



## EUROPEAN UNION

THE EUROPEAN PARLIAMENT

THE COUNCIL

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### LEGISLATIVE ACTS AND OTHER INSTRUMENTS

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Subject: REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on cooperation among enforcement authorities responsible for the enforcement of Directive (EU) 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain

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**REGULATION (EU) 2026/...**  
**OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of ...**

**on cooperation among enforcement authorities responsible  
for the enforcement of Directive (EU) 2019/633 on unfair trading practices  
in business-to-business relationships in the agricultural  
and food supply chain**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Acting in accordance with the ordinary legislative procedure<sup>2</sup>,

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<sup>1</sup> OJ C, C/2025/2970, 16.6.2025, ELI: <http://data.europa.eu/eli/C/2025/2970/oj>.

<sup>2</sup> Position of the European Parliament of 12 February 2026 (not yet published in the Official Journal) and decision of the Council of ...

Whereas:

- (1) Within the agricultural and food supply chain, significant imbalances in bargaining power between suppliers and buyers of agricultural and food products are likely to lead to unfair trading practices. Directive (EU) 2019/633 of the European Parliament and of the Council<sup>3</sup> introduced a minimum Union standard of protection against unfair trading practices to reduce the occurrence of such practices, which have a negative impact on the living standards of the agricultural community.
- (2) The report from the Commission entitled ‘Implementing the prohibition of unfair trading practices to strengthen the position of farmers and operators in the agricultural and food supply chain - State of play’ of 23 April 2024 highlighted the persistence of imbalances in the agricultural and food supply chain, which increases the need for new measures to step up protection for suppliers and ensure sufficient bargaining power to all operators.

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<sup>3</sup> Directive (EU) 2019/633 of the European Parliament and of the Council of 17 April 2019 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain (OJ L 111, 25.4.2019, p. 59, ELI: <http://data.europa.eu/eli/dir/2019/633/oj>).

(3) Directive (EU) 2019/633 requires Member States to designate enforcement authorities to ensure the effective enforcement of the prohibitions laid down in that Directive. That Directive also requires the Commission and those enforcement authorities to cooperate closely to ensure a common approach with respect to the application of the rules set out in that Directive. In particular, the enforcement authorities are to aim to prevent or stop unfair trading practices with a cross-border dimension that occur on their respective territories. They are to do so by working together, including by sharing information and assisting in investigations that have a cross-border dimension. While the scope and the possibilities for cooperation under Directive (EU) 2019/633 remain fully available to the enforcement authorities of the Member States, it is appropriate to address certain difficulties related to the cooperation mechanism, and to increase its effectiveness.

(4) Due to the principle of territoriality, enforcement authorities could face difficulties gathering information, finding an infringement and imposing and enforcing fines and other equally effective penalties where a buyer is established in another Member State. This is the case, for example where operators in the agricultural and food supply chain or their alliances have a cross-border purchasing strategy. Such difficulties affect the system of enforcement established by Directive (EU) 2019/633, which depends on cooperation between enforcement authorities, and could lead to an uneven enforcement of the prohibition of unfair trading practices, undermining the protection for suppliers of agricultural and food products intended by that Directive. It is therefore appropriate to establish certain uniform rules strengthening cooperation between enforcement authorities in cross-border cases. Strengthening that cooperation would lead to more effective protection against unfair trading practices with a cross-border dimension and contribute to strengthening farmers' position in that supply chain, thereby ensuring a fair standard of living for the agricultural community.

(5) Given that Directive (EU) 2019/633 allows Member States to maintain or introduce stricter national rules against unfair trading practices, it should be clarified that this Regulation does not cover those rules. However, the Member States should be able to decide that their enforcement authorities make use of the possibilities established under the voluntary cooperation mechanism established by this Regulation in relation to such rules. That possibility could be especially important in cases where stricter national rules are categorised in some Member States as overriding mandatory provisions that aim to guarantee the stable and sustainable supply of food products to consumers. In such cases, the enforcement authorities should have the right to refuse to comply with such a request pertaining to voluntary cooperation.

(6) To enable them to fulfil their obligations under this Regulation effectively, enforcement authorities should be provided with the necessary resources and expertise.

(7) Enforcement authorities should have the power to provide one another with and use in evidence, in accordance with their national law, any matter of fact or of law, including confidential information. Information provided should only be used in evidence for the purpose of applying this Regulation to enforce the rules established by Directive (EU) 2019/633 and in respect of the subject-matter for which it was collected by the requested enforcement authority. The confidentiality of the information provided should be guaranteed with due regard to the legitimate interests of a natural or legal person concerned. Requests by complainants for protection of information on the basis of Article 5(3) of Directive (EU) 2019/633 should be taken into account and protection should also be ensured in cross-border enforcement.

(8) With the aim of helping to stop unfair trading practices that have a cross-border dimension, enforcement authorities should be empowered in their own territory to take investigative measures on behalf of other enforcement authorities. Such investigative measures should be taken by the requested enforcement authority in accordance with the powers conferred on it under Article 6(1), first subparagraph, points (a), (b) and (c), of Directive (EU) 2019/633 and in accordance with its national law.

