

Brussels, 7 April 2025  
(OR. en)

7855/25

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**Interinstitutional File:  
2024/0318(COD)**

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**AGRI 137  
AGRIORG 36  
CODEC 406**

**NOTE**

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From: General Secretariat of the Council  
To: Delegations  
Subject: Regulation on cross-border enforcement of unfair trading practices (UTPs)  
*- Mandate for negotiations with the European Parliament*

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Delegations will find in the Annex the mandate for the negotiations with the European Parliament as approved by the SCA on 7 April 2025.

The suggested changes compared to the Commission proposal are marked in **bold** for added text and ~~strikethrough~~ for text deleted.

Proposal for a

**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**

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>,

~~Having regard to the opinion of the Committee of the Regions<sup>2</sup>;[,]~~

Acting in accordance with the ordinary legislative procedure,

Whereas:

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<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> OJ C , , p. .

- (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 ~~are likely to~~ have a negative impact on the living standards of the agricultural community.
- (2) Directive (EU) 2019/633 requires Member States to designate enforcement authorities that 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 should provide each other with mutual assistance, including by sharing information and assisting in investigations that have a cross-border dimension. **While the scope and the possibilities for cooperation under that Directive remain fully available to the enforcement authorities of the Member States, it is opportune to address some difficulties and increase the effectiveness of the cooperation mechanism.**
- (3) Due to the principle of territoriality, enforcement authorities may 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. Such difficulties affect the system of enforcement established by Directive (EU) 2019/633, which depends on cooperation between enforcement authorities, and may lead to an uneven enforcement 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** rules strengthening cooperation between enforcement authorities in cross-border cases. **Strengthening that cooperation leads to a more effective protection against unfair trading practices with cross-border dimension and contributes to strengthening farmers' position in the supply chain and thus ensuring a fair standard of living for the agricultural community.**

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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>).

- (4) 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 Regulation should allow~~ the Member States to **may** decide that their enforcement authorities ~~can~~ make use of the possibility to exchange information established under the mutual assistance mechanism set out by this Regulation in relation to such rules. In those cases, the enforcement authorities should ~~still~~ have the right to refuse to comply with such a request **on the sole condition that they indicate the reason for the refusal.**
- (5) To ensure the effective application of their obligations under this Regulation, enforcement authorities should be provided with the necessary resources and expertise.
- (6) 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 exchanged shall 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 ~~transmitting~~ **requested** authority. **The confidentiality of the information should be guaranteed with due regard to the legitimate interests of a natural person or legal person concerned. Requests of complainants for protection of information based on Article 5 (3) of Directive (EU) 2019/633 should be taken into account and protection should also be ensured in cross border enforcement.**
- (7) Enforcement authorities should be empowered in their own territory to ~~exercise the powers referred to in Article 6(1), points (b) and (c), of Directive (EU) 2019/633, in accordance with their national law,~~ **conduct investigative measures** on behalf of and for the account of other enforcement authorities. **Such investigative measures should be carried out in accordance with the powers referred to in Article 6(1), points (a), (b) and (c) of Directive (EU) 2019/633 and in accordance with the national law of the requested enforcement authority.**

- (7a) 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 cross-border dimension. For this purpose it is necessary that the requested enforcement authority is vested with a power to enforce a final decision adopted by the applicant enforcement authority when the collection of the fines or the implementation of the equally effective penalty or interim measure by the applicant enforcement authority is unsuccessful. In case 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 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 measures before that competent national authority.**
- (7b) In order to secure smooth cooperation between enforcement authorities, rules on covering costs of measures taken pursuant to this Regulation should be laid down. In order to avoid that requests for mutual assistance result in excessive costs for the requested enforcement authorities, while ensuring that the enforcement authorities devote sufficient resources and efforts to the requests, the requested authority should be authorised to ask that the applicant enforcement authority bears all additional costs deriving from the request, unless the costs can be considered as unreasonable, for example due to unnecessary actions. However, in case a fine is collected on behalf of the applicant enforcement authority, the fine should in principle be transferred to the applicant enforcement authority. Nevertheless the requested enforcement authority should be able to recover the costs incurred in relation to the enforcement from the fine collected, either by it or by the national authority responsible for the collection of fines. If the fine could not be collected, the requested enforcement authority may request the reimbursement of the costs so incurred from the applicant enforcement authority.**

