

# Module 5

## Alternative Dispute Resolution (ADR) & Online Dispute Resolution (ODR)

NOVEMBER 2022

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Readers should also remember that EU and national legislation is being continuously updated: any paper version of the modules should be checked against possible updates on the website [www.consumerlawready.eu](http://www.consumerlawready.eu).

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**“Alternative Dispute Resolution allows me to solve disputes with a consumer in a quick and simple way”**

**Trader**

**“Being able to rely on an impartial body is a relief when a dispute with a trader happens”**

**Consumer**

## Introduction

Dear entrepreneur,

This Handbook is part of the Consumer Law Ready project addressed specifically to micro, small and medium-sized companies that interact with consumers.

The Consumer Law Ready project is a European-wide project managed by EUROCHAMBRES (the association of European Chambers of Commerce and Industry), in a consortium with BEUC (the European Consumer Organisation) and SMEunited (the Voice of SMEs in Europe). It is funded by the European Union with the support of the European Commission.

The objective of the project is to assist you in complying with the requirements of EU consumer law.

Evropské spotřebitelské právo je tvořeno různou legislativou přijatou EU za posledních 25 let a zavedenou jednotlivými členskými státy EU do jejich vnitrostátního práva. V roce 2017 provedla Evropská komise kontrolu, zda pravidla odpovídají svému účelu. Výsledek byl obecně kladný<sup>1</sup>. Hlavním zjištěním bylo, že orgány musejí stávající pravidla lépe vymáhat a že je musejí podniky i spotřebitelé lépe znát. Projekt ConsumerLaw Ready si klade za cíl rozšířit znalosti obchodníků, především SME podniků, v oblasti práv spotřebitelů a také znalosti o jejich zákonných povinnostech.

The Handbook consists of five modules. Each one deals with one particular topic of EU consumer law:

- Module 1 deals with the rules on pre-contractual information requirements,
- Module 2 presents the rules on the consumer's right to withdraw from distance and off-premises contracts
- Module 3 concentrates on the remedies which traders must provide when do not conform with the contract
- Module 4 focuses on unfair commercial practices and unfair contract terms
- Module 5 introduces alternative dispute resolution and the EU Online Dispute Resolution (ODR) platform, an official website managed by the European Commission dedicated to helping consumers and traders resolve their disputes out-of-court.

This Handbook is just one of the learning materials created within the Consumer Law Ready project. The website [consumerlawready.eu](http://consumerlawready.eu) contains other learning tools, such as videos, quizzes and an 'e-test' through which you can obtain a certificate. You can also connect with experts and other SMEs through a forum.

The Module 5 of the Handbook aims to make you familiar with ADR (Alternative Dispute Resolution) and ODR (Online Dispute Resolution). It presents what ADR is, what an ADR body is, what your legal obligations related to ADR are and how to use ADR. It also explains what ODR (Online Dispute Resolution) is, what your legal obligations related to EU ODR Platform are and how to use this platform. It gives you tips to make it easier for you to comply with the law.

The Module presents the ADR/ODR laid down in Directive 2013/11/EU of the European Parliament and of the Council of 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC as well as the Regulation No 524/2013 of the European Parliament and of the Council of 2013 on

online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC.

We hope that you find the information provided in the Handbook useful.

# Module 5

## Examples

### Example 1, national version

A customer who bought one laptop in your store returns it after a few days claiming that it does not work and seeking a refund. Although the laptop does not work properly now, you do not believe that the product was defective at the time of purchase.

### Example 1, online version

A customer from a neighbouring country buys a laptop from your website. A few days after delivery, he writes you an e-mail claiming that it does not work and requesting a full refund. You do not believe that the product was defective when it was delivered.

### Example 2

Your shop sells furniture, art pieces and other high quality interior decorations. One customer is not happy about the quality of a product you sold her and asks for a discount. You disagree.

### Example 3

Your newly launched restaurant has been advertised in the media promising a complimentary bottle of champagne with dinner during the opening week. However, before the week finishes, the champagne has run out, and the new order has not been yet delivered. One of your customers has not received the complimentary bottle and complains as he feels cheated.

In each of the above scenarios, you have a dispute with a customer that may not be possible to settle with your customer directly. Perhaps the customer will feel unfairly treated and won't buy from your shop or website again. Perhaps your customer will post a negative review online which will impact negatively on your business. Perhaps the customer will bring you to court which will be time consuming, expensive and damaging to your reputation.