(9) Cooperation between the enforcement authorities, concerning the enforcement of final decisions imposing fines or other equally effective penalties and interim measures adopted in accordance with Article 6(1), first subparagraph, point (e), of Directive (EU) 2019/633, is very important in order to achieve an effective protection against unfair trading practices with a cross-border dimension. For that purpose it is necessary for the requested enforcement authority to be given the power to enforce a final decision adopted by the applicant enforcement authority in the event that the collection of the fines or the implementation of the equally effective penalty or interim measure by the applicant enforcement authority is unsuccessful. In cases where the collection of fines or the implementation of equally effective penalties or interim measures in the Member State of the requested enforcement authority is carried out by another competent national authority, the requested enforcement authority should have the power to initiate the collection of the fine or the implementation of the equally effective penalty or interim measure before that other competent national authority.

- (10) Enforcement authorities should be empowered in their own territory and in accordance with their national law to enforce, or to initiate proceedings for the enforcement of, final decisions imposing fines or other equally effective penalties or interim measures on behalf of other enforcement authorities, provided that those other enforcement authorities have ascertained that the fines or other equally effective penalties or interim measures cannot be enforced in the Member States of those other enforcement authorities.
- (11) In order to increase the efficiency and effectiveness of this Regulation, to secure smooth cooperation between enforcement authorities and to avoid excessive costs for the requested enforcement authorities, rules on covering the costs of measures taken pursuant to this Regulation should be laid down.
- (12) Enforcement authorities should inform one another of any unfair trading practice with a cross-border dimension that has occurred or is occurring in their territory.
- (13) Enforcement authorities should cooperate with each other by issuing requests for mutual assistance. Such requests should specify what information or measure is considered necessary in each case to conduct investigations of unfair trading practices. To enable the requested enforcement authority to fulfil the request, it should include all necessary information about the alleged unfair trading practice.

(14) Enforcement authorities should not be entitled to refuse to comply with a request for information, or to refuse to participate in enforcement measures, unless it is likely that other enforcement actions, administrative decisions or judicial proceedings taken at national level falling outside the mutual assistance mechanism under this Regulation would ensure the cessation of the relevant unfair trading practice with a cross-border dimension. Refusals should also be possible in cases where requests fall outside the scope of this Regulation or are in contradiction with the national law of the requested enforcement authority. Enforcement authorities should give reasons for such refusals.

(15) A lack of procedural arrangements regarding the language regime could present obstacles to the smooth cooperation between enforcement authorities. For that reason, the enforcement authorities should agree on the language to be used in all notifications, requests and communications between them. Where they are unable to agree on the language to be used, the default rules on language use laid down in this Regulation should apply.

(16) Where a widespread unfair trading practice with a cross-border dimension, involving buyers and suppliers from at least three Member States, might be occurring, the enforcement authorities concerned by that practice should be able to issue alerts through a dedicated system, engage in coordinated actions, and designate a coordinator to coordinate the cooperation among the relevant enforcement authorities in whose territories the practice is alleged to be occurring. To establish which enforcement authorities are concerned by a widespread unfair trading practice with a cross-border dimension, all relevant aspects should be considered, in particular the place where the buyer is established and the location of the suppliers that might be affected. The detection of widespread unfair trading practices with a cross-border dimension should be supported by the exchange of information between enforcement authorities where there is a reasonable suspicion of such practices. The coordinator should exercise its competence within a framework of close cooperation with the other enforcement authorities concerned. All enforcement authorities concerned by a widespread unfair trading practice with a cross-border dimension should actively engage in the investigation at an early stage, issue alerts to the Commission and to the other enforcement authorities concerned, and share the information about such practices that is available to them.

(17) Procedures for the coordination of investigation and enforcement measures relating to widespread unfair trading practices with a cross-border dimension should be laid down. Coordinated actions against such practices should ensure that enforcement authorities are able to choose the most appropriate and efficient tools to stop those practices.

- (18) It is necessary to list the cases where an enforcement authority concerned by an unfair trading practice with a cross-border dimension should be able to decide to refuse to participate in a coordinated action. In particular, lack of available resources on the part of such enforcement authority should not justify refusing to participate in a coordinated action.
- (19) With a view to ensuring that the enforcement authorities concerned by the coordinated action have all the necessary communication, cooperation and coordination tools, this Regulation should lay down rules on language arrangements.
- (20) Since Directive (EU) 2019/633 also protects suppliers in the Union against unfair trading practices by buyers established outside the Union, and protects suppliers established outside the Union when they sell agricultural and food products into the Union, this Regulation should also provide rules for the cooperation of enforcement authorities with each other as regards unfair trading practices involving buyers and suppliers established outside the Union and which are prohibited by Directive (EU) 2019/633.

(21) Directive (EU) 2019/633 also protects suppliers in the Union against unfair trading practices by buyers established outside the Union. It is therefore appropriate to lay down rules that enable enforcement authorities to conduct investigations more effectively in such cases. To that end, an enforcement authority should be able to request that a buyer designate a point of contact within the Union to be the primary point of contact for the enforcement authority and to facilitate the investigation. Enforcement authorities should also inform each other and the Commission in cases where a buyer does not comply with such a request.

(22) In order to ensure uniform conditions for the implementation of the measures laid down in this Regulation, implementing powers should be conferred on the Commission to develop standard forms for requests for mutual assistance. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>4</sup>.

(23) In the interests of an effective implementation of the rules intended to strengthen the position of operators in the agricultural and food supply chain that are exposed to unfair trading practices, the report on the application of the rules under this Regulation should inform the process of reviewing Directive (EU) 2019/633. It is important that the Commission have an overview of the application of this Regulation in the Member States. In addition, the Commission should be able to assess the effectiveness of this Regulation. To that end, the enforcement authorities of the Member States should include in their annual reports to the Commission activities falling within the scope of this Regulation.