- (8) Enforcement authorities should inform one another of an unfair trading practice with a cross-border dimension that has occurred or is occurring in their territory.
- (9) Enforcement authorities should be empowered in their own territory and in accordance with their national law to enforce, or initiate proceedings for the enforcement of, final decisions imposing fines or other equally effective penalties, **or interim measures** on behalf of and for the account of other enforcement authorities, provided that those other enforcement authorities have made reasonable efforts to ascertain that the buyers against which the fines or other equally effective penalties, **or the interim measures** are to be enforced do not have sufficient assets in the Member States of those other enforcement authorities.
- (10) Enforcement authorities should be able to ~~exchange and seek information from~~ **cooperate with** other enforcement authorities by issuing requests for ~~information~~ **mutual assistance**. These 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 ascertain its role, the request should include all necessary information about the alleged unfair trading practice.**
- (11) 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 ~~and~~, administrative decisions **or judicial proceedings** taken at national level outside the mutual assistance mechanism would ensure cessation of the unfair trading practice with a cross-border dimension. **Refusal should also be possible in case the request falls outside the scope of the Regulation or is in contradiction with the national law of the requested enforcement authority.** Moreover, enforcement authorities should give reasons for such a refusal.
- (12) Lack of procedural arrangements on the language regime may pose obstacles to the smooth cooperation between enforcement authorities. For this reason, rules allowing the enforcement authorities to agree on the language to be used in all notifications, requests and communications between them, as well as rules in case of disagreement among them, should be laid down.

- (13) ~~With a view to ensuring uniform conditions for the implementation of the measures laid down in this Regulation, implementing powers should be conferred on the Commission to be able to develop standard forms for requests for information or requests for enforcement measures. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>4</sup>. In the absence of standard forms developed by the Commission, the enforcement authorities should be entitled to develop such forms to facilitate the mutual assistance mechanism.~~
- (14) Where a widespread unfair trading practice with a cross-border dimension, involving **buyers and suppliers from** at least three Member States may be taking place, the enforcement authorities concerned by that practice should be able to issue alerts, engage in coordinated actions, and designate a coordinator to coordinate the cooperation among the relevant authorities in whose territories the practice may be taking place. 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 may be affected by the unfair trading practice. The detection of widespread unfair trading practices with a cross-border dimension should be supported by exchanging information between enforcement authorities when there is a reasonable suspicion of such unfair trading practices with a cross-border dimension. The coordinator should exercise its competence within a framework of close cooperation with the other enforcement authorities concerned. Likewise, all enforcement authorities concerned should actively engage in the investigation at an early stage, and issue alerts to the Commission and to the enforcement authorities concerned by a widespread unfair trading practice with a cross-border dimension and share the necessary information available to them about such practices.

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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>).[1]~~

- (15) 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 widespread unfair trading practices with a cross-border dimension should ensure that enforcement authorities are able to choose the most appropriate and efficient tools to stop those practices.
- (16) It is necessary to list the cases where a concerned enforcement authority may decide to refuse to participate in a coordinated action. In particular, lack of available resources on the part of an enforcement authority concerned by that unfair trading practice with a cross-border dimension should not be considered to justify refusing to participate in a coordinated action.
- (17) With a view to ensuring that the enforcement authorities concerned by the coordinated action have all the tools necessary to communicate, cooperate, and coordinate, this Regulation should lay down rules on language arrangements.
- (17a) Since Directive (EU) 2019/633 also protects suppliers in the Union against unfair trading practices by buyers established outside the Union, this Regulation should also provide rules for the cooperation of enforcement authorities of Member States with each other as regards unfair trading practices by buyers established outside the Union and which are prohibited by Directive (EU) 2019/633.**
- (17b) With a view to ensuring 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 and to laid done rules on the management of the notifications and communications among the enforcement authorities. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>5</sup>.**

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<sup>5</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>).



- (18) 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.
- (19) Criminal investigations and judicial proceedings in Member States should not be affected by the application of this Regulation. **Likewise, Council Decision 2008/976/JHA, Framework Decision 2005/214/JHA and Directive 2014/41/EU should have precedence over this Regulation if the unfair trading practice concerned falls under their scope.**
- (20) 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.
- (21) 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 ~~1 year~~ **18 months** after its entry into force,

HAVE ADOPTED THIS REGULATION:

## CHAPTER I INTRODUCTORY PROVISIONS

### *Article 1*

#### **Subject matter**

This Regulation lays down certain rules under which the enforcement authorities, having been 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.