So, what can be done?

Clearly, the best thing is to avoid disputes in the first place.

The next best thing, if disputes arise, is to resolve them directly with your customer.

If no direct solution can be found, court proceedings may be an option but these, as noted above, could be costly and time-consuming. Furthermore, if your customer is based in a different EU country, European law may allow your



customer to sue you in his/her own country<sup>1</sup>, which can increase the inconvenience and expense involved for you as a trader.

Thankfully, a better solution exists: Alternative dispute resolution.

In this module, we will discuss:

### Alternative Dispute Resolution (ADR) & Online Dispute Resolution (ODR)

- **Alternative Dispute Resolution (ADR)** is an out-of-court process for solving disputes between you and your customers, with the assistance of an ADR body<sup>2</sup>.
- **Online Dispute Resolution (ODR)** is when ADR happens online. The European Commission platform provides on the EU web portal to facilitate ODR between you and your online customers.

This module will answer these 10 questions:

1. What is Alternative Dispute Resolution (ADR)? (I)
2. What are the advantages of ADR? (I)
3. What is an ADR body? (II)
4. What baseline standards do all ADR bodies have to comply with? (III)
5. What different techniques do ADR bodies use to resolve disputes? (IV)
6. How does ADR work in your country and in your sector? (V)
7. How can you find an ADR body for your business sector? (V)
8. What are your legal obligations related to ADR? (VI)
9. A dispute arises that you can't resolve – how to use ADR? (VII)
10. When you trade online – how to use ODR? (VIII-X)

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<sup>1</sup> Please see Module 1 on Pre-contractual information requirements (the chapter on Cross-border sales: what happens when I offer my products or services to consumers outside my country)

<sup>2</sup> Throughout the whole module when the ADR body is mentioned, we mean the ADR body that complies with the requirements of the EU Directive, and hence is notified to the European Commission.

# Section I - Alternative Dispute Resolution (ADR)

## I. What is Alternative Dispute Resolution (ADR)?

**Alternative Dispute Resolution (ADR)**, also sometimes called ‘**out-of-court dispute resolution**’ is a procedure for solving disputes between consumers and traders without going to court. It involves the use of an ADR body which is an impartial body that uses dispute resolution techniques that may include mediation, arbitration or mixed methods.

Under European law, ADR can be used for any dispute arising from a contract between a trader and consumer, whether the product was bought online or offline or whether you and your customer live in the same or in different EU countries.



### What are the advantages of ADR?

#### **ADR is easy to use**

It is designed to be easy to use and is generally less formal than court procedures.

#### **ADR is impartial**

It observes certain baseline standards of impartiality so that you and your customers know the processes are fair.

#### **ADR is less expensive than going to court**

#### **ADR is efficient**

A dispute referred to ADR will be resolved, except for exceptional cases, within 90 days.

#### **ADR promotes goodwill**

Using ADR will be seen by your customers as a sign of good-will and a commitment to fairness and good customer care.

#### **ADR is private**

Unlike courts, ADR is not generally conducted in public thus minimizing the risk of reputational damage that could arise from a dispute.

#### **ADR is flexible**

Using ADR can result in pragmatic solutions which you and your customer may consider more convenient than what might be prescribed by law or imposed by a court.

### Remember this example from the introduction?

A customer from a neighbouring country buys a laptop from your website. A couple of days after delivery, he writes you an e-mail claiming that it does not work and requesting a full refund. You do not believe that the product was defective when it was delivered.

### Simple solution – Our advice

This dispute can be referred to ADR. The ADR body chosen will hear from both sides and propose a solution. You will not have to use a lawyer. The ADR body may find for you or the consumer or may propose a compromise solution that is considered fair by both sides: for example, you may agree to the return of the laptop or to repair of any defects found.

## II. What is an ADR body?

An ADR body is an impartial organization or individual that helps consumers and traders resolve disputes without going to court. ADR bodies have existed in many European countries for some time. Dispute Boards, Arbitration services, Conciliators, Mediators and even Ombudsmen: all of these can be considered ADR bodies.

However, a problem with ADR in the past was that, depending on the country, ADR was available for disputes only in particular sectors, such as travel or electricity. Furthermore, in the past, ADR bodies were not all equally independent and did not all have similarly user-friendly procedures.