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<sup>4</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13, ELI: <http://data.europa.eu/eli/reg/2011/182/oj>).

(24) To facilitate effective enforcement, the Commission should provide and manage a platform that allows the swift exchange of information or requests among the enforcement authorities and, where appropriate, with the Commission.

(25) In order to take account of future technical needs, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amendments as regards the tool to be used for the management of the notifications and communications among the enforcement authorities. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>5</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

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<sup>5</sup> OJ L 123, 12.5.2016, p. 1, ELI: [http://data.europa.eu/eli/agree\\_interinstit/2016/512/oi](http://data.europa.eu/eli/agree_interinstit/2016/512/oi).

(26) This Regulation respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union and present in the constitutional traditions of the Member States. Accordingly, this Regulation should be interpreted and applied in accordance with those rights and principles.

(27) Criminal investigations and judicial proceedings in Member States should not be affected by the application of this Regulation. Consequently, Council Decision 2008/976/JHA<sup>6</sup>, Council Framework Decision 2005/214/JHA<sup>7</sup> and Directive 2014/41/EU of the European Parliament and of the Council<sup>8</sup> should have precedence over this Regulation to the extent that the unfair trading practice concerned falls under the scope of those legal acts.

(28) Since the objective of this Regulation, namely to strengthen the cooperation between the enforcement authorities responsible for the enforcement of the prohibition of unfair trading practices under Directive (EU) 2019/633 in cross-border cases, cannot be sufficiently achieved by the Member States because they cannot ensure cooperation and coordination by acting alone, but can rather, by reason of its territorial and personal scope, be better achieved at the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

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<sup>6</sup> Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network (OJ L 348, 24.12.2008, p. 130, ELI: <http://data.europa.eu/eli/dec/2008/976/oi>).

<sup>7</sup> Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties (OJ L 76, 22.3.2005, p. 16, ELI: [http://data.europa.eu/eli/dec\\_framw/2005/214/oi](http://data.europa.eu/eli/dec_framw/2005/214/oi)).

<sup>8</sup> Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters (OJ L 130, 1.5.2014, p. 1, ELI: <http://data.europa.eu/eli/dir/2014/41/oi>).

(29) In order to give the enforcement authorities the time needed to be able to implement the rules laid down in this Regulation, its application should be deferred by 18 months after its entry into force,

HAVE ADOPTED THIS REGULATION:

# **Chapter I**

## **Introductory provisions**

### *Article 1*

#### *Subject-matter*

With a view to combatting practices that grossly deviate from good commercial conduct, that are contrary to good faith and fair dealing and that are unilaterally imposed by one trading partner on another, this Regulation lays down certain rules under which enforcement authorities designated by their Member States as responsible for the enforcement of the prohibition of unfair trading practices in business-to-business relationships in the agricultural and food supply chain under Directive (EU) 2019/633 cooperate and coordinate actions with each other to ensure the effectiveness of that Directive.

### *Article 2*

#### *Scope*

1. This Regulation applies to the enforcement of the prohibition of unfair trading practices in business-to-business relationships in the agricultural and food supply chain laid down in Article 3(1) and (2) of Directive (EU) 2019/633 with a cross-border dimension which occur in relation to sales of agricultural and food products between buyers and suppliers listed in Article 1(2) of that Directive.

Chapter IV of this Regulation also applies in relation to short notice periods set for shorter than 30 days for specific sectors on the basis of Article 3(1), point (b), of Directive (EU) 2019/633 or national rules maintained or adopted on the basis of Article 9(1) of that Directive where the Member State so decides in accordance with Articles 15 and 16 of this Regulation.

Chapter VI of this Regulation applies in relation to unfair trading practices involving suppliers or buyers established outside the Union.

2. This Regulation is without prejudice to the Union and national rules on private international law, in particular rules related to court jurisdiction and applicable laws.
3. This Regulation is without prejudice to the application in the Member States of measures relating to judicial cooperation in civil and criminal matters, in particular the operation of the European Judicial Network established by Decision 2008/976/JHA, and to the application of Framework Decision 2005/214/JHA and of Directive 2014/41/EU.

*Article 3*

*Definitions*

For the purposes of this Regulation, the definitions set out in Article 2 of Directive (EU) 2019/633 apply. In addition, the following definitions apply:

- (1) ‘enforcement authority’ means a national authority or national authorities designated by a Member State pursuant to Article 4(1) of Directive (EU) 2019/633;
- (2) ‘applicant enforcement authority’ means an enforcement authority that makes a request for mutual assistance;
- (3) ‘requested enforcement authority’ means an enforcement authority that receives a request for mutual assistance;
- (4) ‘unfair trading practice with a cross-border dimension’ means an unfair trading practice involving one supplier and one buyer where the supplier and buyer are established in two different Member States;
- (5) ‘widespread unfair trading practice with a cross-border dimension’ means an unfair trading practice involving suppliers and buyers established in at least three Member States;
- (6) ‘final decision’ means a decision that cannot or can no longer be appealed by ordinary means.

*Article 4*

*General principle*

The enforcement authorities shall cooperate with each other in order to prevent or stop unfair trading practices with a cross-border dimension occurring on their territories.

## **Chapter II**

### **Resources, expertise and confidentiality**

*Article 5*

*Resources and expertise*

Member States shall ensure that enforcement authorities have the necessary resources to apply this Regulation and to promote awareness of its provisions among buyers and suppliers.

