

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enforcement of consumer protection laws (the Regulation on consumer protection cooperation) (Text with EEA relevance) (repealed)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 I

INTRODUCTORY PROVISIONS

Article 1

Objective

This Regulation lays down the conditions under which the competent authorities in the Member States designated as responsible for the enforcement of the laws that protect consumers' interests shall cooperate with each other and with the Commission in order to ensure compliance with those laws and the smooth functioning of the internal market and in order to enhance the protection of consumers' economic interests.

Article 2

Scope

- 1 The provisions on mutual assistance set out in Chapters II and III shall cover intra-Community infringements.
- 2 This Regulation shall be without prejudice to the Community rules on private international law, in particular rules related to court jurisdiction and applicable law.
- 3 This Regulation shall be without prejudice to the application in the Member States of measures relating to judicial cooperation in criminal and civil matters, in particular the operation of the European Judicial Network.
- 4 This Regulation shall be without prejudice to the fulfilment by the Member States of any additional obligations in relation to mutual assistance on the protection of the collective economic interests of consumers, including in criminal matters, ensuing from other legal acts, including bilateral or multilateral agreements.
- 5 This Regulation shall be without prejudice to Directive 98/27/EC of the European Parliament and of the Council of 19 May 1998 on injunctions for the protection of consumers' interests⁽¹⁾.
- 6 This Regulation shall be without prejudice to Community law relating to the internal market, in particular those provisions concerning the free movement of goods and services.
- 7 This Regulation shall be without prejudice to Community law relating to television broadcasting services.

Article 3

Definitions

For the purposes of this Regulation:

- (a) ‘laws that protect consumers’ interests’ means the Directives as transposed into the internal legal order of the Member States and the Regulations listed in the Annex;
- (b) ‘intra-Community infringement’ means any act or omission contrary to the laws that protect consumers’ interests, as defined in (a), that harms, or is likely to harm, the collective interests of consumers residing in a Member State or Member States other than the Member State where the act or omission originated or took place; or where the responsible seller or supplier is established; or where evidence or assets pertaining to the act or omission are to be found;
- (c) ‘competent authority’ means any public authority established either at national, regional or local level with specific responsibilities to enforce the laws that protect consumers’ interests;
- (d) ‘single liaison office’ means the public authority in each Member State designated as responsible for coordinating the application of this Regulation within that Member State;
- (e) ‘competent official’ means an official of a competent authority designated as responsible for the application of this Regulation;
- (f) ‘applicant authority’ means the competent authority that makes a request for mutual assistance;
- (g) ‘requested authority’ means the competent authority that receives a request for mutual assistance;
- (h) ‘seller or supplier’ means any natural or legal person who, in respect of the laws that protect consumers’ interests, is acting for purposes relating to his trade, business, craft or profession;
- (i) ‘market surveillance activities’ means the actions of a competent authority designed to detect whether intra-Community infringements have taken place within its territory;
- (j) ‘consumer complaint’ means a statement, supported by reasonable evidence, that a seller or supplier has committed, or is likely to commit, an infringement of the laws that protect consumers’ interests;
- (k) ‘collective interests of consumers’ means the interests of a number of consumers that have been harmed or are likely to be harmed by an infringement.

Article 4

Competent authorities

1 Each Member State shall designate the competent authorities and a single liaison office responsible for the application of this Regulation.

2 Each Member State may, if necessary in order to fulfil its obligations under this Regulation, designate other public authorities. They may also designate bodies having a legitimate interest in the cessation or prohibition of intra-Community infringements in accordance with Article 8(3).

3 Each competent authority shall, without prejudice to paragraph 4, have the investigation and enforcement powers necessary for the application of this Regulation and shall exercise them in conformity with national law.

4 The competent authorities may exercise the powers referred to in paragraph 3 in conformity with national law either:

- a directly under their own authority or under the supervision of the judicial authorities; or
- b by application to courts competent to grant the necessary decision, including, where appropriate, by appeal, if the application to grant the necessary decision is not successful.

5 Insofar as competent authorities exercise their powers by application to the courts in accordance with paragraph 4(b), those courts shall be competent to grant the necessary decisions.

