

Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation) (Text with EEA relevance) (repealed)

CHAPTER III

CONDITIONS GOVERNING MUTUAL ASSISTANCE

Article 11

General responsibilities

- 1 Competent authorities shall fulfil their obligations under this Regulation as though acting on behalf of consumers in their own country and on their own account or at the request of another competent authority in their own country.
- 2 Member States shall take all necessary measures to ensure effective coordination of the application of this Regulation by the competent authorities, other public authorities, bodies having a legitimate interest in the cessation or prohibition of intra-Community infringements designated by them and the competent courts, through the single liaison office.
- 3 Member States shall encourage cooperation between the competent authorities and any other bodies having a legitimate interest under national law in the cessation or prohibition of intra-Community infringements to ensure that potential intra-Community infringements are notified to competent authorities without delay.

Article 12

Request for mutual assistance and information exchange procedures

- 1 The applicant authority shall ensure that all requests for mutual assistance contain sufficient information to enable a requested authority to fulfil the request, including any necessary evidence obtainable only in the territory of the applicant authority.
- 2 Requests shall be sent by the applicant authority to the single liaison office of the requested authority, via the single liaison office of the applicant authority. Requests shall be forwarded by the single liaison office of the requested authority to the appropriate competent authority without delay.
- 3 Requests for assistance and all communication of information shall be made in writing using a standard form and communicated electronically via the database established in Article 10.
- 4 The languages used for requests and for the communication of information shall be agreed by the competent authorities in question before requests have been made. If no agreement can be reached, requests shall be communicated in the official language(s) of the Member State of the applicant authority and responses in the official language(s) of the Member State of the requested authority.

5 Information communicated as a result of a request shall be communicated directly to the applicant authority and simultaneously to the single liaison offices of the applicant and requested authorities.

6 The measures necessary for the implementation of this Article shall be adopted in accordance with the procedure referred to in Article 19(2).

Article 13

Use of information and protection of personal data and professional and commercial secrecy

1 Information communicated may only be used for the purposes of ensuring compliance with the laws that protect consumers' interests.

2 Competent authorities may invoke as evidence any information, documents, findings, statements, certified true copies or intelligence communicated, on the same basis as similar documents obtained in their own country.

3 Information communicated in any form to persons working for competent authorities, courts, other public authorities and the Commission, including information notified to the Commission and stored on the database referred to in Article 10, the disclosure of which would undermine:

- the protection of the privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data,
- the commercial interests of a natural or legal person, including intellectual property,
- court proceedings and legal advice,

or

- the purpose of inspections or investigations,

shall be confidential and be covered by the obligation of professional secrecy, unless its disclosure is necessary to bring about the cessation or prohibition of an intra-Community infringement and the authority communicating the information consents to its disclosure.

4 For the purpose of applying this Regulation, Member States shall adopt the legislative measures necessary to restrict the rights and obligations under Articles 10, 11 and 12 of Directive 95/46/EC as necessary to safeguard the interests referred to in Article 13(1) (d) and (f) of that Directive. The Commission may restrict the rights and obligations under Articles 4(1), 11, 12(1), 13 to 17 and 37(1) of Regulation (EC) No 45/2001 where such restriction constitutes a necessary measure to safeguard the interests referred to in Article 20(1)(a) and (e) of that Regulation.

5 The measures necessary for the implementation of this Article shall be adopted in accordance with the procedure referred to in Article 19(2).

Article 14

Information exchange with third countries

1 When a competent authority receives information from an authority of a third country, it shall communicate the information to the relevant competent authorities of other Member

States, insofar as it is permitted so to do by bilateral assistance agreements with the third country and in accordance with Community legislation regarding the protection of individuals with regard to the processing of personal data.

2 Information communicated under this Regulation may also be communicated to an authority of a third country by a competent authority under a bilateral assistance agreement with the third country, provided the consent of the competent authority that originally communicated the information has been obtained and in accordance with Community legislation regarding the protection of individuals with regard to the processing of personal data.

Article 15

Conditions

1 Member States shall waive all claims for the reimbursement of expenses incurred in applying this Regulation. However, the Member State of the applicant authority shall remain liable to the Member State of the requested authority for any costs and any losses incurred as a result of measures held to be unfounded by a court as far as the substance of the intra-Community infringement is concerned.

2 A requested authority may refuse to comply with a request for enforcement measures under Article 8, following consultation with the applicant authority, if:

- a judicial proceedings have already been initiated or final judgment has already been passed in respect of the same intra-Community infringements and against the same sellers or suppliers before the judicial authorities in the Member State of the requested or applicant authority;
- b in its opinion, following appropriate investigation by the requested authority, no intra-Community infringement has taken place;

or

- c in its opinion the applicant authority has not provided sufficient information in accordance with Article 12(1) except when the requested authority has already refused to comply with a request under paragraph (3)(c) in relation to the same intra-Community infringement.

3 A requested authority may refuse to comply with a request for information under Article 6 if:

- a in its opinion, following consultation with the applicant authority, the information requested is not required by the applicant authority to establish whether an intra-Community infringement has occurred or to establish whether there is a reasonable suspicion it may occur;
- b the applicant authority does not agree that the information is subject to the provisions on confidentiality and professional secrecy set out in Article 13(3);

or

- c criminal investigations or judicial proceedings have already been initiated or final judgment has already been passed in respect of the same intra-Community infringements and against the same sellers or suppliers before the judicial authorities in the Member State of the requested or applicant authority.

4 A requested authority may decide not to comply with the obligations referred to in Article 7 if criminal investigations or judicial proceedings have already been initiated or final judgment has already been passed in respect of the same intra-Community infringements and

against the same sellers or suppliers before the judicial authorities in the Member State of the requested or applicant authority.

5 The requested authority shall inform the applicant authority and the Commission of the grounds for refusing to comply with a request for assistance. The applicant authority may refer the matter to the Commission which shall issue an opinion, in accordance with the procedure referred to in Article 19(2).

6 The measures necessary for the implementation of this Article shall be adopted in accordance with the procedure referred to in Article 19(2).