*Article 6*  
*Confidentiality of information*

1. For the purposes of this Regulation, the enforcement authorities shall have the power to provide one another with information and use any matter of fact or of law in evidence, including confidential information.
2. The information referred to in paragraph 1 shall only be used in evidence for the purpose of applying this Regulation and in respect of the subject-matter for which it was collected by the requested enforcement authority.
3. The information referred to in paragraph 1 shall only be used by the enforcement authorities with due regard to the legitimate interests of a natural or legal person, including the protection of trade secrets and intellectual property rights.
4. In cases where a complainant requests the protection of information pursuant to Article 5(3) of Directive (EU) 2019/633, the enforcement authority receiving the complaint shall ask for the complainant's prior consent before providing the protected information to another enforcement authority.

## **Chapter III**

### **Mutual assistance mechanism**

#### *Article 7*

##### *Requests for information*

1. At the request of an applicant enforcement authority, a requested enforcement authority shall, without delay, and at the latest 90 days from the date of the request, provide the applicant enforcement authority with the information requested to establish whether an unfair trading practice with a cross-border dimension has occurred or is occurring in the Member State of the applicant enforcement authority. The applicant enforcement authority and the requested enforcement authority may agree to extend that 90-day period for an additional period of 30 days.
2. Where the requested enforcement authority is not in possession of all the information requested under paragraph 1, its reply to that request may contain only partial information or state the absence of the requested information. In either case, the requested enforcement authority shall indicate the reason for sending such a reply. The requested enforcement authority may decide to collect the missing information, in which case it shall inform the applicant enforcement authority of its decision and shall share the information collected with that authority.

3. The information to be provided pursuant to a request under paragraph 1 shall be collected by the requested enforcement authority and used by the applicant enforcement authority only in accordance with their respective national law.

*Article 8*

*Requests for investigative measures*

1. At the request and on behalf of an applicant enforcement authority, the requested enforcement authority shall take investigative measures, in accordance with the powers set out in Article 6(1), first subparagraph, points (a), (b) and (c), of Directive (EU) 2019/633 and in accordance with its national law, in order to determine whether an unfair trading practice with a cross-border dimension has occurred or is occurring.
2. Where a requested enforcement authority exercises the powers set out in Article 6(1), first subparagraph, points (a), (b) and (c), of Directive (EU) 2019/633 at the request and on behalf of an applicant enforcement authority, officials and other accompanying persons authorised or appointed by the applicant enforcement authority shall be permitted to accompany and assist the requested enforcement authority in the exercise of its powers, under the supervision of its officials and provided that the applicant enforcement authority has informed the requested enforcement authority in advance of its wish to participate.
3. The requested enforcement authority shall inform the applicant enforcement authority without delay about the steps and measures that it has taken, or intends to take, under paragraph 1.

## *Article 9*

### *Requests for the enforcement of decisions imposing fines or other equally effective penalties and interim measures*

1. At the request of an applicant enforcement authority, the requested enforcement authority shall, in accordance with its national law, enforce or without delay initiate proceedings for the enforcement of final decisions imposing fines or other equally effective penalties and interim measures adopted in accordance with Article 6(1), first subparagraph, point (e), of Directive (EU) 2019/633 by the Member State of the applicant enforcement authority.
2. Paragraph 1 shall apply only if the applicant enforcement authority has ascertained that the buyer against which the fine and other equally effective penalties and interim measures are enforceable does not have sufficient assets in the territory of the Member State of the applicant enforcement authority.
3. The applicant enforcement authority may only request the enforcement of a final decision.
4. Questions regarding limitation periods for the enforcement of fines, other equally effective penalties and interim measures shall be governed by the national law of the Member State of the requested enforcement authority.

*Article 10*

*Costs*

1. Enforcement authorities shall not impose any fees on suppliers to recover costs related to the cross-border dimension of an unfair trading practice.
2. Enforcement authorities shall waive all claims between them for the reimbursement of costs incurred in applying this Regulation, with the exception of costs incurred as a requested enforcement authority in relation to measures taken pursuant to Article 7, 8, 9, 15 or 16, as referred to in paragraphs 3 and 4 of this Article.
3. In relation to measures taken pursuant to Article 7, 8, 15 or 16, the requested enforcement authority may request the applicant enforcement authority to bear reasonable additional costs in full or in part, including translation costs, labour costs and administrative costs. In such cases, the applicant enforcement authority shall bear those costs, as requested.
4. In relation to measures taken pursuant to Article 9, the requested enforcement authority may recover the full costs incurred from the payment of fines collected on behalf of the applicant enforcement authority, including translation costs, labour costs and administrative costs. If the amount of the fines does not cover the reasonable additional costs incurred, or if the requested enforcement authority is unsuccessful in collecting the fines despite making all reasonable efforts to do so, the requested enforcement authority may request the applicant enforcement authority to bear the costs incurred in full or in part. In such case the applicant enforcement authority shall bear those costs, as requested.

5. The requested enforcement authority shall recover the amounts due under this Article in the currency of its Member State, in accordance with its national law.
6. The requested enforcement authority shall, if necessary, convert the fines into the currency of its Member State at the rate of exchange applicable on the date on which the fines were imposed, in accordance with its national law.

*Article 11*

*Notification mechanism*

Enforcement authorities shall notify the Commission and all other enforcement authorities of any decision establishing the occurrence of an unfair trading practice with a cross-border dimension in its Member State within 30 days of its adoption.