### *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 referred to in Article 1(2) of Directive (EU) 2019/633.**

However, Article 5 of this Regulation also applies in relation to national rules **adopted on the basis** ~~within the meaning~~ of Article 93(1), point (b), third sentence or **maintained or adopted on the basis of Article 9(1)** of Directive (EU) 2019/633 if the Member State so decides in accordance with ~~paragraph 4 of that~~ **Article 5(4) of this Regulation.** Article **20a of this Regulation applies in relation to unfair trading practices involving 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 Council Decision 2008/976/JHA<sup>6</sup> **and to the application of Council Framework Decision 2005/214/JHA<sup>7</sup> and of Directive 2014/41/EU<sup>7a</sup>.**

### *Article 3*

#### **Definitions**

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

- (a) ‘enforcement authority’ means ~~the~~**a** national authority or national authorities designated by a Member State pursuant to Article 4(1) of Directive (EU) 2019/633;
- (b) ‘applicant enforcement authority’ means ~~the~~**an** enforcement authority that makes a request for mutual assistance;
- (c) ‘requested enforcement authority’ means the enforcement authority that receives a request for mutual assistance;
- (d) ‘unfair trading practice with a cross-border dimension’ means ~~any~~**an** unfair trading practice ~~within the meaning of Directive (EU) 2019/633~~ involving one supplier and one buyer that are ~~located in~~**established in two** different Member States;

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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/oj>).

<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, 22/03/2005, p. 16, ELI: [http://data.europa.eu/eli/dec\\_framw/2005/214/oj](http://data.europa.eu/eli/dec_framw/2005/214/oj))

<sup>7a</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**

- (e) ‘widespread unfair trading practice with a cross-border dimension’ means ~~any~~an unfair trading practice ~~within the meaning of Directive (EU) 2019/633~~ involving **suppliers and buyers established in** at least three Member States;
- (f) ‘final decision’ means a decision that cannot be, or that can no longer be, appealed by ordinary means.

## **CHAPTER II**

### **RESOURCES AND EXPERTISE**

#### *Article 4*

#### **Resources and expertise**

Member States shall ensure that enforcement authorities have the necessary resources and expertise for the application of this Regulation.

#### *Article 4a*

#### **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 in evidence any matter of fact or of law, including confidential information.**
2. **Information exchanged 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 provided pursuant to paragraph 1 shall only be used by the enforcement authorities with due regard to the legitimate interests of a natural person or legal person, including 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 2019/633, the enforcement authority receiving the complaint shall ask for the agreement of the complainant to provide the protected information to another enforcement authority.

### CHAPTER III MUTUAL ASSISTANCE MECHANISM

#### *Article 5*

#### **Requests for information**

1. At the request of an applicant enforcement authority, a requested enforcement authority shall, without delay, and within ~~60~~**90** days unless otherwise agreed, 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 ~~with a cross-border dimension has occurred or is occurring~~.
2. ~~The applicant enforcement authority shall, when sending a request for information to~~**Where** the requested enforcement authority, ~~state as legal basis this Regulation, the national law transposing Directive (EU) 2019/633, and the corresponding provisions of Directive (EU) 2019/633, the purpose is not in possession of the request, and specify what information is required~~**requested, the reply referred to in paragraph 1 may be limited to stating the absence of such information. The requested enforcement authority may still decide to collect that information.**
3. The information **to be** provided shall only be collected by the requested enforcement authority and used by the applicant enforcement authority in accordance with their **respective** national law.

4. Member States may decide that enforcement authorities can make use of the possibilities referred to in this Article in relation to national rules ~~within the meaning~~**adopted on the basis** of Article 93(1), point (b), third sentence or on the basis of Article 9(1) of Directive (EU) 2019/633. **When an applicant enforcement authority makes use of the possibility provided in subparagraph 1, it shall:**

**(a) state this Regulation as legal basis;**

**(b) indicate the national law laying down the prohibition of the unfair trading practice concerned that goes beyond Directive (EU) 2019/633, and if that national law is based on Article 3(1), point (b), third sentence or Article 9(1) of Directive (EU) 2019/633;**

**(c) describe the purpose of the request;**

**(d) describe the unfair trading practice concerned and specify how this goes beyond the Directive (EU) 2019/633;**

**(e) specify what information is required.**

When an applicant enforcement authority makes use of the possibility provided in subparagraph 1, the requested enforcement authority may refuse to provide information, indicating the reasons for the refusal. **In this case, Article 10 shall not apply.**

#### *Article 6*

#### **Requests for ~~enforcement~~ investigative measures**

1. At the request and on behalf of an applicant enforcement authority, the requested enforcement authority shall ~~exercise~~**conduct investigative measures**, in accordance with ~~the national rules of its Member State~~, the powers set out in Article 6(1), first subparagraph, points (a), (b) and (c), of Directive (EU) 2019/633 **and with its national law.**

2. When 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 attend and assist the requested enforcement authority, **upon informing the requested enforcement authority in advance and** under the supervision of the officials of the requested enforcement authority.
3. The requested enforcement authority shall inform the applicant enforcement authority about the steps and measures taken and the steps and measures that it intends to take.

