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PROPOSAL

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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2024) 576 final
Subject:	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

Delegations will find attached document COM(2024) 576 final.

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2024/0318 (COD)

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

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Directive (EU) 2019/633[1] (the Directive) required Member States to designate enforcement authorities to ensure the effective enforcement of the prohibitions laid down in Article 3 of 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 (Article 6 of the Directive).

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 (Article 8 of the Directive).

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.

Closing the enforcement gap aims a strengthening farmers' position in the supply chain. To address this challenge the Commission put forward a reflection paper on 15 March 2024 in which it announced a set of measures intended to enhance the position of farmers in the food supply chain. A stand-alone legal act introducing new rules on cross-border enforcement of the Directive was included in the set of measures that the Commission announced.

The Political Guidelines for the next European Commission 2024-2029 commit to strengthen farmers' position and further protect them against unfair trading practices. Moreover, the Strategic Dialogue on the Future of EU Agriculture, announced by the President of the European Commission in her State of the Union Address on September 13th 2023 and launched in January 2024, which brought together 29 major stakeholders from the European agri-food sectors, civil society, rural communities and academia in its final report[2] called for proactive steps both at European and national level inter alia to better address unfair trading practices.

The Report on the Strategic Dialogue on the Future of EU Agriculture included recommendations for an effective, balanced and proportionate framework to address unfair trading practices, among others, the effective enforcement of unfair trading practices legislation, the cooperation among enforcement authorities in cross-border cases, including a common online platform to share investigations and information on cases, as well as the need for the enforcement authorities to have adequate and proportionate resources to enforce the legislation.

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[1] 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).

[2] Strategic Dialogue on the Future of EU Agriculture.

- **Consistency with existing policy provisions in the policy area**

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.

The proposal does not interfere with the ongoing evaluation of the Directive that the Commission is conducting in line with its legal obligation under the Directive itself or prejudge the result of that evaluation.

- **Consistency with other Union policies**

As explained in the explanatory memorandum of the proposal for what became the Directive, competition law has a different scope from rules on unfair trading practices, as unfair trading practices are unilateral practices that do not, in most cases, involve the existence of a dominant position in a given market or an abuse of that position.

Accordingly, the rules in this proposal laying down measures solely for enforcement authorities designated under the Directive are compatible and complementary to the EU competition rules.

While the EU has also adopted rules on cooperation between national authorities responsible for the enforcement of consumer protection laws[3], the scope of those rules is different to the rules in this proposal, since the rules on consumer protection apply to business-to-consumer (B2C) situations and do not as such, cover business-to-business (B2B) situations, although Member States may choose to extend their scope.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

This proposal is based Article 43(2) TFEU because it complements the Directive, which is itself based on Article 43(2) TFEU.

- **Subsidiarity (for non-exclusive competence)**

This proposal concerns unfair trading practices with a cross-border dimension. The cross-border dimension of the enforcement of the rules on unfair trading practices cannot be sufficiently addressed by the Member States, especially in cases of unfair trading practices that affect more than two Member States.

- **Proportionality**

The proposal aims to improve and increase cooperation between enforcement authorities, while maintaining a minimal interference in the legal orders of the Member States. The proposed rules on collection of information and the proposed rules on enforcement do not alter national rules governing the collection of information and the adoption of enforcement measures. Rather, the proposed rules aim to ensure that a legal basis is provided to enable

[3] Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004 (OJ L 345, 27.12.2017, p. 1, ELI: http://data.europa.eu/eli/reg/2017/2394/oj).

exchanges of information and requests for enforcement measures, for which the requested authority will follow its national rules.

The proposal also does not impact the administrative system or the procedural laws of the Member States that remain free to design their systems of enforcement of the rules on unfair trading practices.

- **Choice of the instrument**

A Regulation has been chosen (like for other such EU cooperation instruments, notably those on customs cooperation[4], VAT cooperation[5], feed and food controls[6], and consumer protection[7]), as the proposed rules essentially provide for directly applicable cooperation arrangements between public authorities.

Without an appropriate EU legal framework that applies directly in all Member States, each Member State may take a different approach when laying down rules governing requests for information or requests for enforcement measures and may condition the actions of the enforcement authority by several factors. This may lead to legal uncertainty and ultimately hinder the enforcement against unfair trading practices in cross-border cases that is envisaged by the Directive.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

This is a proposal for a new Regulation of the European Parliament and of the Council and is not following an ex-post evaluation or fitness check of existing legislation.