*Article 12*

*Procedure for requests for mutual assistance*

1. The applicant enforcement authority shall, when making a request for mutual assistance:
  - (a) state as the legal basis for that request this Regulation, the national law transposing Directive (EU) 2019/633, and the corresponding provisions of Article 1(2) and Article 3(1) and (2) of Directive (EU) 2019/633, state the purpose of the request, including a description of the cross-border dimension of the alleged unfair trading practice, and specify the information requested under Article 7(1) or the enforcement measures requested under Article 8 or 9 of this Regulation;

- (b) provide any additional relevant information necessary to enable the requested enforcement authority to fulfil the request, including any information that can be obtained only in the Member State of the applicant enforcement authority.

2. Requests for mutual assistance and all communications linked to them shall be made in writing. Standard forms for requests for mutual assistance shall be used where they have been laid down by the Commission.
3. The Commission may adopt implementing acts laying down standard forms for the requests for mutual assistance referred to in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 32.

### *Article 13*

#### *Refusal to comply with a request for mutual assistance*

1. A requested enforcement authority may refuse to comply with a request for information under Article 7(1) only if at least one of the following situations applies:
  - (a) after consulting the applicant enforcement authority, both enforcement authorities agree that the information is not needed or that a new request can be made at a later stage;

(b) criminal investigations or judicial proceedings have already been initiated against the same buyer in respect of the same unfair trading practice that involves the same supplier and the same period of the unfair trading practice covered by those criminal investigations or judicial proceedings, before the judicial authorities in the Member State of the requested enforcement authority or of the applicant enforcement authority.

2. A requested enforcement authority may refuse to comply with a request for enforcement measures under Article 8 only if, having consulted with the applicant enforcement authority, at least one of the following situations applies:

(a) criminal investigations or judicial proceedings have already been initiated, or a judgment has been given, against the same buyer in respect of the same unfair trading practice that involves the same supplier and the same period of the unfair trading practice covered by those criminal investigations or judicial proceedings, or a court settlement has been reached with the same buyer in respect of the same unfair trading practice, before the judicial authorities in the Member State of the requested enforcement authority;

- (b) the exercise of the necessary enforcement powers, including administrative proceedings, has already been initiated, or an administrative decision has already been adopted against the same buyer in respect of the same unfair trading practice that involves the same supplier and the same period of the unfair trading practice covered by the investigations or the administrative decision in the Member State of the requested enforcement authority, in order to bring about the swift and effective cessation of that unfair trading practice;
- (c) a criminal investigation or judicial proceedings have already been initiated against the same buyer in respect of the same unfair trading practice that involves the same supplier and the same period of the unfair trading practice covered by the criminal investigation or judicial proceedings, before the judicial authorities in the Member State of the applicant enforcement authority;
- (d) the requested enforcement authority can demonstrate that the requested enforcement measures are not provided in Article 6(1), first subparagraph, points (a), (b) and (c), of Directive (EU) 2019/633, or can show that the request concerns short notice periods set for shorter than 30 days for specific sectors on the basis of Article 3(1), point (b), of that Directive or national rules maintained or adopted on the basis of Article 9(1) of that Directive;

- (e) the requested enforcement authority cannot:
  - (i) ensure appropriate protection in accordance with Article 5(3) of Directive (EU) 2019/633 for the protected information provided pursuant to Article 6(4) of this Regulation; or
  - (ii) fulfil the request without access to certain information that the complainant has not agreed to provide pursuant to Article 6(4);
- (f) the applicant enforcement authority has not provided the information that is necessary in accordance with Article 12.

3. A requested enforcement authority may refuse to comply with a request for enforcement measures under Article 9 only if, having consulted with the applicant enforcement authority, at least one of the following situations applies:

- (a) criminal investigations or judicial proceedings have already been initiated or a judgment has been given against the same buyer in respect of the same unfair trading practice, or a court settlement has been reached with the same buyer in respect of the same unfair trading practice, before the judicial authorities in the Member State of the requested enforcement authority;

- (b) the exercise of the necessary enforcement powers, including administrative proceedings, has already been initiated, or an administrative decision has already been adopted, against the same buyer in respect of the same unfair trading practice in the Member State of the requested enforcement authority, in order to bring about the swift and effective cessation of that unfair trading practice;
- (c) a criminal investigation or judicial proceedings have already been initiated against the same buyer in respect of the same unfair trading practice before the judicial authorities in the Member State of the applicant enforcement authority;
- (d) the requested enforcement authority can demonstrate that the final decision concerns short notice periods set for shorter than 30 days for specific sectors on the basis of Article 3(1), point (b), of Directive (EU) 2019/633 or national rules maintained or adopted on the basis of Article 9(1) of that Directive, or could not have been taken or cannot be enforced in compliance with its national law;
- (e) the applicant enforcement authority has not provided the information that is necessary in accordance with Article 12.

4. The requested enforcement authority shall inform the applicant enforcement authority without delay of any refusal to comply with a request for mutual assistance, together with the reasons for that refusal.

*Article 14*

*Language arrangements*

1. The languages to be used by the enforcement authorities for requests, notifications and all other communications covered by this Chapter which are linked to the mutual assistance mechanism shall be agreed by the enforcement authorities concerned.
2. If no agreement can be reached between the enforcement authorities concerned on the languages to be used, requests for mutual assistance shall be sent in the official language, or one of the official languages, of the Member State of the applicant enforcement authority, accompanied by a courtesy translation in English if requested. Replies shall be sent in the official language, or one of the official languages, of the Member State of the requested enforcement authority, accompanied by a courtesy translation in English if requested.

