

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 (Text with EEA relevance)

CHAPTER III

MUTUAL ASSISTANCE MECHANISM

Article 11

Requests for information

1 At the request of an applicant authority, a requested authority shall, without delay, and in any event within 30 days unless otherwise agreed, provide to the applicant authority any relevant information necessary to establish whether an intra-Union infringement has occurred or is occurring, and to bring about the cessation of that infringement.

2 The requested authority shall undertake the appropriate and necessary investigations or take any other necessary or appropriate measures in order to gather the required information. If necessary, those investigations shall be carried out with the assistance of other public authorities or designated bodies.

3 On request from the applicant authority, the requested authority may allow officials of the applicant authority to accompany the officials of the requested authority in the course of their investigations.

Article 12

Requests for enforcement measures

1 At the request of an applicant authority, a requested authority shall take all necessary and proportionate enforcement measures to bring about the cessation or prohibition of the intra-Union infringement by exercising the powers set out in Article 9 and any additional powers granted to it under national law. The requested authority shall determine the appropriate enforcement measures needed to bring about the cessation or prohibition of the intra-Union infringement and shall take them without delay and not later than 6 months after receiving the request, unless it provides specific reasons for extending that period. Where appropriate, the requested authority shall impose penalties, such as fines or periodic penalty payments, on the trader responsible for the intra-Union infringement. The requested authority may receive from the trader, on the trader's initiative, additional remedial commitments for the benefit of consumers that have been affected by the alleged intra-Union infringement, or, where appropriate, may seek to obtain commitments from the trader to offer adequate remedies to consumers that have been affected by that infringement.

2 The requested authority shall regularly inform the applicant authority about the steps and measures taken and the steps and measures that it intends to take. The requested authority shall use the electronic database provided for in Article 35 to notify without delay the applicant authority, the competent authorities of other Member States and the Commission of the measures taken and the effect of those measures on the intra-Union infringement, including the following:

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- a whether interim measures have been imposed;
- b whether the infringement has ceased;
- c which measures have been adopted, and whether those measures have been implemented;
- d the extent to which consumers affected by the alleged infringement have been offered remedial commitments.

Article 13

Procedure for requests for mutual assistance

1 When making a request for mutual assistance, the applicant authority shall provide the information necessary to enable the requested authority to fulfil that request, including any necessary evidence which can only be obtained in the Member State of the applicant authority.

2 The applicant authority shall send such requests for mutual assistance to the single liaison office of the Member State of the requested authority and to the single liaison office of the Member State of the applicant authority for information. The single liaison office of the Member State of the requested authority shall pass the requests on to the appropriate competent authority without delay.

3 Requests for mutual assistance and all communications linked to them shall be made in writing using standard forms and shall be communicated electronically via the electronic database provided for in Article 35.

4 The competent authorities concerned shall agree on the languages to be used for requests for mutual assistance and for all communications linked to them.

5 If no agreement about languages can be reached, requests for mutual assistance shall be sent in the official language, or one of the official languages, of the Member State of the applicant authority and replies in the official language, or one of the official languages, of the Member State of the requested authority. In that case, each competent authority shall be responsible for the necessary translations of the requests, replies and other documents that it receives from another competent authority.

6 The requested authority shall reply directly both to the applicant authority and to the single liaison offices of the Member States of the applicant authority and of the requested authority.

Article 14

Refusal to comply with a request for mutual assistance

1 A requested authority may refuse to comply with a request for information under Article 11 if one or more of the following applies:

- a following a consultation with the applicant authority, it appears that the information requested is not needed by the applicant authority to establish whether an intra-Union infringement has occurred or is occurring, or to establish whether there is a reasonable suspicion that it may occur;
- b the applicant authority does not agree that the information is subject to the rules on confidentiality and on professional and commercial secrecy laid down in Article 33;

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- c criminal investigations or judicial proceedings have already been initiated against the same trader in respect of the same intra-Union infringement before the judicial authorities in the Member State of the requested authority or of the applicant authority.

2 A requested authority may refuse to comply with a request for enforcement measures under Article 12 if, having consulted with the applicant authority, one or more of the following applies:

- a criminal investigations or judicial proceedings have already been initiated, or there is a judgment, a court settlement or a judicial order in respect of the same intra-Union infringement and against the same trader before the judicial authorities in the Member State of the requested 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 or prohibition of the intra-Union infringement;
- c following an appropriate investigation, the requested authority concludes that no intra-Union infringement has occurred;
- d the requested authority concludes that the applicant authority has not provided the information that is necessary in accordance with Article 13(1);
- e the requested authority has accepted commitments proposed by the trader to cease the intra-Union infringement within a set time limit and that time limit has not yet passed.

However, the requested authority shall comply with the request for enforcement measures under Article 12 if the trader fails to implement accepted commitments within the time limit referred to in point (e) of the first subparagraph.

3 The requested authority shall inform the applicant authority and the Commission of any refusal to comply with a request for mutual assistance, together with the reasons for that refusal.

4 In the event of a disagreement between the applicant authority and the requested authority, either the applicant authority or the requested authority may refer the matter to the Commission, which shall issue an opinion on the matter without delay. Where the matter has not been referred to the Commission, the Commission may nevertheless issue an opinion on its own initiative. For the purpose of issuing that opinion, the Commission may ask for relevant information and documents that have been exchanged between the applicant authority and the requested authority.

5 The Commission shall monitor the functioning of the mutual assistance mechanism and the compliance of competent authorities with the procedures and the time limits for handling requests for mutual assistance. The Commission shall have access to the requests for mutual assistance and to the information and documents that have been exchanged between the applicant authority and requested authority.

6 Where appropriate, the Commission may issue guidance and provide advice to the Member States to ensure the effective and efficient functioning of the mutual assistance mechanism.

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Changes and effects yet to be applied to :

- Regulation revoked by virtue of S.I. 2019/203, reg. 8 (as substituted) by [S.I. 2020/1347 reg. 3\(7\)](#)