The European Union was aware of the advantages of ADR for consumers and for traders. It knew that ADR could contribute to increasing confidence in the Single Market and promoting growth. The European Consumer Centres Network<sup>3</sup> promotes the use of ADR to consumers in cross-border disputes. To address the problems that existed with ADR, therefore, the EU adopted legislation in this area.

The ADR Directive<sup>4</sup> came into force on 9 July 2015 and applies to:

1. All consumer sectors (except for healthcare and public higher education services).
2. All EU countries
3. Online and offline purchases,

Under the legislation, an ADR body can apply to the competent authority in the member state where it is based to become a notified ADR body. If an ADR body is notified under the legislation, it is a guarantee that it complies with all the quality standards relating to

fairness, efficiency and accessibility as outlined under Chapter II of the ADR directive. Throughout the whole module when the ADR body is mentioned, we mean the ADR body that complies with the requirements of the EU Directive and notified to the European Commission.

 **The national ADR body in Malta falls under the competence of the Malta Competition and Consumer Affairs Authority. [www.mccaa.org.mt](http://www.mccaa.org.mt)**

## III. What baseline standards do notified ADR bodies have to comply with?

ADR bodies that are notified under the terms of the ADR Directive must comply with the following standards:

### **They are impartial**

Notified ADR bodies will usually be fully independent from the consumer and the trader in a dispute. In some cases, trader groups may be allowed to finance approved ADR bodies but only under strict conditions that guarantee the impartiality of the dispute resolution process. Those in charge of ADR are appointed for a term of office of sufficient duration, are not subject to any instructions from either parties and their remuneration is not linked to the outcome of the procedure.

### **They are competent**

Notified bodies will be expert in ADR procedure so that the services they provide can be both fair and effective. They will also be expert in the substantive law in the area or areas in which they work (for example: an ADR body that deals with consumer disputes related to air passenger rights will know the law in this area).

<sup>3</sup> More information on the ECC-Net is found [here](#).

<sup>4</sup> 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

### They are affordable

Depending on how the ADR is organised in your country, you may need to either pay to register to the ADR body, or a fee per case. In most situations, these expenses will be lower than if you had to go to court and hire a lawyer.

### They are efficient

Notified ADR bodies should complete a case within 90 days (except for disputes of exceptional complexity which may take longer). It may not be necessary for you or the consumer to physically attend the process. Neither you nor your customer will need to use a lawyer.

### They are transparent

Notified ADR bodies have to publish details of business sectors they deal with; the procedures they employ; the costs (if any) involved; and the legal consequences of their decisions. They are also required to publish annual reports giving information on the number of disputes handled; the number and nature of disputes which they refused to deal with; and the average time taken to resolve a dispute.

Some of the ADR bodies publish not only the statistics and other information, but also various guides both to consumers and to companies.

These are baseline standards all notified ADR bodies must comply with. However, not all ADR bodies work in exactly the same way. In addition to the above-mentioned standards, some ADR bodies might need to comply with additional standards because of the business sector they deal with or the member state in which they are based. Also different ADR bodies will use different techniques to resolve disputes.

Before using a particular ADR body, therefore, you may wish to find out more about how it carries out its work.

## IV. What are the different models of ADR?

ADR bodies may use different dispute resolution techniques including the following:

### Mediation

In mediation, the ADR body will clarify the facts of a dispute; establish the views of you and your consumer; and help you agree a resolution that is acceptable to you both.

**Case Study:** The Belgian Consumer Mediation Service gives several examples of cases where it was possible to find a compromise, such as a discount for the next bill in the restaurant or, in the case of a fitness club subscription, a temporary interruption of the subscription during renovation works.

(<http://www.mediationconsommateur.be>)

### Arbitration

An arbitrator will listen to both sides of the dispute, assess what the outcome of the dispute should be, and impose a solution based on the assessment.



### Mixed Methods

Some ADR bodies will combine different techniques within their procedure. For example, they might begin with mediation, and if agreement is impossible, then


propose a solution based on their own assessment of the situation.

**The resolutions provided by ADR may be binding or non-binding:**

- Some ADR bodies issue decisions or recommendations that you and your customer can choose to accept or not (non-binding).
- Some ADR bodies make recommendations or decisions that you will be obliged to follow (binding). Depending on the ADR body, these decisions might only be binding on you or be binding on you and your customer.