## **Chapter IV**

### **Voluntary cooperation**

#### *Article 15*

##### *Requests for information in relation to national rules*

1. Member States may decide that enforcement authorities can make use of the possibilities provided for in Article 7 of this Regulation in relation to short notice periods set for shorter than 30 days for specific sectors on the basis of Article 3(1), point (b), of Directive (EU) 2019/633 or national rules maintained or adopted on the basis of Article 9(1) of that Directive.
2. Where a Member State so decides and an applicant enforcement authority makes use of one or both of the options referred to in paragraph 1, the requested enforcement authority may provide only partial information or refuse to provide information. The requested enforcement authority shall indicate the reasons for that partial reply or that refusal. In such cases, Article 13 shall not apply.

## *Article 16*

### *Requests for investigative measures in relation to national rules*

1. Where a Member State has set short notice periods shorter than 30 days for specific sectors on the basis of Article 3(1), point (b), of Directive (EU) 2019/633 and another Member State has done the same, resulting in short notice periods of equal length for the same specific sectors, the enforcement authorities of those Member States may agree to make use of the possibilities provided for in Article 8(1) of this Regulation.

Similarly, where a Member State has maintained or adopted stricter national rules, on the basis of Article 9(1) of Directive (EU) 2019/633, and another Member State has done the same, resulting in equally strict national rules for the same size of operators or the same types of unfair trading practices, the enforcement authorities of those Member States may agree to make use of the possibilities provided for in Article 8(1) of this Regulation.

2. Where an applicant enforcement authority makes use of one or both of the options referred to in paragraph 1, the requested enforcement authority may refuse to take investigative measures, without indicating the reasons for that refusal. In such cases, Article 13 shall not apply.

*Article 17*

*Procedure for request*

Where an applicant enforcement authority makes use of the possibilities provided for in Article 15 or 16, it shall send a request to the requested enforcement authority which:

- (a) cites this Regulation as a legal basis;
- (b) indicates the national law laying down the prohibition of the unfair trading practice concerned that goes beyond Directive (EU) 2019/633 and indicates if that national law is based on Article 3(1), point (b), or Article 9(1) of Directive (EU) 2019/633;
- (c) describes the purpose of the request;
- (d) describes the unfair trading practice concerned and specifies how it goes beyond Directive (EU) 2019/633;
- (e) specifies what information, or which investigative measure, is requested.

# **Chapter V**

## **Investigation and enforcement mechanisms**

### **for widespread unfair trading practices**

### **with a cross-border dimension**

#### *Article 18*

##### *Launch of a coordinated action and designation of the coordinator*

1. Where there is a reasonable suspicion that there might be a widespread unfair trading practice with a cross-border dimension, the enforcement authorities concerned by that suspected practice shall launch a coordinated action based on an agreement between them. The launch of that coordinated action shall be notified to the Commission without delay.
2. The enforcement authorities concerned by the suspected widespread unfair trading practice with a cross-border dimension shall designate an enforcement authority to be the coordinator. In order to reach an agreement on the designation of the coordinator, the Commission may, where necessary, facilitate the discussions between the enforcement authorities concerned. If those enforcement authorities are unable to reach an agreement on that designation, the enforcement authority that issued the alert pursuant to Article 24 shall be the coordinator.

3. The enforcement authorities concerned by the suspected widespread unfair trading practice with a cross-border dimension shall conduct investigations on the basis of the information that is available to them. They shall alert the other enforcement authorities concerned of the results of such investigations, pursuant to Article 24.
4. An enforcement authority shall join the coordinated action if it becomes apparent during that coordinated action that that enforcement authority is concerned by the suspected widespread unfair trading practice with a cross-border dimension.
5. In order to establish that an enforcement authority is concerned by a suspected widespread unfair trading practice with a cross-border dimension, all elements shall be taken into account and in particular:
  - (a) the Member States where the buyers are established;
  - (b) the Member States where the suppliers that might be affected by the unfair trading practice are established.

## *Article 19*

### *Reasons for refusing to take part in the coordinated action*

1. An enforcement authority may refuse to take part in a coordinated action only if one or more of the following situations apply:
  - (a) a criminal investigation, judicial proceedings or administrative proceedings have already been initiated, a judgment has been given, or a court settlement has been reached in respect of the same buyer or buyers and concerning the same unfair trading practice that involves the same supplier and the same period of the unfair trading practice covered by that criminal investigation, judicial proceedings or administrative proceedings in that enforcement authority's Member State;
  - (b) the enforcement authority has already initiated an investigation before the issuing of an alert referred to in Article 24, or an administrative decision has been adopted against the same buyer or buyers in respect of the same unfair trading practice that involves the same supplier and the same period of the unfair trading practice covered by the investigation or the administrative decision in that enforcement authority's Member State to bring about the cessation of the widespread unfair trading practice with a cross-border dimension;

- (c) the widespread unfair trading practice with a cross-border dimension has not occurred in that enforcement authority's Member State and therefore no enforcement measures under Article 6 of Directive (EU) 2019/633 need to be taken by that enforcement authority.

2. Where an enforcement authority refuses to take part in the coordinated action, it shall without delay inform the Commission and the other enforcement authorities concerned by the widespread unfair trading practice with a cross-border dimension about its decision, stating the reasons for its decision and providing any necessary supporting documents.

