

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 IV

**COORDINATED INVESTIGATION AND ENFORCEMENT
MECHANISMS FOR WIDESPREAD INFRINGEMENTS AND FOR
WIDESPREAD INFRINGEMENTS WITH A UNION DIMENSION**

Article 15

Procedure for decisions amongst Member States

For matters covered by this Chapter, the competent authorities concerned shall act by consensus.

Article 16

General principles of cooperation

1 Where there is a reasonable suspicion that a widespread infringement or widespread infringement with a Union dimension is taking place, competent authorities concerned by that infringement and the Commission shall inform each other and the single liaison offices concerned by that infringement without delay, by issuing alerts pursuant to Article 26.

2 The competent authorities concerned by the widespread infringement or widespread infringement with a Union dimension shall coordinate the investigation and enforcement measures that they take to address those infringements. They shall exchange all necessary evidence and information and provide each other and the Commission with any necessary assistance without delay.

3 The competent authorities concerned by the widespread infringement or widespread infringement with a Union dimension shall ensure that all necessary evidence and information are gathered, and that all necessary enforcement measures are taken to bring about the cessation or prohibition of that infringement.

4 Without prejudice to paragraph 2, this Regulation shall not affect national investigation and enforcement activities carried out by competent authorities in respect of the same infringement by the same trader.

5 Where appropriate, the competent authorities may invite Commission officials and other accompanying persons, who have been authorised by the Commission, to participate in the coordinated investigations, enforcement actions and other measures covered by this Chapter.

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Article 17

Launch of coordinated action and designation of the coordinator

1 Where there is a reasonable suspicion of a widespread infringement, the competent authorities concerned by that infringement 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 single liaison offices concerned by that infringement and to the Commission, without delay.

2 The competent authorities concerned by the suspected widespread infringement shall designate one competent authority concerned by the suspected widespread infringement to be the coordinator. If those competent authorities are unable to reach agreement on that designation, the Commission shall take the role of coordinator.

3 If the Commission has a reasonable suspicion of a widespread infringement with a Union dimension, it shall without delay notify the competent authorities and the single liaison offices concerned by that alleged infringement pursuant to Article 26. The Commission shall state in the notification the grounds which justify a possible coordinated action. The competent authorities concerned by the alleged widespread infringement with a Union dimension shall conduct appropriate investigations on the basis of information that is available or easily accessible to them. The competent authorities concerned by the alleged widespread infringement with a Union dimension shall notify the results of such investigations to the other competent authorities, the single liaison offices concerned by that infringement and the Commission pursuant to Article 26, within 1 month from the date of the Commission's notification. Where such investigations reveal that a widespread infringement with a Union dimension might be taking place, the competent authorities concerned by that infringement shall start with the coordinated action and shall take the measures set out in Article 19 as well as, where appropriate, the measures set out in Articles 20 and 21.

4 The coordinated actions referred to in paragraph 3 shall be coordinated by the Commission.

5 A competent authority shall join the coordinated action, if it becomes apparent during that coordinated action that the competent authority is concerned by the widespread infringement or the widespread infringement with a Union dimension.

Article 18

Reasons for declining to take part in the coordinated action

1 A competent authority may decline to take part in a coordinated action for any of the following reasons:

- a in respect of the same trader, a criminal investigation or judicial proceedings have already been initiated, a judgement has been given, or a court settlement has been reached, concerning the same infringement in that competent authority's Member State;
- b the exercise of the necessary enforcement powers has already been initiated before the issuing of an alert referred to in Article 17(3), or an administrative decision has been adopted against the same trader in respect of the same infringement in that competent authority's Member State in order to bring about the swift and effective cessation or prohibition of the widespread infringement or widespread infringement with a Union dimension;

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- c following an appropriate investigation, it is apparent that the actual or potential impact of the alleged widespread infringement or widespread infringement with a Union dimension in that competent authority's Member State is negligible and therefore no enforcement measures need to be adopted by that competent authority;
- d the relevant widespread infringement or the widespread infringement with a Union dimension has not occurred in that competent authority's Member State and therefore no enforcement measures need to be adopted by that competent authority;
- e the competent authority has accepted commitments proposed by the trader responsible for the widespread infringement or widespread infringement with a Union dimension to cease that infringement in that competent authority's Member State and those commitments have been implemented, and therefore no enforcement measures need to be adopted by that competent authority.