6 The powers referred to in paragraph 3 shall only be exercised where there is a reasonable suspicion of an intra-Community infringement and shall include, at least, the right:

- a to have access to any relevant document, in any form, related to the intra-Community infringement;
- b to require the supply by any person of relevant information related to the intra-Community infringement;
- c to carry out necessary on-site inspections;
- d to request in writing that the seller or supplier concerned cease the intra-Community infringement;
- e to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking;
- f to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions;
- g to require the losing defendant to make payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision.

7 Member States shall ensure that competent authorities have adequate resources necessary for the application of this Regulation. The competent officials shall observe professional standards and be subject to appropriate internal procedures or rules of conduct that ensure, in particular, the protection of individuals with regard to the processing of personal data, procedural fairness and the proper observance of the confidentiality and professional secrecy provisions established in Article 13.

8 Each competent authority shall make known to the general public the rights and responsibilities it has been granted under this Regulation and shall designate the competent officials.

Article 5

Lists

1 Each Member State shall communicate to the Commission and the other Member States the identities of the competent authorities, of other public authorities and bodies having a legitimate interest in the cessation or prohibition of intra-Community infringements, and of the single liaison office.

2 The Commission shall publish and update the list of single liaison offices and competent authorities in the *Official Journal of the European Union*.

CHAPTER II

MUTUAL ASSISTANCE

Article 6

Exchange of information on request

1 A requested authority shall, on request from an applicant authority, in accordance with Article 4, supply without delay any relevant information required to establish whether an intra-Community infringement has occurred or to establish whether there is a reasonable suspicion it may occur.

2 The requested authority shall undertake, if necessary with the assistance of other public authorities, the appropriate investigations or any other necessary or appropriate measures in accordance with Article 4, in order to gather the required information.

3 On request from the applicant authority, the requested authority may permit a competent official of the applicant authority to accompany the officials of the requested authority in the course of their investigations.

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

Article 7

Exchange of information without request

1 When a competent authority becomes aware of an intra-Community infringement, or reasonably suspects that such an infringement may occur, it shall notify the competent authorities of other Member States and the Commission, supplying all necessary information, without delay.

2 When a competent authority takes further enforcement measures or receives requests for mutual assistance in relation to the intra-Community infringement, it shall notify the competent authorities of other Member States and the Commission.

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

Article 8

Requests for enforcement measures

1 A requested authority shall, on request from an applicant authority, take all necessary enforcement measures to bring about the cessation or prohibition of the intra-Community infringement without delay.

2 In order to fulfil its obligations under paragraph 1, the requested authority shall exercise the powers set out under Article 4(6) and any additional powers granted to it under national law. The requested authority shall determine, if necessary with the assistance of other public authorities, the enforcement measures to be taken to bring about the cessation or prohibition of the intra-Community infringement in a proportionate, efficient and effective way.

3 The requested authority may also fulfil its obligations under paragraphs 1 and 2 by instructing a body designated in accordance with the second sentence of Article 4(2) as having a legitimate interest in the cessation or prohibition of intra-Community infringements to take all necessary enforcement measures available to it under national law to bring about the cessation or prohibition of the intra-Community infringement on behalf of the requested authority. In the event of a failure by that body to bring about the cessation or prohibition of the intra-Community infringement without delay, the obligations of the requested authority under paragraphs 1 and 2 shall remain.

4 The requested authority may only take the measures set out in paragraph 3 if, after consultation with the applicant authority on the use of these measures, both applicant and requested authority are in agreement that:

- use of the measures in paragraph 3 is likely to bring about the cessation or prohibition of the intra-Community infringement in at least equally efficient and effective a way as action by the requested authority,
- and
- the instruction of the body designated under national law does not give rise to any disclosure to that body of information protected under Article 13.

5 If the applicant authority is of the opinion that the conditions set out under paragraph 4 are not fulfilled, it shall inform the requested authority in writing, setting out the grounds for its opinion. If the applicant authority and the requested authority are not in agreement, the requested 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 requested authority may consult the applicant authority in the course of taking the enforcement measures referred to in paragraphs 1 and 2. The requested authority shall notify without delay the applicant authority, the competent authorities of other Member States and the Commission of the measures taken and the effect thereof on the intra-Community infringement, including whether it has ceased.