#### *Article 7*

#### **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 ~~enforce~~, in accordance with its national law, **enforce or 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 to the extent that, after having made reasonable efforts in its own territory, the applicant enforcement authority has ascertained that the buyer against which the fine and ~~the~~ other **equally effective** penalties and interim measures are enforceable does not have sufficient assets in the territory of ~~it~~**the Member State of the applicant enforcement authority.**
3. The applicant enforcement authority may request only 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 7a*

### **Costs**

- 1. In relation to measures taken pursuant to Article 5 or 6, when requested by the requested enforcement authority, the applicant enforcement authority shall bear all reasonable additional costs in full, including translation, labour and administrative costs, arising from the request.**
- 2. The requested enforcement authority may recover the full costs incurred in relation to measures taken pursuant to Article 7 from the fine payments collected on behalf of the applicant enforcement authority, including translation, labour and administrative costs. If the requested enforcement authority is unsuccessful in collecting the fines, it may request the applicant authority to bear the costs incurred.**
- 3. The requested enforcement authority shall recover the amounts due in the currency of its Member State, in accordance with its national law.**
- 4. The requested enforcement authority shall, if necessary, in accordance with its national law, convert the fines into the currency of its Member State at the rate of exchange applying on the date on which the fines were imposed.**

## *Article 8*

### **Notification mechanism**

An enforcement authority shall notify all other enforcement authorities within ~~4 months~~**30 days** after adopting a decision establishing the occurrence of an unfair trading practice with a cross-border dimension in its Member State.



## Article 9

### Procedure for requests for mutual assistance

1. The applicant enforcement authority shall, when making a request for mutual assistance:
  - (a) **state as legal basis this Regulation, the national law transposing Directive (EU) 2019/633, the corresponding provisions of Article 1(2) and Article 3(1) and (2) of Directive (EU) 2019/633, 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 5(1) or the enforcement measures requested under Articles 6 or 7;**
  - (b) provide any **additional** relevant information necessary to enable the requested enforcement authority to fulfil that 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 ~~using~~. Standard forms **for the requests for mutual assistance shall be used when they have been laid down by the Commission in accordance with Article 20b.**

## Article 10

### 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 ~~5~~**5(1)** only if one or both of the following applies:
  - (a) following a consultation with the applicant enforcement authority, **both enforcement authorities agree that the information requested is not needed by the applicant enforcement authority to establish whether an unfair trading practice with a cross-border dimension has occurred or is occurring or that a new request may 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 before the 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 ~~Articles 6 and 7~~ **Article 6** only if, having consulted with the applicant enforcement authority, **at least one or both** of the following 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 ~~trade~~**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 ~~intra-Union infringement and against the same trader~~**unfair trading practice** in the Member State of the requested authority in order to bring about the swift and effective cessation of the same unfair ~~trade~~**trading** practice;
  - (c) a criminal investigation or judicial proceedings have already been initiated ~~as regards~~**against** the same buyer in respect of the same unfair ~~trade~~**trading** practice before the judicial authorities **in the Member State** of the applicant **enforcement authority**;
  - (ca) **the requested enforcement authority issues reasonable doubts whether the requested enforcement measures are in compliance with Directive (EU) 2019/633 or can show that the request concerns national rules adopted on the basis of Article 3(1), point (b), third sentence of Directive (EU) 2019/633 or maintained or adopted on the basis of Article 9(1) of Directive (EU) 2019/633;**
  - (cb) **the requested enforcement authority cannot:**
    - (i) **ensure the appropriate protection of the relevant information in accordance with Article 5(3) of Directive 2019/633 that has been provided pursuant to Article 4a(4) of this Regulation and on the protection of which the complainant insists, or;**

**(ii) fulfil the request without having access to the information that the complainant did not agree to provide pursuant to Article 4a(4) of this Regulation;**

(d) the applicant enforcement authority has not provided the information that is necessary in accordance with Article 59.

