EUROPEAN
COMMISSION

Brussels, 1.12.2025
COM(2025) 728 final

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

Evaluation of the Unfair Trading Practices Directive

{SWD(2025) 405 final}

1. INTRODUCTION

Under Article 12 of Directive (EU) 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain ('the Directive')[1], the European Commission ('COM') must carry out a first evaluation of the Directive and present its main findings in a report. The present document is intended to serve as that report.

Accordingly, this report draws on the evaluation of the Directive[2] to outline key takeaways and lessons learned from the first years of the Directive's implementation. As the evaluation took place at an early stage due to delays in transposition in some Member States ('MS'), its findings reflect only a short period of practical application of the Directive's rules and should be read in this light.

More generally, this report is part of broader efforts to strengthen farmers' position in the agricultural and food supply chain ('chain'), as reflected in the Strategic Dialogue's recommendation for a more effective, balanced, and proportionate framework to tackle unfair trading practices ('UTPs')[3], or in COM's Political Guidelines for the 2024-2029[4]. In line with the Vision for Agriculture and Food[5], the COM will, based on the evaluation of the current rules and a review of national regulations, propose further initiatives, including the UTP Directive revision, to address the principle that farmers should not be forced to systematically sell their products below production costs, while preserving the market orientation of the Common Agricultural Policy.

Together with other sources of information and following thorough consultations, the report will inform the reflection on a future revision of the Directive, without pre-empting its scope or content.

2. BACKGROUND, SOURCES AND POLICY CONTEXT

Economic power has become ever more concentrated in the downstream segments of the chain, which has increased the scope for potential abuses of bargaining power. Such abuses often affect farmers and small suppliers, who find themselves in a weaker position when dealing with larger, more powerful buyers[6]. In response to such concerns, the Directive was adopted to combat UTPs in the chain, covering also the fishery and aquaculture sectors, and contribute to their prevention and mitigation across the EU. UTPs include practices which grossly deviate from the principles of good commercial conduct, are contrary to good faith and fair dealing, and are unilaterally imposed by one trading partner on the other. They can lead to the unjustified and disproportionate transfer of economic risk or create a significant imbalance of rights and obligations, increasing the financial vulnerability and operational uncertainty of farmers and small suppliers.

The Directive provides for a minimum level of harmonisation by establishing a list of UTPs that buyers are prohibited from imposing on suppliers. It lays down minimum rules on

[1] OJ L 111, 25.4.2019, p. 59, ELI: http://data.europa.eu/eli/dir/2019/633/oj
[2] Accompanying Staff Working Document on the Evaluation Report ('SWD').
[3] Strategic dialogue on the future of EU agriculture - COM.
[4] Political Guidelines for the next European Commission 2024-2029 - COM.
[5] Vision for Agriculture and Food – COM.
[6] SWD(2018) 92 final, p. 20.

enforcement and on cooperation between the enforcement authorities ('EA'). MS may adopt or maintain rules that go beyond the UTPs listed in the Directive provided that these are compatible with internal market rules.

The deadline for transposing the Directive was 1 May 2021[7], but not all MS fully transposed it until December 2022[8]. The transposition and conformity checks by the COM showed variations in MS' transposition choices. While some had pre-existing rules or went beyond the Directive's minimum harmonisation, others had no pre-existing rules or stayed close to the minimum harmonisation level. The conformity checks also revealed differences in the level of protection of national transposition laws, in relation to the possibility for buyers to cancel orders of perishable products under Article 3(1)(b), the charging of payments as referred to in Article 3(2)(b), and the transposition of Article 3(4), whereby MS must ensure the black and grey UTPs listed in the Directive constitute mandatory provisions overriding any other rules that would apply to a supply agreement.

The evaluation focused on the implementation of the Directive from an EU perspective, while providing an overview of the situation in MS following transposition. It assessed the effectiveness, efficiency, coherence, EU added value and relevance of the Directive in relation to its core objectives of combating UTPs, enabling effective enforcement, addressing the fear factor experienced by suppliers, and ensuring a level playing field across the EU.