2 Where a competent authority declines to take part in the coordinated action, it shall inform the Commission and the other competent authorities and single liaison offices concerned by the widespread infringement or widespread infringement with a Union dimension about its decision without delay, stating the reasons for its decision and providing any necessary supporting documents.

Article 19

Investigation measures in coordinated actions

1 The competent authorities concerned by the coordinated action shall ensure that investigations and inspections are conducted in an effective, efficient and coordinated manner. They shall seek, simultaneously with one another, to conduct investigations and inspections and, to the extent that national procedural law so allows, to apply interim measures.

2 The mutual assistance mechanism pursuant to Chapter III may be used if it is needed, in particular to gather necessary evidence and other information from Member States other than the Member States concerned by the coordinated action or to ensure that the trader concerned does not circumvent enforcement measures.

3 Where appropriate, the competent authorities concerned by the coordinated action shall set out the outcome of the investigation and the assessment of the widespread infringement or, where applicable, the widespread infringement with a Union dimension in a common position agreed upon among themselves.

4 Unless otherwise agreed between the competent authorities concerned by the coordinated action, the coordinator shall communicate the common position to the trader responsible for the widespread infringement or the widespread infringement with a Union dimension. The trader responsible for the widespread infringement or the widespread infringement with a Union dimension shall be given the opportunity to be heard on the matters forming part of the common position.

5 Where appropriate, and without prejudice to Article 15 or to the rules on confidentiality and on professional and commercial secrecy laid down in Article 33, the competent authorities concerned by the coordinated action shall decide to publish the common position or parts thereof on their websites, and may seek the views of consumer organisations, trader associations and other parties concerned. The Commission shall publish the common position or parts thereof on its website with the agreement of the competent authorities concerned.

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Article 20

Commitments in coordinated actions

1 On the basis of a common position adopted pursuant to Article 19(3), the competent authorities concerned by the coordinated action may invite the trader responsible for the widespread infringement or the widespread infringement with a Union dimension to propose within a set time limit commitments to cease that infringement. The trader may also, on his own initiative, propose commitments to cease that infringement or offer remedial commitments to consumers that have been affected by that infringement.

2 Where appropriate and without prejudice to the rules on confidentiality and on professional and commercial secrecy laid down in Article 33, the competent authorities concerned by the coordinated action, may publish the commitments proposed by the trader responsible for the widespread infringement or the widespread infringement with a Union dimension on their websites or, if appropriate, the Commission may publish the commitments proposed by that trader on its website if so requested by the competent authorities concerned. Competent authorities and the Commission may seek the views of consumer organisations, trader associations and other parties concerned.

3 The competent authorities concerned by the coordinated action shall assess the proposed commitments and communicate the outcome of the assessment to the trader responsible for the widespread infringement or the widespread infringement with a Union dimension, and, where applicable, if remedial commitments have been offered by the trader, they shall inform consumers that claim that they have suffered harm as a consequence of that infringement. Where commitments are proportionate and are sufficient to bring about the cessation of the widespread infringement or the widespread infringement with a Union dimension, the competent authorities shall accept those commitments and set a time limit within which the commitments have to be implemented.

4 The competent authorities concerned by the coordinated action shall monitor the implementation of the commitments. They shall in particular ensure that the trader responsible for the widespread infringement or the widespread infringement with a Union dimension regularly reports to the coordinator about the progress of the implementation of the commitments. The competent authorities concerned by the coordinated action may, where appropriate, seek the views of consumer organisations and experts to verify whether the steps taken by the trader comply with the commitments.