**The following points can be noted about binding and non-binding ADR:**

- If the decision of an ADR body is to be binding, you and the consumer shall be informed of this at the beginning of the process and specifically accepted this.
- If a binding decision is made but you disagree with it and question its fairness, usually the decision can still be challenged in court.
- Although traders and consumers, once a dispute between them arises, may agree to submit to an ADR process, traders are not permitted to include contract terms at the point of sale that oblige customers to use ADR instead of the courts should a dispute arise

**Case Study:** the decisions of the Travel Sector Complaints Board in the Netherlands are binding on the trader and have to be complied with within 2 months. 


**ADR bodies in Malta** 

An example of 3 ADR bodies in Malta include:

- Malta Arbitration Centre [www.mac.org.mt](http://www.mac.org.mt)

- Complaints & Conciliation Directorate – MCCA [www.mccaa.org.mt](http://www.mccaa.org.mt)
- Office of the Arbiter for Financial Services [www.financialarbiter.org.mt](http://www.financialarbiter.org.mt)

As stated above, all notified ADR bodies must publish information on their procedure and on their work. This information will be available on the website of the ADR or will be given to you in a durable form on request.

**Scope of ADR:**  The Malta Arbitration Centre and the Complaints and Conciliation Directorate are ADR bodies which deal with consumer complaints of a generic nature. The former is a binding arbitration, whilst the latter is non-binding being it mediation.

The Office of the Arbiter for Financial Services deals with complaints filed by consumers and also micro businesses. The decisions of the Arbiter is binding. This is the main ADR body dealing specifically with financial services while the others deal with generic complaints.

Duration of proceedings vary but on average decisions take around 90 days.

Each ADR body has its own procedures, timeframes, applicable monetary values attributed to the complaints and sometimes also complaint opening feed. The respective websites made available above provide such details.

**V. Do any country or sector specific factors apply?**

We have looked at the basic standards all notified ADR bodies must comply with and looked at different techniques ADR bodies use to resolve disputes. For many traders, using ADR is not compulsory and they will choose to use it for the advantages it offers. These traders can make informed decisions on using ADR

and choosing an ADR body based on what we have covered so far.

It is important to note, however, that there may be **additional** requirements and rules for your business relating to ADR depending on your country or your business sector.

In this section, we will find out whether any of these apply to you.

### Note to the Lead Trainers

Provide the country and sector specific information as appropriate in the sections below. In each country there is a national competent body whose task is to check whether ADR bodies comply with EU law and to publish a list of such compliant "notified" ADR bodies. Lists of ADR bodies may be obtained from this national authority or from the EU ODR platform which lists ADR bodies by country. In addition to relevant legislation at national level, information provided by notified ADR bodies should indicate whether certain traders are legally obliged to use their services and/or be bound by their decisions.

Usually a customer starts the ADR process but, in some countries, traders can also make a complaint against a customer.

Usually participation is optional for both consumers and traders, but in some cases, depending on the country/sector, traders **MUST** get involved if there is a complaint from a customer.

In some countries, particular traders **MUST** accept the decision of particular ADR bodies.


Some sectors in some countries may be obliged to use particular ADR bodies. These ADR bodies, however, in certain instances, may not be notified bodies under the ADR legislation.


Also, some businesses may be "committed" to ADR but the ADR body they use may be notified in a different European member state.


Some traders may be members of a trade association that involves referral of consumer complaints to a particular ADR body.

### Note to the Lead Trainers

Find out the situation in your country and for the traders you are training and include the information. Provide all necessary information here so that intermediaries and SMEs find the answers to the 2 questions below.

(a) How does the ADR process work in <country X>? 

(b) How does ADR work in your sector? 

In <country X>, to find out the ADR bodies for the products or services you sell, here is the list of ADR bodies <link> <sup>5</sup> 

## VI. What are your legal obligations related to ADR?

If you are obliged to use ADR owing to your business sector and/or the country in which you are based [see "V" above], or if you have committed to using ADR you have may have legal obligations to inform your customers about ADR. Please see the detailed obligations below and in the checklist.

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<sup>5</sup> There are also ADR bodies that are listed as notified in certain countries, but take complaints from a number of countries. Eg. The Car Rental Conciliation Service (which is notified in the UK and deals with complaints from many countries).