The evaluation was carried out with the support of an external study ('support study')[9], and built on various sources, including previous COM's reports, such as its report of October 2021 on the state of the transposition and implementation of the Directive[10] and its interim report of April 2024[11]. Additional inputs included targeted surveys, interviews and case studies, regular exchanges with EA, the JRC's annual public survey of farmers and suppliers[12] and the annual MS reports[13]. The evaluation report of the European Economic and Social Committee ('EESC')[14] and the EA's annual activity reports[15] were also taken into account.

The evaluation coincided with a broader set of measures by the COM to address concerns expressed by farmers[16], including the targeted revision of the Common Market Organisation ('CMO') Regulation[17], the launch of the EU Agri-Food Chain Observatory ('AFCO')[18], and a study on mechanisms to ensure fair remuneration for farmers[19].

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[7] Article 13(1) of the Directive.
[8] SWD, Section 3.
[9] Evaluation support study of the EU Directive 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain (DOI: 10.2762/2191333).
[10] COM/2021/652 final
[11] COM/2024/176 final and SWD/2024/106 final/2.
[12] Unfair Trade Practices - JRC.
[13] Article 10(2) of the Directive requires MS to send to the COM a report on their enforcement activities by 15 March of each year.
[14] Evaluation of Directive (EU) 2019/633 - EESC
[15] Article 10(1) of the Directive requires EA to publish an annual report of their activities. A link to the reports: Unfair trading practices - COM.
[16] EU actions to address farmers' concerns - COM.
[17] COM/2024/577 final.
[18] AFCO – COM.
[19] Study on regulatory and voluntary schemes for fair agricultural remuneration (DOI: 10.2762/0016025).

3. SUMMARY OF THE MAIN FINDINGS

This section summarises the main findings of the evaluation. While based on the best available evidence, it is important to take into account the limitations mentioned above, specifically the short time period between the full implementation of the Directive and its evaluation. This, together with the limited availability of data due to the confidential nature of commercial relations, external shocks such as COVID-19 and the Russian war of aggression against Ukraine, and the resulting rise in inflation and input costs, made it difficult to isolate the effects of the Directive's implementation from broader developments.

3.1.EFFECTIVENESS

The evaluation examined the Directive's contribution to combating UTPs, preventing their occurrence, mitigating their negative impact on farmers and supporting effective enforcement. It also looked at the unintended effects of the Directive[20].

Perceived improvements in the occurrence of UTPs but varying views throughout the chain

From the available evidence, it was not yet possible to confirm that UTPs substantially decreased following implementation of the Directive. However, data from the most recent JRC survey suggested a reduction in the number of reported UTPs. Moreover, other quantitative and qualitative data pointed to improvements in reducing late payments, for both perishable and unperishable goods[21], and certain other UTPs more frequently experienced by suppliers.

Views throughout the chain varied, with farmers and suppliers reporting positive trends, while other segments expressed more mixed views. Specifically, buyers expressed scepticism about the Directive's impact, while also noting that compliance efforts by wholesalers and retailers through contract revision and staff training had played a key role in reducing UTPs.

Differing levels of awareness among suppliers

According to JRC survey data, reported awareness level ranges between 62% and 76% of respondents depending on the type of suppliers, without any clear trend emerging across different survey waves. Low level of awareness and challenges in submitting complaints are also reported among non-EU stakeholders.

Although some EA had focused on awareness-raising and outreach activities right from the early years of implementing the Directive, awareness was generally low, particularly among farmers and smaller suppliers, due mainly to the short time since the Directive's full implementation. Larger suppliers and processors tended to report moderate levels of awareness but also mentioned difficulties in understanding their rights and obligations under the Directive.