*Article 20*

*Investigations in coordinated actions*

1. Enforcement authorities taking part in the coordinated action shall ensure that they conduct investigations and inspections in a timely, effective and coordinated manner. Enforcement authorities shall seek to conduct investigations and inspections and, to the extent that national law so allows, to apply interim measures simultaneously with those of other enforcement authorities.

2. Enforcement authorities taking part in the coordinated action shall set out in a common statement the outcome of the investigation and the assessment of the widespread unfair trading practice with a cross-border dimension, summarising the national measures taken and, where applicable, the different opinions of the enforcement authorities.
3. Without prejudice to the rules on confidentiality and on trade secrecy laid down in Directive (EU) 2016/943 of the European Parliament and of the Council<sup>9</sup>, the enforcement authorities concerned by the coordinated action shall publish the common statement referred to in paragraph 2 of this Article or parts thereof on their websites and inform the Commission of the publication.

### *Article 21*

#### *Enforcement measures in coordinated actions*

1. Enforcement authorities taking part in the coordinated action shall, within their jurisdiction, take all necessary enforcement measures under Article 6 of Directive (EU) 2019/633 against the buyer or buyers responsible for the widespread unfair trading practice with a cross-border dimension in order to bring about the cessation of that unfair trading practice.

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<sup>9</sup> Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (OJ L 157, 15.6.2016, p. 1, ELI: <http://data.europa.eu/eli/dir/2016/943/oi>).

2. Enforcement measures pursuant to paragraph 1 shall be taken by the enforcement authorities in accordance with the national rules of their Member States and in a coordinated manner to bring about the cessation of the widespread unfair trading practice with a cross-border dimension. The enforcement authorities taking part in the coordinated action shall seek to take enforcement measures simultaneously in the Member States concerned by that widespread unfair trading practice with a cross-border dimension.

*Article 22*  
*Cessation of coordinated action*

1. A coordinated action shall cease if the enforcement authorities taking part in the coordinated action conclude that the widespread unfair trading practice with a cross-border dimension has ceased in all Member States concerned, or that no such unfair trading practice was committed.
2. The coordinator designated in accordance with Article 18(2) shall notify, where applicable and without delay, the enforcement authorities of the Member States concerned by the coordinated action and the Commission of the cessation of that coordinated action.

*Article 23*

*Role of the coordinator*

1. The coordinator designated in accordance with Article 18(2) shall, in particular:
  - (a) ensure that the enforcement authorities taking part in the coordinated action are duly informed, in a timely manner, of the progress of the investigation or of the enforcement action, and informed of any anticipated next steps and the measures to be adopted;
  - (b) coordinate and monitor the investigative measures taken by the enforcement authorities taking part in the coordinated action in accordance with this Regulation;
  - (c) coordinate the preparation and sharing of all necessary documents among the enforcement authorities taking part in the coordinated action;
  - (d) inform the buyer or buyers about the launch of a coordinated action and maintain contact with the buyer or buyers and other parties concerned by the investigation or enforcement measures, as applicable, unless otherwise agreed by the enforcement authorities taking part in the coordinated action and the coordinator;

- (e) where applicable, coordinate the assessment, the consultations and the monitoring by the enforcement authorities taking part in the coordinated action as well as other steps necessary to implement the commitments proposed by the buyer concerned;
- (f) where applicable, coordinate enforcement measures adopted by the enforcement authorities taking part in the coordinated action;
- (g) coordinate requests for mutual assistance submitted by the enforcement authorities taking part in the coordinated action pursuant to Chapter III.

The coordinator shall be assisted in the exercise of the tasks set out in points (b), (c), (e), (f) and (g) of the first subparagraph by the other enforcement authorities taking part in the coordinated action.

2. The coordinator shall not be held responsible for the actions or the omissions of the other enforcement authorities taking part in the coordinated action where they make use of the powers set out in Article 6 of Directive (EU) 2019/633 and in this Regulation.

*Article 24*  
*Alert system*

1. An enforcement authority shall without delay alert the Commission and all other enforcement authorities that a widespread unfair trading practice with a cross-border dimension might be occurring, regardless of whether it is occurring only within the Union or both within the Union and in one or more third countries. The Commission may supplement that alert with any information that is likely to facilitate rapid, appropriate action by the enforcement authorities.
2. The enforcement authority shall, when issuing the alert referred to in paragraph 1, provide information about the suspected widespread unfair trading practice with a cross-border dimension covered by this Regulation, including the following:
  - (a) a detailed description of the widespread unfair trading practice with a cross-border dimension;
  - (b) the Member States concerned or possibly concerned by the widespread unfair trading practice with a cross-border dimension;
  - (c) the identity of the buyer or buyers suspected of committing the widespread unfair trading practice with a cross-border dimension;

- (d) the unfair trading practice concerned under Directive (EU) 2019/633 and under national law;
- (e) a description of any legal proceedings, enforcement measures or other measures taken concerning the widespread unfair trading practice with a cross-border dimension and their dates and duration, as well as the status thereof;
- (f) the identities of the enforcement authorities bringing the proceedings and taking the measures referred to in point (e).

3. The enforcement authority may, when issuing an alert, request enforcement authorities in other Member States to verify whether, based on information that is available or accessible to the relevant enforcement authorities, the same widespread unfair trading practice with a cross-border dimension might be occurring in the territory of those other Member States or whether any proceedings are pending or any enforcement measures have already been taken against that unfair trading practice in those Member States. The enforcement authorities in those other Member States shall reply to the request without delay.