3. ~~The~~**A requested enforcement authority shall inform** ~~may refuse to comply with a request for enforcement measures under Article 7 only if, having consulted with the applicant enforcement authority, at least one of any refusal to comply with a request for mutual assistance, together with the reasons for that refusal.~~ **the following 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 authority in order to bring about the swift and effective cessation of the same 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 issues reasonable doubts whether the final decision is in compliance with Directive (EU) 2019/633 or can show that the final decision concerns national rules adopted on the basis of Article 3(1), point (b), third sentence of Directive (EU) 2019/633 or maintained or adopted on the basis of Article 9(1) of Directive (EU) 2019/633, 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 9.**

**4. The requested enforcement authority shall inform the applicant enforcement authority of any refusal to comply with a request for mutual assistance, together with the reasons for that refusal.**

#### *Article 11*

### **Language arrangements**

1. The languages 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 upon with the enforcement authorities concerned.
2. If no agreement can be reached between the enforcement authorities concerned, 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 and replies in the official language, or one of the official languages, of the Member State of the requested enforcement authority.

#### *Article 12*

### **Implementing powers**

~~The Commission may adopt implementing acts laying down standard forms for the requests of mutual assistance under Article 9(2).~~

~~The implementing acts referred to in the first paragraph shall be adopted in accordance with the examination procedure referred to in Article 21.~~

**CHAPTER IV**  
**INVESTIGATION AND ENFORCEMENT MECHANISMS FOR WIDESPREAD UNFAIR**  
**TRADING PRACTICES WITH A CROSS-BORDER DIMENSION**

*Article 13*

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

1. Where there is a reasonable suspicion that there may be a widespread unfair trading practice with a cross-border dimension, the enforcement authorities concerned by that practice shall launch a coordinated action which shall be based on an agreement between them. The launch of the coordinated action shall be notified to the Commission without delay.
2. The enforcement authorities concerned by the widespread unfair trading practice with a cross-border dimension shall designate an enforcement authority to be the coordinator.  
**If those enforcement authorities are unable to reach an agreement on that designation, the enforcement authority that has issued the alert pursuant to Article 19 shall be the coordinator.**
3. The enforcement authorities concerned by the widespread unfair trading practice with a cross-border dimension shall conduct investigations on the basis of information that is available to them. They shall notify the results of such investigations to the other enforcement authorities, pursuant to Article 19.
4. An enforcement authority shall join the coordinated action if it becomes apparent during that coordinated action that the enforcement authority is concerned by the widespread unfair trading practice with a cross-border dimension.
5. In order to establish that an enforcement authority is concerned by a 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 may be affected by the unfair trading practice are established.

*Article 14*

**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 any of the following applies:
  - (a) a criminal investigation ~~or~~, 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~~**practices** in that enforcement authority's Member State;
  - (b) the enforcement authority has already initiated investigations before the issuing of an alert referred to in Article 19, or an administrative decision has been adopted against the same buyer **or buyers** in respect of the same unfair trading ~~practice~~**practices** 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 ~~adopted~~**taken** by that enforcement authority.
2. Where an enforcement authority refuses to take part in the coordinated action, it shall inform the Commission and the other enforcement authorities concerned by the widespread unfair trading practice with a cross-border dimension about its decision without delay, stating the reasons for its decision and providing, ~~where any~~ necessary, supporting documents.

## Article 15

### **Investigation measures Investigations in coordinated actions**

1. The enforcement authorities concerned by the coordinated action shall ensure that investigations and inspections are conducted in a coordinated manner. They shall seek to conduct investigations and inspections and, to the extent that national law so allows, to apply interim measures simultaneously with one another.
2. The enforcement authorities concerned by the coordinated action shall set out the outcome of the investigation and the assessment of the widespread unfair trading practice with a cross-border dimension in a common ~~position~~**statement**, summarising the national ~~decisions adopted~~**measures taken and, where applicable, the different opinions of the enforcement authorities.**
3. Without prejudice to the rules on confidentiality and on professional and trade secrecy laid down in Directive (EU) 2016/943 of the European Parliament and of the Council<sup>7</sup>, the enforcement authorities concerned by the coordinated action shall publish the common ~~position~~**statement** or parts thereof on their websites and inform the Commission of the publication.