Low complaint rates

In addition to low levels of awareness among suppliers, only a limited number of complaints were received across all MS during the first years of implementation. According to the 2024 JRC survey, only 52% of respondents knew where to file a complaint. To address this, EA

[20] SWD, Section 4.1.
[21] Support study, p. 20.

focused their initial efforts on guidance cases or increased the number of *ex officio* (own initiative) investigations.

Data from the JRC annual survey pointed to several reasons why suppliers did not raise UTPs with EA when they experience them. 29% of respondents cited fear of retaliation as a major barrier, while other reported obstacles included the perception that certain UTPs were customary and not worth reporting (20%), or a lack of trust in the EA' capacity to act (19%).

Concerns about confidentiality and fear of retaliation were particularly prevalent, as illustrated by MS case studies (BE, ES, NL, SE). These case studies highlighted that national procedural rules could require the disclosure of certain information during proceedings to safeguard the buyer's right of defence, raising concerns among suppliers about potential exposure and reinforcing their reluctance to submit complaints.

Although the Directive allows producer organisations ('PO') or other supplier organisations with a legitimate interest to file complaints on behalf of their members, the evaluation showed that this mechanism remained unused. In parallel, anonymous tip-offs proved to be a potentially valuable source of market information for EA as a way of informing *ex officio* investigations and sectoral inquiries. However, challenges were still observed in highly concentrated sectors where anonymity of the whistleblower may still be difficult to guarantee.

Increased enforcement actions but still significant variation between MS

The evaluation showed that the number and type of enforcement actions were largely shaped by national strategic priorities, reflecting different approaches to implementation[22]. In line with the Directive's emphasis on deterrence through effective, proportionate and dissuasive penalties, there was a gradual increase in the number of investigations launched by EA, whether *ex officio* or following a complaint. A total of 4 610 investigations were opened between 2021-2024, of which around 53% were closed during this period (2 462 closed investigations). Of these, 4 MS (ES, IT, CY, HU) carried out 90% of investigations, while 13 other MS each carried out fewer than 5 investigations.

While the overall number of investigations in the EU remains relatively low compared to the volume of sales transactions in the sector, the upward trend suggests growing institutional engagement with UTPs. However, no investigations were reported in some MSs and a relatively modest number in others, suggesting a need to further exploit the potential of *ex officio* investigations.

Based on MS reporting, the evaluation found that around one third of the investigations closed between 2021 and 2024 concluded in the finding of an infringement and resulted in penalties, i.e. a total of 754 infringements. Between 2022 and 2024, infringements led to a total of EUR 41.9 million in fines. Generally, penalties were perceived as an effective way of supporting compliance through their deterrent effect, although the number and severity of penalties varied between MS, reflecting the wide range of legal frameworks in place.

[22] SWD, Annex VI.

Reputational measures, such as ‘name and shame’ approaches, were generally considered effective, especially in relation to consumer-facing buyers.

In addition, several MS developed other preventive approaches to foster compliance, facilitate dialogue, or resolve disputes at an early stage. Such approaches were generally considered to be important and effective for combating UTPs. Examples include the introduction of internal UTP compliance officers by ‘large buyers’ in IE, or the creation of a mediator or ombudsman as an initial contact point in AT and FI.

The evaluation also showed that some stakeholders viewed other preventive measures by EA, such as awareness campaigns, as moderately effective, while retailers and a large part of the farming sector considered the compulsory use of written contracts to be generally useful for combating UTPs.

Another type of measure examined concerned additional corrective and/or compensatory mechanisms available in some MS. These include the power to obtain specific commitments from the buyer, to issue compliance orders, or to impose civil remedies, such as the annulment of contract terms, restitution of charges, or compensation for damages. Some EA considered that focusing on remedying the harm to suppliers provided a more immediate and targeted response than penalties. However, the availability and use of these mechanisms, which are not explicitly required by the Directive, varied between MS.

Cooperation between EA

The evaluation highlighted positive developments in relation to the work of the UTP Network, which was largely regarded by EA as having helped to improve mutual cooperation.