*Article 25*

*Language arrangements*

1. The languages to be used by the enforcement authorities for notifications and all other communications covered by this Chapter which are linked to the coordinated actions shall be agreed by the enforcement authorities concerned.
2. If no agreement can be reached between the enforcement authorities concerned on the languages to be used, notifications and other communications shall be sent in the official language, or one of the official languages, of the Member State making the notification or other communication, accompanied by a courtesy translation in English if requested.

# **Chapter VI**

## **Cooperation in relation to suppliers or buyers established outside the Union**

### *Article 26*

#### *Cooperation in relation to suppliers or buyers established outside the Union*

In relation to unfair trading practices laid down in Article 3(1) and (2) of Directive (EU) 2019/633 which occur in relation to sales of agricultural and food products between buyers and suppliers as referred to in Article 1(2) of Directive (EU) 2019/633 where the suppliers or buyers are established outside the Union, an enforcement authority may:

- (a) request information from an enforcement authority of another Member State to establish whether an unfair trading practice has occurred or is occurring in the Member State of the applicant enforcement authority; for the purposes of such a request, Articles 6, 7(1), (2) and (3), 10, 11, 12, 13(1) and 14 shall apply *mutatis mutandis*;
- (b) alert the Commission and other enforcement authorities concerned when it suspects that an unfair trading practice towards a supplier established outside the Union or by a buyer established outside the Union is occurring and that that unfair trading practice might concern buyers or suppliers established in at least three Member States; for the purposes of such alerts, Articles 6, 24(2) and (3) and 25 shall apply *mutatis mutandis*.

*Article 27*

*Contact person responsible for the Union*

1. Where an enforcement authority takes investigative measures against a buyer established outside the Union in relation to an unfair trading practice laid down in Article 3(1) and (2) of Directive (EU) 2019/633, and if it considers that that buyer is not cooperating with it, it may require the buyer to designate as its contact person responsible for the Union a natural or legal person established within the territory of the Union.
2. The contact person responsible for the Union referred to in paragraph 1 shall:
  - (a) act as the primary point of contact for the enforcement authority concerned;
  - (b) facilitate investigations, including by providing the requested documents, records of transactions, data and witness statements to the enforcement authority concerned.
3. Where the buyer established outside the Union does not fulfil the request referred to in paragraph 1, the enforcement authority that issued the request shall without delay alert the Commission and all other enforcement authorities that that buyer has failed to designate a contact person responsible for the Union. The Commission may supplement the alert with any information that is likely to facilitate rapid, appropriate action by enforcement authorities.

## **Chapter VII**

### **Procedural provisions**

#### *Article 28*

##### *Reporting obligation of the Commission*

1. By ... [4 years from the date of application of this Regulation], the Commission shall present a report on the application of this Regulation to the European Parliament and to the Council, as well as to the European Economic and Social Committee and to the Committee of the Regions. The Commission shall take that report into account when carrying out the evaluation of Directive (EU) 2019/633. That evaluation shall be accompanied if appropriate by a legislative proposal concerning this Regulation.
2. The Commission shall base the report referred to in paragraph 1 of this Article on the annual reports referred to in Article 10(2) of Directive (EU) 2019/633. The Commission may, if necessary, request additional information from Member States.
3. The report referred to in paragraph 1 shall describe the evolution of the cooperation mechanisms established under this Regulation and of enforcement activity, in particular the identification of the most frequent types of cross-border unfair trading practices, the most affected sectors, and the types of buyer, including those established outside the Union, most commonly involved.

*Article 29*  
*Reporting by Member States*

The annual report referred to in Article 10(1) of Directive (EU) 2019/633 shall include details of the activities falling within the scope of this Regulation. Those details shall, *inter alia*, include the number of requests received by requested enforcement authorities, in accordance with Articles 7, 8, 9 and 12 of this Regulation, as well as the number of coordinated actions against widespread unfair trading practices with a cross-border dimension, in accordance with Article 18 of this Regulation, opened or closed during the previous year. For each request or action that has been concluded, the report shall contain a summary description of the matter and of the steps and measures taken.

*Article 30*  
*Internal Market Information System*

1. The Internal Market Information System (IMI), established by Regulation (EU) No 1024/2012 of the European Parliament and of the Council<sup>10</sup>, shall be used for the purposes of Articles 7, 8, 9, 11, 12 and 13, Articles 15 to 22 and Articles 24, 26 and 27 of this Regulation.
2. The Commission is empowered to adopt delegated acts in accordance with Article 31 to amend paragraph 1 of this Article as regards the tool to be used for the management of the notifications and communications among the enforcement authorities to take account of future technical needs.

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<sup>10</sup> Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC ('the IMI Regulation') (OJ L 316, 14.11.2012, p. 1, ELI: <http://data.europa.eu/eli/reg/2012/1024/oj>).

*Article 31*  
*Exercise of the delegation*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 30(2) shall be conferred on the Commission for a period of 5 years from ... [date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 30(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 30(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

*Article 32*

*Committee procedure*

1. The Commission shall be assisted by the Committee for the Common Organisation of the Agricultural Markets established by Article 229 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council<sup>11</sup>. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

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<sup>11</sup> Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671, ELI: <http://data.europa.eu/eli/reg/2013/1308/oj>).

## **Chapter VIII**

### **Final provisions**

#### *Article 33*

#### *Entry into force and application*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from ... [18 months from the date of entry into force of this Regulation].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ..., ...

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

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