**1. Before any dispute arises**

If you are obliged to use ADR or have committed to using ADR, you have to inform your customers about the ADR body or bodies that you deal with on your website (if you have one) and, if applicable, in the general Terms and Conditions of your customer contracts. In providing this information, you need to give the website of the ADR body or bodies.

**2. If you have a dispute with a customer:**

If you are obliged or committed to using ADR [see above] and a dispute arises which you do not succeed in resolving directly, you have to inform the customer about your ADR obligations and commitments, the ADR body or bodies that are relevant in this regard, and specify whether you will make use of the relevant ADR body or bodies for the dispute in question. This information has to be provided to the customer on paper or in another 'durable' format that the customer can store electronically (e.g., an email, a USB drive etc.).

procedure); for example, by providing redress to the consumer or by finding some kind of a compromise solution.

You may choose to continue with the ADR process and put forward your side of the story. In the course of an ADR process, there might be a number of rounds of explanations, both from you and your customer.

As the process progresses, the ADR body will explain all the steps that need to be or can be taken and the consequences of those steps.

Once an outcome has been reached, it will be binding or non-binding, depending on the ADR body involved.

In resolving your dispute, the ADR body will also explain the practical aspects of the suggested solution. (For example, if it suggests you to give a financial compensation to the consumer for a defective laptop, it should also tell you by when you would have to pay, whether you or and the consumer could appeal such proposed solution in court, etc.).

## VII. A dispute arises that you can't resolve - How to use ADR



Once the consumer makes a complaint about your business, you will receive notification of this from the ADR body.

On receipt of this notification, you will be furnished with certain information about the procedure, and it will be possible to find out more information about the ADR body from the ADR body's website or by request.

Depending on your obligations as a trader, you may choose at this point not to submit to the ADR process, to avoid that the customer may then take further steps to pursue the issue elsewhere.

It may also be possible at this stage to settle the dispute immediately (and thus terminate the

### Does it work in practice?

Malta has a very high success rate of solving issues without them needing to go further, even when the decisions are non-binding. Many times the relationship between the trader and the consumer would have become difficult or one of the parties would be unnecessarily difficult / capricious. Having an independent person helps in clarifying matters and helping each party understand better the merits of the case.





# Section II – Online Dispute Resolution (ODR)

## VIII. You sell online – What is Online Dispute Resolution (ODR)?

Alongside the growth of e-commerce, the number of disputes relating to online purchases has also grown. In such disputes, you, the trader, typically will not have ever met the customer face-to-face and, furthermore, you may not share a common language with one another. This potentially makes the resolution of such disputes more complicated.

### Examples

#### Example 1

You sell measuring equipment tools online to many EU countries. One day you receive an e-mail in a language you do not speak. The email appears to be from a consumer who is dissatisfied with one of your products and wants his money back. The withdrawal period for returning the item has already expired, and you are convinced there was no problem with the product you provided.

#### Example 2

You have an online business selling handmade jewellery. A customer orders a necklace made of semi-precious stone and glass beads. However, it is broken when delivered. You do not think it is your fault, as your packaging usually prevents any damage.

#### Example 3

Or, after having sent the customer the ordered necklace, you don't get paid. 🚩

The EU Online Dispute Resolution (ODR) Platform is provided by the European Commission to help you resolve disputes with your online customers. It has been created under a piece of EU law called the Regulation on online dispute resolution of consumer disputes.<sup>6</sup>

The EU ODR platform has been operational since February 2016, and it can be used by consumers against the traders with whom they have contractual disputes arising from online purchases of goods or services where the trader and consumer are both based in the EU or EEA. Sometimes, the EU ODR platform can also be used by the traders to initiate procedures against consumers.

[ec.europa.eu/odr](https://ec.europa.eu/odr)



The EU ODR platform is designed to facilitate communication between you, your customer and an ADR body. Because the EU ODR platform uses only notified ADR bodies, the information already provided in the first section about the quality guarantees for notified ADR bodies (SECTION I. ALTERNATIVE DISPUTE RESOLUTION) is also relevant here.

<sup>6</sup> Regulation No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC

The EU ODR platform, however, makes ADR even easier by providing automated electronic exchange and translations between all EU languages, as well as information and support throughout the process.

## Examples

### Example 1

Your customer wanted his money back after the withdrawal period had expired.

