

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 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.

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;

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- 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.