However, the evaluation showed that enforcement efforts primarily concentrated on UTPs occurring within one MS, with few instances of cross-border investigations. Limitations in the existing legal framework regarding the sharing of confidential information in cross-border cases, and uneven enforcement capacities posed challenges to establishing a truly level playing field. The COM’s recent proposal on this issue is seen as a positive move towards addressing existing shortcomings[23].

3.2.EFFICIENCY

The evaluation assessed the costs and benefits associated with implementing the Directive, taking into account the administrative costs for MS and EA and the operational costs for suppliers and/or buyers[24].

Identifiable benefits for farmers but quantification remains a challenge

Factors affecting the nature and severity of the impact of UTPs on farmers and small suppliers include the degree to which farms are aggregated and whether suppliers are affected directly or indirectly by UTPs due to the pass-through effect along the chain. For example, the evaluation found that farmers who were not part of a PO and who were directly affected by UTPs tended to be more exposed to economic risks.

[23] COM/2024/576 final.
[24] SWD, Section 3.

Since late payments represented the most common reported UTP with significant negative consequences due to their disruptive effect on cash flow, the support study estimated the potential benefits for the farming sector from addressing late payments to farmers. The support study suggested that as a result of the Directive, payment periods, cash flow management and predictability for farmers and small suppliers would improve. In turn, this would reduce reliance on loans, support creditworthiness, and lower the risk of insolvency, potentially freeing up resources for investment. The estimated average advantage stemming from the additional yearly cash flow per supplier (including farms) ranged from approximately EUR 16 000 in PL to nearly EUR 175 000 in FR[25].

After late payments, the UTPs with the largest negative economic impact on farmers were last-minute cancellations, especially for perishable products, and shifting of commercial risk through unilateral changes to contract terms or compulsory contributions to cover the buyer's losses. Such practices could lead to revenue loss and increase the exposure of farmers and small suppliers to unpredictable costs.

Farmers often found it difficult to quantify the economic effects of UTPs, as they tended to perceive the impact in relative terms, e.g. in relation to harvest results, market fluctuations or other external factors. The limited data available and the complexity of isolating the Directive's effects made it challenging to produce a precise cost-benefit analysis based on a robust counterfactual assessment. Wherever possible, the evaluation quantified the effects of the Directive, but otherwise relied on a qualitative assessment and a review of stakeholder perceptions. In this regard, the results of a survey of business associations indicated that most businesses consulted had experienced some financial benefits stemming from the Directive, including from transparent and reliable contract terms (24% of the 228 indications), a reduction in the number of unilateral changes to contracts (19%), and more transparent pricing (15%)[26].

In addition to the financial effects of the Directive, qualitative benefits were also reported, including improved dialogue and trust and the promotion of a culture of fairness within the chain.

For farmers and suppliers the costs of the Directive remained proportionate to the benefits[27]

The evaluation examined the administrative costs incurred by EA and MS following transposition of the Directive and found significant variations depending on the national approach. For the MS which were most active in pursuing investigations, estimates suggest that annual enforcement costs were close to EUR 800 000.

Adjustment costs for business operators across the chain, including suppliers and buyers, also varied widely. According to estimates, initial adjustment costs ranged from around EUR 12 million in DE to EUR 19 million in DK, with retailers bearing the highest costs per operator.

Overall, the evaluation found that enforcement costs for EA and adjustment costs for business operators acting exclusively or primarily as suppliers were proportionate to the benefits

[25] Support study, p. 135.
[26] Support study, p. 63.
[27] SWD, Section 3.

achieved in terms of improving business practices. By contrast, buyers perceived their adjustment costs, stemming primarily from contract adaptation, as outweighing the benefits. This came as no surprise as the Directive is designed to protect weaker suppliers against stronger buyers. Nevertheless, no evidence was found to suggest that costs for buyers had led to significant damage or operational disruption within the chain.