Subsequently, you receive a notification from the EU ODR Platform informing you that this customer has launched a complaint. You register on the Platform and find out that there are several ADR bodies that can help you find a solution. Using the platform, you propose a specific ADR body and your customer agrees. The dispute is then automatically transferred to the ADR body. After requesting further information from you and your customer, the ADR body suggests that you reimburse your customer 25% of the price due to the fact that the information on your website was not clear enough. You both agree and the case is closed. Throughout the process, you and your customer communicate in your native languages and the platform ensures the translation.

### Example 2

Your customer complains about this broken necklace via the EU ODR Platform. You agree on what ADR body to use and the dispute is transferred there. Upon examination of the packaging and of all other relevant facts, the ADR body decides in your customer's favor and suggests that you provide reimbursement. Although you are surprised at the outcome, you are satisfied that the ADR body reached its decision fairly.

### Example 3<sup>7</sup>

<sup>7</sup> This example should only be included if in the respective country it is possible to go against the consumer through the ADR procedure. If not, please delete:

If you are an online trader and wish to demonstrate your commitment to high standards of customer care, you can register as a trader on the EU ODR platform even if no complaint has been made against you.

By registering on the platform, you will make it easier for your customers to engage with you and you will ensure that any complaints made about you using the platform are received by you at your chosen email address.

## IX. You trade online – what are your obligations regarding the EU ODR Platform?

If you trade online, you have the following obligations in relation to the EU ODR platform. These obligations APPLY TO ALL ONLINE TRADERS whether they intend to use the EU ODR platform or not:

1. You have to clearly provide your e-mail address on your website. Providing only an interactive contact form is not sufficient.
2. You have to provide a link from your website to the EU Online Dispute Resolution Platform [ec.europa.eu/consumers/odr](http://ec.europa.eu/consumers/odr). This link has to be visible and easily accessible on the website.<sup>8</sup> Furthermore, you have to provide this information in an easily accessible way whether you sell on your own website, third party website such as an online marketplace, or via a mobile app.

You send the ordered necklace to your customer but didn't get paid. In this case, you can also go on the ODR platform and submit your complaint against that customer

<sup>8</sup> To assist you in fulfilling this legal obligation, you can use a ready-made banner (banners are available in all languages). You can find banners on [http://europa.eu/youreurope/promo/odr-banners/index\\_en.htm](http://europa.eu/youreurope/promo/odr-banners/index_en.htm)

IF you trade online **and** are legally obliged or committed to using ADR [see section v above] you must also do the following:

1. Inform your customers about the existence of the EU ODR platform and the possibility of using the EU ODR platform to resolve their disputes. You have to provide a link from your website to the EU Online Dispute Resolution Platform and should also include information regarding the ODR Platform in the standard terms and conditions you use for your consumer contracts.
2. When you send your customer an e-mail suggesting to use an ADR body, you also have to include the link to the EU ODR Platform.

## X. A dispute arises that you can't resolve with an online customer – how the EU ODR Platform works

- The customer makes a complaint on the platform.<sup>9</sup>
- You receive an e-mail notification that there is a complaint against you.
- You follow the link, go to the platform and register (if you are not registered yet) to be able to see the complaint.
- You select the ADR body you want to use (or the one you are obliged to use, according to the rules in your country/sector) and send this proposal to your customer.
- Your customer can accept your proposed ADR body or can suggest another ADR body from the [list](#) suggested in the platform.

- Once you both find an agreement on the ADR body to be used, the complaint goes to that ADR body.
- After the complaint was transferred to the ADR body, the rules and procedures of that body apply.
- You will be updated on the progress of your case via email notifications and will be able engage with the process as necessary via the ODR Platform.
- Throughout the process you will be able to use the translation tool for all the documents and messages you send and receive.
- The ODR process will be completed within 90 days.
- Currently, the consumer can also opt to share the draft complaint with you and ask for a bilateral solution instead of going to the ADR body. This is called “request for the direct talks”.

The Platform also has a very clear tutorial on how to use it. To access it, please go to the ODR platform [ec.europa.eu/odr](https://ec.europa.eu/odr) and look for the “how it works” section and the user guide.



<sup>9</sup> In countries where trader initiated ODR is possible, the LEAD trainer will need to insert a proviso that the description provided refers to customer-initiated ODR but that trader initiated ODR is also possible.