Article 21

Enforcement measures in coordinated actions

1 The competent authorities concerned by the coordinated action shall take within their jurisdiction all necessary enforcement measures against the trader responsible for the widespread infringement or the widespread infringement with a Union dimension to bring about the cessation or prohibition of that infringement.

Where appropriate, they shall impose penalties, such as fines or periodic penalty payments, on the trader responsible for the widespread infringement or the widespread infringement with a Union dimension. The competent authorities 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 widespread infringement or the alleged

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widespread infringement with a Union dimension, or, where appropriate, may seek to obtain commitments from the trader to offer adequate remedies to the consumers that have been affected by that infringement.

Enforcement measures are in particular appropriate where:

- a an immediate enforcement action is necessary to bring about the swift and effective cessation or prohibition of the infringement;
- b it is unlikely that the infringement will cease as a result of the commitments proposed by the trader responsible for the infringement;
- c the trader responsible for the infringement has not proposed commitments before the expiry of a time limit set by the competent authorities concerned;
- d the commitments that the trader responsible for the infringement proposed are insufficient to ensure the cessation of the infringement or, where appropriate, to provide a remedy to consumers harmed by the infringement; or
- e the trader responsible for the infringement has failed to implement the commitments to cease the infringement or, where appropriate, to provide a remedy to consumers harmed by the infringement, within the time limit referred to in Article 20(3).

2 Enforcement measures pursuant to paragraph 1 shall be taken in an effective, efficient and coordinated manner to bring about the cessation or prohibition of the widespread infringement or the widespread infringement with a Union dimension. The competent authorities concerned by the coordinated action shall seek to take enforcement measures simultaneously in the Member States concerned by that infringement.

Article 22

Closure of the coordinated actions

1 The coordinated action shall be closed if the competent authorities concerned by the coordinated action conclude that the widespread infringement or widespread infringement with a Union dimension has ceased or has been prohibited in all Member States concerned, or that no such infringement was committed.

2 The coordinator shall notify the Commission and, where applicable, the competent authorities and the single liaison offices of the Member States concerned by the coordinated action of the closure of the coordinated action without delay.

Article 23

Role of the coordinator

- 1 The coordinator appointed in accordance with Article 17 or 29 shall in particular:
 - a ensure that all the competent authorities concerned and the Commission are duly informed, in a timely manner, of the progress of the investigation or of the enforcement action, as applicable, and informed of any anticipated next steps and the measures to be adopted;
 - b coordinate and monitor the investigation measures taken by the competent authorities concerned in accordance with this Regulation;
 - c coordinate the preparation and sharing of all necessary documents among the competent authorities concerned and the Commission;

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- d maintain contact with the trader and other parties concerned by the investigation or enforcement measures, as applicable, unless otherwise agreed by the competent authorities concerned and the coordinator;
 - e where applicable, coordinate the assessment, the consultations and the monitoring by the competent authorities concerned as well as other steps necessary to process and implement commitments proposed by the traders concerned;
 - f where applicable, coordinate enforcement measures adopted by the competent authorities concerned;
 - g coordinate requests for mutual assistance submitted by the competent authorities concerned pursuant to Chapter III.
- 2 The coordinator shall not be held responsible for the actions or the omissions of the competent authorities concerned when they make use of the powers set out in Article 9.
- 3 Where the coordinated actions concern widespread infringements or widespread infringements with a Union dimension of the legal acts of the Union referred to in Article 2(10), the coordinator shall invite the European Banking Authority to act as an observer.

Article 24

Language arrangements

- 1 The languages used by the competent authorities for notifications, as well as for all other communications covered by this Chapter which are linked to the coordinated actions and sweeps shall be agreed upon by the competent authorities concerned.
- 2 If no agreement can be reached between the competent 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. In that case, if necessary, each competent authority concerned shall be responsible for translating the notifications, communications and other documents that it receives from other competent authorities.

Article 25

Language arrangements for communication with traders

For the purposes of the procedures set out in this Chapter, the trader shall be entitled to communicate in the official language or one of the official languages used for official purposes of the Member State in which the trader is established or resides.

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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\(7\)](#)