3.3. EU ADDED VALUE

The evaluation found that the EU added value of the Directive, especially its contribution to creating a level playing field, came from the minimum level of protection from UTPs provided to suppliers across the EU, in particular in MS where protection previously did not exist[28].

However, the evaluation also found that significant differences in national legislation and enforcement remained despite the implementation of the Directive. In particular, most stakeholders identified these differences as one of the main challenges undermining the Directive's EU added value, with buyers linking continued national differences to several unintended negative effects, most notably increased legal uncertainty and inconsistent enforcement in cross-border cases within the EU. In addition, the retail sector reported other unintended effects due to the decision of some MS to extend protection against UTPs to large suppliers. The retail sector believed this could unnecessarily shift the balance of power towards large suppliers, causing particular harm to smaller buyers.

At the same time, other stakeholders viewed the differences between MS more positively and considered that by allowing such differences, MS could better address specific national circumstances and respond more quickly to emerging issues.

The support study found that the Directive's harmonised minimum requirements had contributed overall to EU added value, a view that was broadly shared by suppliers and EA, but less so by buyers[29], who had concerns about MS maintaining or introducing stricter or highly diverse national rules under Article 9 of the Directive, which some saw as problematic for Single Market freedoms.

3.4. COHERENCE

The evaluation found the Directive to be complementary to other EU legal instruments, including the CMO Regulation[30] and its counterpart in the fisheries sector[31]. As part of this broader policy framework, the Directive supports the CMO's structural approach, aimed at strengthening farmers' bargaining power by promoting collective action and setting a general contractual framework. However, the Directive addresses issues not covered by the CMO Regulation by providing protection at the level of individual commercial relationships and business operations, offering a targeted legal framework that shields farmers and smaller suppliers from specific abusive behaviour by stronger buyers.

[28] SWD, Section 4.2.
[29] Support study, p. 91 ff.
[30] OJ L 347, 20.12.2013, p. 671, ELI: http://data.europa.eu/eli/reg/2013/1308/oj.
[31] OJ L 354, 28.12.2013, p. 1, ELI: https://eur-lex.europa.eu/eli/reg/2013/1379/oj.

Similarly, the evaluation highlighted the complementary function of the Directive in relation to EU rules on late payments[32], including the recently proposed Late Payments Regulation[33], underlining its distinct function and continued relevance for the agricultural sector.

No conflicts or inconsistencies with other legal instruments were identified. On the contrary, important synergies were identified between the Directive and other actions or initiatives, such as the EU competition rules and the EU Code of Conduct on Responsible Food Business and Marketing Practices, known as the 'Agri-Food Code' since mid-2025[34].

3.5. ONGOING RELEVANCE

Overall, the evaluation found the Directive to be broadly proportionate and balanced in addressing existing needs. At the same time, it identified scope for further action, in particular regarding the Directive's contribution to the economic viability, resilience, and competitiveness of the agricultural sector and the emergence of new or evolving UTPs. While the Directive was found to provide a robust and suitable framework, scope remained for addressing evolving challenges, such as ensuring fair remuneration for farmers and tackling new UTPs. Feedback from stakeholders confirmed this finding, although views differed on the Directive's capability to address the root causes of UTPs and influence price-setting mechanisms[35].

Many of the potential areas for improvement identified by stakeholders were also raised in discussions held at the time the Directive was adopted, highlighting a continued divergence of views. Some suppliers called for measures such as extending the Directive's scope in terms of turnover thresholds or introducing an EU-wide ban on sales below cost, as is already in place in some MS[36]. Buyers opposed broadening the scope in this way and called for bi-directional protection against UTPs, allowing smaller buyers to also be protected against larger suppliers.

Alongside these longer-standing issues, stakeholders also pointed to more recent concerns regarding potential emerging UTPs. In particular, these related to practices that could circumvent the Directive and shift disproportionate risks or costs onto suppliers, including more complex service-related arrangements, such as 'pay-on-scan'[37], or demands linked to buyers' sustainability-related commitments (e.g. transferring buyers' corporate social responsibility commitments to suppliers).