- **Stakeholder consultations**

Due to urgency, no formal call for evidence was carried out. However, multiple workshops, events and meetings with stakeholders have taken place, in which stakeholders submitted

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4 Regulation (EU) 2021/444 of the European Parliament and of the Council of 11 March 2021 establishing the Customs programme for cooperation in the field of customs and repealing Regulation (EU) No 1294/2013, OJ L 87, 15.3.2021, p. 1–16, ELI: http://data.europa.eu/eli/reg/2021/444/oj

5 Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax, OJ L 268 12.10.2010, p. 1, ELI: http://data.europa.eu/eli/reg/2010/904/2024-01-01

6 Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation), OJ L 095 7.4.2017, p. 1, ELI: http://data.europa.eu/eli/reg/2017/625/2022-01-28

7 Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004, OJ L 345 27.12.2017, p. 1, ELI: http://data.europa.eu/eli/reg/2017/2394/2022-01-01

comments, evidence and suggestions on how the enforcement of unfair trading practices could be improved.

The enforcement authorities responsible for the enforcement of the Directive meet at least once per year and discuss best practices, new cases and new developments in the area of unfair trading practices in the agricultural and food supply chain, and exchange information. The Commission facilitates all those meetings and has, in this context, gathered the views of the enforcement authorities on cross-border enforcement.

- **Collection and use of expertise**

While no call for evidence or public consultation were conducted due to the urgency to act, the Commission has presented the proposed measures several times to stakeholders and the enforcement authorities and in bilateral meetings involving all relevant EU based associations within the agri-food supply chain, including consumers.

The enforcement authorities have acknowledged the challenges posed by cross-border enforcement against unfair trading practices and developed common guidelines, templates and procedures to ensure more effective coordination between them.

- **Impact assessment**

An impact assessment was not carried out for this proposal because of the limited choice between policy options available for the Commission. The proposal is to be seen as an enforcement tool laying down already existing obligations under the UTP Directive (for which there are no procedural rules in place on how to achieve this), enhancing cooperation among enforcement authorities.

- **Regulatory fitness and simplification**

The present proposal is one of the measures announced in the Commission's Reflection Paper of 15 March 2024 as part of the Simplification Package.

Laying out an EU legal framework applicable in all Member States will ensure that there are no different approaches that could undermine legal certainty, lead to lengthy procedures, and create confusion in the cooperation among enforcement authorities.

In addition, the opinion of the 'Fit For Future Platform' noted, that while increased harmonisation could lead to less flexibility to adapt the rules on a national level, the numerous challenges that arise in dealing with unfair trade practices with a cross-border dimension create the need to enact legal rules that will apply in all Member States in dealing with unfair trade practices with a cross-border dimension.

- **Fundamental rights**

The EU is committed to high standards of fundamental rights' protection.

This proposal respects the rights enshrined in the Charter of Fundamental Rights of the EU. The proposal will contribute to the ability of suppliers to conduct a business. The proposal also aims to ensure that the exercise of the powers referred to in this Regulation is subject to appropriate safeguards in respect of the buyers' rights of defence, including the right to be heard and the right to an effective remedy. The proposal further requires that enforcement proceedings of the enforcement authorities are conducted within a reasonable timeframe.

4. BUDGETARY IMPLICATIONS

The proposal does not have an impact on the EU budget. It would require the use of an existing website for the information exchange by the enforcement authorities and the Commission.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The present proposal is a proposal for a new EU Regulation as a complementary tool to the Directive. Therefore, the implementation plan and monitoring, evaluation and reporting arrangements remain the same as under the current framework.

- **Explanatory documents (for directives)**

The proposal concerns an EU Regulation.

- **Detailed explanation of the specific provisions of the proposal**

First, procedural rules for exchanges of information between enforcement authorities should be laid down. 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.

Second, the possibility is introduced for a requested enforcement authority to exercise, in accordance with the national rules of its Member State, the powers attributed to it by the Directive.

Third, an enforcement authority should be able 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, adopted in accordance with the Directive.

Fourth, in order to increase transparency, enforcement authorities should be able to notify their decisions to the other enforcement authorities.

Fifth, to ensure that the mutual assistance mechanism established under the Regulation is achieved, exhaustive rules enabling the enforcement authorities to refuse to comply with a request for mutual assistance, should be laid down.

