



The Voice
of European
Railways



H.E. Ambassador

1040 Brussels

Brussels, 08 May 2014

Object: implementation of Directive 2013/11/EU on Alternative Dispute Resolution (ADR)

Dear Ambassador,

In 2013 the European Union adopted a new Directive on consumer Alternative Dispute Resolution (ADR), *Directive 2013/11/EU on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC*.

Passenger associations (EPF and EDF) and railway operator organisations (CER and CIT) consider the new Directive to be a positive step to further promote mediation and other means of Alternative Dispute Resolution. The railway sector and passenger associations agree that out-of-court dispute resolution should be encouraged to ensure more effective, accessible and user-friendly ways for passengers to have their complaints addressed while avoiding long and costly judiciary procedures as much as possible.

The new Directive provides that all EU Member States will have to make sure that all disputes concerning the sale of goods or provision of services by a trader established in the EU can be submitted to an ADR entity. This entity will have to comply with the requirements set out in the Directive such as independence, impartiality, expertise, transparency, fairness and effectiveness. To achieve this goal, it is key that the relationship between the ADR entity and the enforcement authorities, i.e. civil courts and national authorities, is clarified at national level.

Some out-of-court complaint handling systems are already in place in a number of Member States where direct negotiations between the trader and the consumer, resolution systems operated by the trader, or ADR accomplished by internal employees of the trader have proven effective in tackling conflicts. It is important that such mechanisms be well advertised, as well as the result of their actions, so as to encourage more and more passengers to use them.

Member States have two years to implement Directive 2013/11/EU. EPF, EDF, CER and CIT would like to take this opportunity to jointly call on Member States to take existing

ADR systems into account when implementing the Directive - where these systems have proved efficient and beneficial to all parties - and to ensure that the following conditions are satisfied by national ADR schemes:

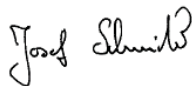
- Publicity for the procedures available
- Simple, fast, affordable and accessible procedures that are easy to use for the passenger
- Clear and accessible information about the ADR procedure itself so that the passenger can take an informed decision before engaging in it
- Respect of a “complaint chain” whereby the trader is contacted first and then, only if the complaint is not resolved, is an ADR procedure initiated
- Clear deadlines to handle claims (e.g. 3 to 6 months) and to send in claims (e.g. 3 to 6 months)
- Clarification of the relationship between the ADR entities, National Enforcement Bodies (NEBs) supervising the application of passengers’ rights and civil courts
- Clear rules on the suspension of the time limits for legal action (e.g. suspension from reception of claim to reception of answers)
- Clear rules defining which ADR entity is competent in cross-border cases
- Coordination between ADR entities or National Enforcement Bodies (NEBs) in the event of international cases, especially when they are responsible for enforcing EU regulation (e.g. Regulation 1371/2007)

EPF, EDF, CER and CIT consider that an implementation of this Directive taking into account the above-mentioned criteria has the potential to increase the effectiveness of ADR schemes for both passengers and railways and therefore to take a further step in favour of the consumer. It also has the potential to improve the service of traders and indeed consumer trust in their service, if consumers have easy access to complaint procedures and a simple resolution of disputes.

Best regards,



Libor Lochman
Executive Director



Josef Schneider
EPF Secretary



Carlotta Besozzi
EDF Director



Cesare Brand
Secretary General

