

ADR

Alternative Dispute Resolution

Information for Consumers

European Consumer Centre
Ireland





When buying goods and services whether here in Ireland or in another European country, you can shop with comfort knowing that your rights are protected under consumer law. But what happens if you encounter a problem?

You should always try to negotiate with the trader first and if no satisfactory result follows, put your complaint in writing. If this fails to resolve your dispute, you may wish to take further action.

Many consumers still believe that the only way to resolve a dispute with a trader is to go to court, and are often reluctant to take this course of action as going to court can be expensive, stressful and time-consuming. This is particularly true if the trader is based in another country where complications can arise due to different languages and unfamiliar legal systems.

The Small Claims Procedure offers a simplified solution if you wish to take court action and your claim is for less than €2000. The fee is €15 and you do not need legal representation. Likewise the European Small Claims Procedure is available for the resolution of cross-border disputes within the E.U.

Court action is not the only avenue available for resolving disputes. The umbrella term used to describe the various methods of resolving disputes out-of-court is Alternative Dispute Resolution (ADR).

This leaflet explains how it works and when you can use different forms of ADR to resolve your consumer dispute.



Traditional Forms of ADR

Arbitration involves an independent, impartial third party (arbitrator), chosen with the agreement of the disputing parties, who hears both sides in a dispute and makes a decision (award), which in most cases is legally binding.

Mediation is based on the principle that people can resolve their own disagreements if given the right support. In mediation, the parties are able to tailor the terms of the agreement so as to better fit their needs. It can therefore produce solutions beyond those that the courts typically impose. Mediation is normally not binding unless the parties concur. The role of the mediator is to facilitate cooperation between the parties and to assist them in reaching a mutually acceptable resolution. As a result, parties are more likely to preserve an amicable relationship in the future.

Conciliation also involves building a positive relationship between the parties to a dispute by seeking guidance from a neutral third party, who often plays a more active role in developing and proposing the terms of settlement.

There are other ADR techniques ranging from evaluation to adjudication, which may likewise prove useful in the resolution of a dispute. ADR also allows the possibility of combining these methods, in some cases even after action through the courts has been taken.



When can I use ADR?

There are ADR mechanisms available for a wide variety of disputes. For example, the Financial Services Ombudsman can consider complaints against financial services providers while the Advertising Standards Authority can investigate complaints about advertisements. The Private Residential Tenancies Board (PRTB), to give another example, offers a dispute resolution service involving mediation or adjudication and tenancy tribunal hearings aimed at settling disputes between tenants and landlords.

Participation in ADR schemes normally is voluntary. Sometimes contracts may have a clause which provides that in the event of a dispute, the parties can refer the matter to ADR. However, recent legislation (Arbitration Act 2010) provides that, as a general principle, a consumer will not be bound by an arbitration agreement where the disputed claim is less than €5,000 unless they agree after the dispute has arisen.

The European Consumer Centre can provide you with further information and advice on the ADR bodies available in Ireland and in Europe.

The following section of the National Consumer Agency's website also contains useful information on how to pursue consumer complaints:

www.consumerconnect.ie/eng/get_your_rights



Trade Associations and Professional Bodies

While the main objective of these bodies is to represent the interests of their industry members, they may also be able to help consumers in the resolution of complaints. Some trade associations publish codes of conduct to which their members must adhere and may operate ADR schemes to investigate any breaches of this code. Membership of trade associations is not compulsory so in the event of a dispute it may be worth checking whether the trader concerned is a member of one or not.

The [Where To Complain](#) booklet from the Citizens Information Board provides contact details of a wide range of organisations and bodies that may help consumers in obtaining redress.

ADR and the European Union

The European Commission encourages the development of ADR across Europe to enhance access to justice by consumers and to improve fair competition.

In cooperation with the Member States, it maintains a database of ADR bodies that comply with certain principles and standards. At present, there are more than 750 notified ADR bodies in Europe.

The European Consumer Centre can provide you with more details if you have a complaint with a trader based in another European country and require further orientation in this regard.

Principles of ADR



- Independence / Impartiality
- Transparency / Legality / Liberty / Representation
- Audi alteram partem (right to be heard) / Fairness
- Effectiveness

Benefits of ADR



- It is often less costly than traditional litigation, and in some cases is free
- It offers a quicker solution than formal court action.
- It provides the parties with greater control over the dispute process and it is more flexible than court proceedings as it can offer creative solutions.
- It can help to preserve an ongoing relationship
- It can produce a win/win solution by helping the parties reach a mutually beneficial solution.
- It gives the parties greater privacy than the courts
- It is less stressful than legal action.

For further information visit
www.eccireland.ie

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