# Annexes

## For ALL traders

### When a customer dispute arises

#### Checklist – ADR information obligations

##### Before any customer dispute arises

##### Checklist– ADR information obligations

- Have you informed your customer about the possibility to use ADR?
- Have you informed your customer about it either by e-mail or provided on paper or other 'durable' means?
- Have you informed your customer (by e-mail, on paper or by other 'durable' means) whether you will make use of any ADR body to solve this dispute?

## For ONLINE traders

### Before any customer dispute arises

#### Checklist– ADR information obligations

*Please note that you also have to comply with the checklist above.*

1. Do you comply with the checklist “for all traders”?

*NB: Online traders must comply with the checklist above called “for all traders”*

2. Do you provide your e-mail address on your website and app (if you have one) in a way that people can easily find it?

*NB: An online contact form that does not show the email address is not sufficient to meet this requirement.*

## For ONLINE traders

### When a customer dispute arises

#### Checklist– ADR information obligations

If you suggest to a customer to use an ADR body, do you also inform the consumer about the EU ODR Platform and include the relevant link in your e-mail?

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## Checklist (to-do list) for the lead trainers in adapting the module

**When you are adapting the content of this module to your national circumstances:**

1. Find your national list of the ADR bodies<sup>10</sup>. There should be a competent body (a ministry or an authority that is responsible for consumer affairs) that has published such a list. If you cannot find it, a list of notified ADR bodies by country can be obtained on the ODR Platform on the EU portal, or if you still have difficulties you could get in contact with your ODR contact point<sup>11</sup>. Please include the link to the relevant national bodies in the information given to SMEs.
2. Check all ADR bodies to see if any of them are mandatory for traders to participate (in the sense that if consumer complains to that body, the trader in question is obliged to respond and to follow the procedure). If it is the case, it is crucial that you include this example to your national version of this handbook.
3. Also check the procedure for traders to 'commit' to the ADR bodies that are not mandatory – can they have an agreement (a contract?) with that ADR body that they will use it on a regular basis, every time they have a dispute? Do they have to pay any fees?
4. Check if any of the national ADR entities allow the trader to start a complaint against the consumer (for instance, it could be helpful in case of a late payments). Note that traders can only complain against consumers if they reside in Belgium, Germany, Luxembourg or Poland.
5. A lot of ADR bodies will publish examples of cases they can solve – whenever possible, include those examples in this material.

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<sup>10</sup> See the list of ADR bodies on the ODR platform <http://ec.europa.eu/odr>

<sup>11</sup> Most of the ODR contact points are in the European Consumer Centres. The full list of ODR contact points available here <https://ec.europa.eu/consumers/odr/main/index.cfm?event=main.complaints.odrList>



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## To Do List for the Lead Trainers

Once the training has been tested and the document is finalised, it will have a working life of its own with trainers making it their own. At that stage, it is vital that information is passed back centrally to ensure that this wealth of information can enrich the training material.

### *Examples databases*

Examples are absolutely critical to ensure training and trainers' credibility. Examples have to reflect the key dispute problems and come from as many sectors as possible. The first examples may well have to be changed/updated over time.

### **Database of examples: (store, online)**

An online bookstore, specialised in old valuable books receives an order from a customer from another country. After a while, the customer complains that he did not receive the book, even if the bookstore dispatched it.

A customer subscribes to a weekly box for fresh vegetables and fruit from a nearby farm, but after a couple of weeks the delivery of boxes is interrupted and they do not arrive for the next 3 weeks, even if paid in advance.

### **Understand how the ADR process works (III - Specific national)**

This knowledge is very useful at country level and can change over time. It is very important to keep track of these changes.

### **Q&As database**

In any training, the Q&As are essential and they may change over time.

## Definitions for the glossary on Alternative Dispute Resolution (from the legislation)

**‘consumer’** means any natural person who is acting for purposes which are outside his trade, business, craft or profession;

**‘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;

**‘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;

**‘ADR procedures’** - 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 body which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution.

**‘online sales or service contract’** means a sales or service contract where the trader, or the trader’s intermediary, has offered goods or services on a website or by other electronic means and the consumer has ordered such goods or services on that website or by other electronic means;

**‘electronic means’** means electronic equipment for the processing (including digital compression) and storage of data which is entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means (e.g. an e-mail or a video message).

## Links to legislation

[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 (available in all EU languages)

[Regulation No 524/2013](#) of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (available in all EU languages)

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