

Unfair trading practices in business-to-business relationships in the food supply chain: cooperation among enforcement authorities

2024/0318(COD) - 10/12/2024 - Legislative proposal

PURPOSE: to improve and increase cooperation between enforcement authorities responsible for the enforcement of the prohibition of unfair trading practices in business-to-business relationships in the agricultural and food supply chain.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Directive (EU) 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain required Member States to designate enforcement authorities to ensure the effective enforcement of the prohibitions laid down in the Directive. The enforcement authorities can act either on their own initiative or on the basis of complaints by parties affected by unfair trading practices in the agricultural and food supply chain.

The Directive also introduced rules related to the powers of enforcement authorities ensuring that those authorities can investigate, collect information and order the termination of an unfair trading practice.

In addition, the Directive required the enforcement authorities to cooperate effectively with each other and with the Commission, and to provide each other with mutual assistance in investigations that have a cross-border dimension. However, the experience of enforcement authorities is that gathering information, finding an infringement and imposing and enforcing fines and other equally effective penalties can be difficult where the buyer is located in another Member State. **The ability of the enforcement authorities to cooperate in such cases should therefore be strengthened.**

CONTENT: the Commission is proposing a Regulation (like for other such EU cooperation instruments, notably those on customs cooperation, VAT cooperation, feed and food controls, and consumer protection), as the proposed rules essentially provide for directly applicable cooperation arrangements between public authorities.

The proposal:

- complements the Directive with the view to ensuring that the enforcement authorities have the necessary tools to gather information, find an infringement and impose and enforce fines and other equally effective penalties against buyers located in another Member State;
- aims to improve and increase cooperation between enforcement authorities, while maintaining a minimal interference in the legal orders of the Member States;
- aims to ensure that a legal basis is provided to enable exchanges of information and requests for enforcement measures, for which the requested authority will follow its national rules.

More specifically, the proposed Regulation lays down:

- procedural rules for exchanges of information between enforcement authorities. Requests for information are to be made in **writing**, stating the corresponding provision of the Directive, as well as the national law. The collection of the requested information is to be made by the requested enforcement authority and used by the applicant enforcement authority in accordance with their national laws;
- provisions to allow an enforcement authority to enforce, at the request of another, in accordance with the national rules of its Member State, final decisions imposing fines or other equally effective penalties and interim measures;
- 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 in order to ensure smooth cooperation;
- that an unfair trading practice with a cross-border dimension, involving at least three Member States should be considered as a widespread unfair trading practice;
- that in cases of widespread unfair trading practices, the enforcement authorities of the Member States concerned 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;
- procedures for the coordination of investigation and enforcement measures relating to widespread unfair trading practices with a cross-border dimension should be laid down.