## Article 16

### **Enforcement measures in coordinated actions**

1. The enforcement authorities concerned by the coordinated action shall take within their jurisdiction all necessary enforcement measures under Article 6 of Directive (EU) 2019/633 against the buyer **or buyers** responsible for the widespread unfair trading ~~practice~~**practices** with a cross-border dimension to bring about the cessation of that unfair trading practice.

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<sup>7</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/oj>).

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

#### *Article 17*

#### **Cessation of coordinated action**

1. A coordinated action shall cease if the enforcement authorities concerned by 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 widespread unfair trading practice with a cross-border dimension was committed.
2. The coordinator referred to in Article 13(2) shall notify, where applicable, the enforcement authorities of the Member States concerned by the coordinated action of the cessation of the coordinated action without delay.

#### *Article 18*

#### **Role of the coordinator**

1. The coordinator appointed in accordance with Article 13 shall in particular:
  - (a) ensure that the enforcement authorities concerned 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 investigation measures taken by the enforcement authorities concerned in accordance with this Regulation;
  - (c) coordinate the preparation and sharing of all necessary documents among the enforcement authorities concerned;



- (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 concerned and the coordinator;
  - (e) where applicable, coordinate the assessment, the consultations and the monitoring by the enforcement authorities concerned 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 concerned;
  - (g) coordinate requests for mutual assistance submitted by the enforcement authorities concerned pursuant to Chapter III.
2. The coordinator shall not be held responsible for the actions or the omissions of the other enforcement authorities concerned when they make use of the powers set out in Article 6 of Directive (EU) 2019/633 and in the rules laid down in this Regulation.

### *Article 19*

#### **Alerts**

1. An enforcement authority shall without delay alert the Commission and the other enforcement authorities that a widespread unfair trading practice with a cross-border dimension may be taking place.
2. The enforcement authority shall, when issuing an 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) ~~details of the subject matter of the widespread unfair trading practice with a cross-border dimension;~~

- (c) the Member States concerned or possibly concerned by the widespread unfair trading practice with a cross-border dimension;
  - (d) the identity of the buyer or buyers suspected of committing the widespread unfair trading practice with a cross-border dimension;
  - (e) the unfair trading practice concerned under Directive (EU) 2019/633 and by reference to national law;
  - (f) 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;
  - (g) the identities of the enforcement authorities bringing the proceedings and taking other measures.
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 easily accessible to the relevant enforcement authorities, the same widespread unfair trading ~~practices~~**practice with a cross-border dimension** may be taking place in the territory of those other Member States or whether any proceedings are pending or any enforcement measures have already been taken against ~~such~~**that** unfair trading ~~practices~~**practice** in those Member States. The enforcement authorities in those other Member States shall reply to the request without delay.

#### *Article 20*

#### **Language arrangements**

1. The languages used by the enforcement authorities for notifications, as well as for all other communications covered by this Chapter which are linked to the coordinated actions, shall be agreed upon by the enforcement authorities concerned.
2. If no agreement can be reached between the enforcement authorities concerned, 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.

## CHAPTER IVa

### COOPERATION IN RELATION TO BUYERS ESTABLISHED OUTSIDE THE UNION

#### *Article 20a*

##### Cooperation in relation to buyers established outside the Union

**In relation to unfair trading practices 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 referred to in Article 1(2) of Directive (EU) 2019/633 where the 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 such a request, Articles 4a, 5(1), (2) and (3), 7a, 8, 9, 10(1) and 11 shall apply mutatis mutandis.**
- (b) alert the Commission and other enforcement authorities concerned when it suspects that an unfair trading practice by a buyer established outside the Union takes place and that that unfair trading practice may concern suppliers established in at least three Member States. For such alerts, Articles 4a, 19 (2) and (3) and 20 shall apply mutatis mutandis.**

## CHAPTER V

### ~~F~~PROCEDURAL PROCEDURAL PROVISIONS

#### *Article 20b*

##### Implementing powers

**The Commission may adopt implementing acts laying down:**

- (a) standard forms for the requests for mutual assistance pursuant to Article 9(2);**
- (b) arrangements for the management of the notifications and communications among the enforcement authorities pursuant to Articles 8, 9, 13,14, 15, 17, 19 and 20a.**

**The implementing acts referred to in the first paragraph shall be adopted in accordance with the examination procedure referred to in Article 21.**

*Article 21*

**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>8</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>8</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 VI**  
**FINAL PROVISIONS**

*Article 22*

**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*~~Official Journal of the European Union~~.

It shall apply from [~~+ 1 year~~**18 months** from the adoption~~entry into force~~].

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

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*