

Council Directive (EU) 2017/1852 of 10 October 2017 on
tax dispute resolution mechanisms in the European Union

Article 10

The Alternative Dispute Resolution Commission

1 The competent authorities of the Member States concerned may agree to set up an alternative dispute resolution commission (an ‘Alternative Dispute Resolution Commission’) instead of an Advisory Commission to deliver an opinion on how to resolve the question in dispute in accordance with Article 14. The competent authorities of the Member States may also agree to set up an Alternative Dispute Resolution Commission in the form of a committee that is of a permanent nature (a ‘Standing Committee’).

2 Except for the rules regarding the independence of its members set out in Article 8(4) and 8(5), the Alternative Dispute Resolution Commission may differ regarding its composition and form from the Advisory Commission.

An Alternative Dispute Resolution Commission may apply, where appropriate, any dispute resolution processes or technique to solve the question in dispute in a binding manner. As an alternative to the type of dispute resolution process applied by the Advisory Commission under Article 8, i.e. the independent opinion process, any other type of dispute resolution process, including the ‘final offer’ arbitration process (otherwise known as ‘last best offer’ arbitration), can be agreed by the competent authorities of the Member States concerned under this Article and applied by the Alternative Dispute Resolution Commission.

3 The competent authorities of the Member States concerned shall agree on the Rules of Functioning in accordance with Article 11.

4 Articles 12 and 13 shall apply to the Alternative Dispute Resolution Commission unless otherwise agreed to in the Rules of Functioning referred to in Article 11.