23 April 2009 on injunctions for the protection of consumers' interests⁽¹³⁾ (Injunctions Directive) should be amended to include a reference to this Directive in its Annex so as to ensure that the consumers' collective interests laid down in this Directive are protected.
- (59) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents⁽¹⁴⁾, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.
- (60) Since the objective of this Directive, namely to contribute, through the achievement of a high level of consumer protection and without restricting consumers' access to the courts, to the proper functioning of the internal market, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (61) This Directive respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union and specifically Articles 7, 8, 38 and 47 thereof.
- (62) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data⁽¹⁵⁾ and delivered an opinion on 12 January 2012⁽¹⁶⁾,

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- (1) [OJ C 181, 21.6.2012, p. 93.](#)
- (2) Position of the European Parliament of 12 March 2013 (not yet published in the Official Journal) and decision of the Council of 22 April 2013.
- (3) [OJ L 115, 17.4.1998, p. 31.](#)
- (4) [OJ L 109, 19.4.2001, p. 56.](#)
- (5) See page 1 of this Official Journal.
- (6) [OJ L 88, 4.4.2011, p. 45.](#)
- (7) [OJ L 136, 24.5.2008, p. 3.](#)
- (8) [OJ L 281, 23.11.1995, p. 31.](#)
- (9) [OJ L 177, 4.7.2008, p. 6.](#)
- (10) [OJ L 266, 9.10.1980, p. 1.](#)
- (11) [OJ L 136, 2.6.2010, p. 1.](#)
- (12) [OJ L 364, 9.12.2004, p. 1.](#)
- (13) [OJ L 110, 1.5.2009, p. 30.](#)
- (14) [OJ C 369, 17.12.2011, p. 14.](#)
- (15) [OJ L 8, 12.1.2001, p. 1.](#)
- (16) [OJ C 136, 11.5.2012, p. 1.](#)