Sixth, in order to avoid obstacles to a smooth cooperation linked to the absence of an agreed language regime, 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.

Seventh, in accordance with this Regulation, an unfair trading practice with a cross-border dimension, involving at least three Member States should be considered as a widespread unfair trading practice.

Eighth, 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.

Ninth, procedures for the coordination of investigation and enforcement measures relating to widespread unfair trading practices with a cross-border dimension should be laid down.

Tenth, it is necessary to list the cases where a concerned enforcement authority may decide to refuse to participate in a coordinated action.

Eleventh, 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.

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[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Directive (EU) 2019/633 of the European Parliament and of the Council[3] introduced a minimum Union standard of protection against unfair trading practices to reduce the occurrence of 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.

(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

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1 OJ C […], […], p. […].

2 OJ C , , p. .

3 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).

therefore appropriate to establish rules strengthening cooperation between enforcement authorities in cross-border cases.

(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 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.

(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 the rules established by Directive (EU) 2019/633 and in respect of the subject-matter for which it was collected by the transmitting authority.

(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, on behalf of and for the account of other enforcement authorities.

(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 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 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 other enforcement authorities by issuing requests for information. These requests should specify what information is considered necessary in each case to conduct investigations of unfair trading practices.

(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 enforcement actions and administrative decisions taken at national level outside the mutual assistance mechanism would ensure cessation of the unfair trading practice with a cross-border dimension. 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[4]. 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 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.

(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.

(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.

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[4] 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).

(19) Criminal investigations and judicial proceedings in Member States should not be affected by the application of this Regulation.

(20) Since the objective of this Regulation, namely cooperation between the enforcement authorities responsible for the enforcement of the prohibition of unfair trading practices under Directive (EU) 2019/633, 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 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.

However, Article 5 of this Regulation also applies in relation to national rules within the meaning of Article 9 of Directive (EU) 2019/633 if the Member State so decides in accordance with paragraph 4 of that Article.

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[5].

[5] 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).

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 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 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 unfair trading practice within the meaning of Directive (EU) 2019/633 involving one supplier and one buyer that are located in different Member States;

(e) 'widespread unfair trading practice with a cross-border dimension' means any unfair trading practice within the meaning of Directive (EU) 2019/633 involving 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.

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 days unless otherwise agreed, provide the applicant enforcement authority with the information requested to establish whether an unfair trading practice 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 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 of the request, and specify what information is required.

3. The information provided shall only be collected by the requested enforcement authority and used by the applicant enforcement authority in accordance with their 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 of Article 9 of Directive (EU) 2019/633.

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.

Article 6

Requests for enforcement measures

1. At the request and on behalf of an applicant enforcement authority, the requested enforcement authority shall exercise, 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.

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, 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 authority shall enforce, in accordance with its national law, 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.

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 penalties and interim measures are enforceable does not have sufficient assets in the territory of its Member State.

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 authority.

Article 8

Notification mechanism

An enforcement authority shall notify all other enforcement authorities within 1 month 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, provide any 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.

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 only if one or both of the following applies:

(a) following a consultation with the applicant enforcement authority, 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;

(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 only if, having consulted with the applicant enforcement authority, one or both of the following applies:

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

(b) the exercise of the necessary enforcement powers has already been initiated, or an administrative decision has already been adopted in respect of the same intra-Union infringement and against the same trader in the Member State of the requested authority in order to bring about the swift and effective cessation of the same unfair trade practice;

(c) a criminal investigation or judicial proceedings have already been initiated as regards the same buyer in respect of the same unfair trade practice before the judicial authorities of the applicant;

(d) the applicant enforcement authority has not provided the information that is necessary in accordance with Article 5.

3. 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.

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 have already been initiated, a judgment has been given, or a court settlement has been reached in respect of the same buyer and concerning the same unfair trading practice 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 in respect of the same unfair trading practice 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 need to be adopted 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 any necessary supporting documents.

Article 15

Investigation measures 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, summarising the national decisions adopted.

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[6], the enforcement authorities concerned by the coordinated action shall publish the common position 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

[6] 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).

against the buyer responsible for the widespread unfair trading practice with a cross-border dimension to bring about the cessation of that unfair trading practice.

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) maintain contact with the buyer 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 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 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 unfair trading practices 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 V

FPROCEDURAL PROVISIONS

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[7]. 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.

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*.

It shall apply from [+ 1 year from the adoption].

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

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

[7] 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).