4. CONCLUSIONS, LESSONS LEARNED, AND NEXT STEPS

Although the Directive has only been fully implemented for a short period and despite significant variation in MS approaches and stakeholder views, early experience of the Directive shows encouraging signs as regards preventing and combating UTPs, with greater trust in the chain having contributed to a more responsible business culture.

At the same time, the evaluation of the Directive identified a number of shortcomings and challenges. The following lessons learned highlight areas where the UTP framework and its

[32] OJ L 48, 23.2.2011, p. 1, ELI : http://data.europa.eu/eli/dir/2011/7/oj
[33] COM(2023)533 final.
[34] The Agri-Food Code – COM.
[35] SWD, Section 4.3.
[36] See footnote 19.
[37] In this model, suppliers are paid only when the retailer sells the product to the final consumer, rather than upon delivery. This can effectively extend the payment deadlines allowed under the Directive.

application could be further strengthened, including through a possible revision of the Directive:

- **Raising awareness among farmers and suppliers about their rights**. This is a key area for further action which could be addressed by improving access to information, including for suppliers involved in cross-border transactions or from third countries, or by encouraging targeted outreach or training activities.

- **Taking action to enhance enforcement and addressing the 'fear factor' among suppliers.** Fear of retaliation remains a barrier discouraging suppliers from reporting UTPs, especially in sectors with high buyer concentration and buyer-dependency. To address this issue and reduce reliance on individual complaints, EA could already make greater use of *ex officio* investigations, the potential of which has not been fully explored in some MS. At the same time, PO and other supplier organisations, including those from third countries, could play a stronger role in supporting suppliers and filing complaints on their behalf.

- **Improving cross-border cooperation.** Procedural obstacles continue to hamper the exchange of confidential information between EA in cross-border cases. The COM published a proposal in December 2024 addressing this issue which is expected to provide a robust framework for cooperation and resolve the shortcomings identified in relation to the harmonised list of UTPs established by the Directive[38].

- **Enhancing monitoring in support of evidence-based policy making.** While progress has been made in data collection through annual reports and surveys, further efforts are needed to ensure consistent, comparable and robust monitoring of UTPs across the EU. Possible action in this regard could include collecting more standardised, reliable and quantifiable data, or conducting more comprehensive evaluations at MS level on the effects of national transposition laws.

- **Addressing the uneven application of the Directive**. Differences in MS implementing choices and enforcement practices have led to diverging interpretations of the provisions of the Directive or the application of stricter national rules. A diversity of national rules, also beyond the scope of the Directive can create variations in enforcement and oversight. Further consideration must be given to ensuring greater consistency in how UTPs are combatted.

- **Facilitating responsiveness to emerging needs.** While only a limited number of new UTPs were reported, it is important to be actively looking out for emerging issues and anticipating market changes. Moreover, action must be taken to avoid farmers being forced to systematically sell below their production costs, as mentioned in the Vision for Agriculture and Food. Specific new tools for these purposes must be examined further, alongside the possible expansion of the list of UTPs.

[38] COM/2024/576 final

While the revision of the Unfair Trading Practices Directive must be approached with caution as the Directive has only been fully implemented for a relatively short period of time, it is apparent that addressing remaining shortcomings and challenges will require further thought in order to determine how the Directive and other instruments might best support the economic performance of the agricultural sector and the chain as a whole, and whether additional measures may be needed, all while preserving the market orientation of the Common Agricultural Policy. Building on the findings of this evaluation, and as confirmed in President von der Leyen's 2025 State of the European Union[39] address, the COM intends to review the implementation of the EU's unfair trading practices legislation. Its proposals to revise the Directive will be accompanied by an impact assessment that will cover different options for tackling the challenges set out above and carefully examine the impacts of those options on farmers and other actors in the chain.

[39] State of the Union 2025 - COM.