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

Article 9

Coordination of market surveillance and enforcement activities

1 Competent authorities shall coordinate their market surveillance and enforcement activities. They shall exchange all information necessary to achieve this.

2 When competent authorities become aware that an intra-Community infringement harms the interests of consumers in more than two Member States, the competent authorities concerned shall coordinate their enforcement actions and requests for mutual assistance via the single liaison office. In particular they shall seek to conduct simultaneous investigations and enforcement measures.

3 The competent authorities shall inform the Commission in advance of this coordination and may invite the officials and other accompanying persons authorised by the Commission to participate.

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

Article 10

Database

1 The Commission shall maintain an electronic database in which it shall store and process the information it receives under Articles 7, 8 and 9. The database shall be made available for consultation only by the competent authorities. In relation to their responsibilities to notify information for storage in the database and the processing of personal data involved therein, the competent authorities shall be regarded as controllers in accordance with Article 2(d) of Directive 95/46/EC. In relation to its responsibilities under this Article and the processing of personal data involved therein, the Commission shall be regarded as a controller in accordance with Article 2(d) of Regulation (EC) No 45/2001.

2 Where a competent authority establishes that a notification of an intra-Community infringement made by it pursuant to Article 7 has subsequently proved to be unfounded, it shall withdraw the notification and the Commission shall without delay remove the information from the database. Where a requested authority notifies the Commission under Article 8(6) that an intra-Community infringement has ceased, the stored data relating to the intra-Community infringement shall be deleted five years after the notification.

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

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).

CHAPTER IV

COMMUNITY ACTIVITIES

Article 16

Enforcement coordination

1 To the extent necessary to achieve the objectives of this Regulation, Member States shall inform each other and the Commission of their activities of Community interest in areas such as:

- a the training of their consumer protection enforcement officials, including language training and the organisation of training seminars;
- b the collection and classification of consumer complaints;
- c the development of sector-specific networks of competent officials;
- d the development of information and communication tools;
- e the development of standards, methodologies and guidelines for consumer protection enforcement officials;
- f the exchange of their officials.

Member States may, in cooperation with the Commission, carry out common activities in the areas referred to in (a) to (f). The Member States shall, in cooperation with the Commission, develop a common framework for the classification of consumer complaints.

2 The competent authorities may exchange competent officials in order to improve cooperation. The competent authorities shall take the necessary measures to enable exchanged competent officials to play an effective part in activities of the competent authority. To this end such officials shall be authorised to carry out the duties entrusted to them by the host competent authority in accordance with the laws of its Member State.

3 During the exchange the civil and criminal liability of the competent official shall be treated in the same way as that of the officials of the host competent authority. Exchanged competent officials shall observe professional standards and be subject to the appropriate internal rules of conduct of the host competent authority that ensure, in particular, the protection of individuals with regard to the processing of personal data, procedural fairness and the proper observance of the confidentiality and professional secrecy provisions established in Article 13.

4 The Community measures necessary for the implementation of this Article, including the arrangements for implementing common activities, shall be adopted in accordance with the procedure referred to in Article 19(2).

Article 17

Administrative cooperation

1 To the extent necessary to achieve the objectives of this Regulation, Member States shall inform each other and the Commission of their activities of Community interest in areas such as:

- a consumer information and advice;
- b support of the activities of consumer representatives;
- c support of the activities of bodies responsible for the extra-judicial settlement of consumer disputes;
- d support of consumers' access to justice;
- e collection of statistics, the results of research or other information relating to consumer behaviour, attitudes and outcomes.

Member States may, in cooperation with the Commission, carry out common activities in the areas referred to in (a) to (e). The Member States shall, in cooperation with the Commission, develop a common framework for the activities referred to in (e).

2 The Community measures necessary for the implementation of this Article, including the arrangements for implementing common activities, shall be adopted in accordance with the procedure referred to in Article 19(2).

Article 18

International agreements

The Community shall cooperate with third countries and with the competent international organisations in the areas covered by this Regulation in order to enhance the protection of consumers' economic interests. The arrangements for cooperation, including the establishment of mutual assistance arrangements, may be the subject of agreements between the Community and the third countries concerned.

CHAPTER V

FINAL PROVISIONS

Article 19

Committee procedure

1 The Commission shall be assisted by a Committee.

2 Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3 The Committee shall adopt its Rules of Procedure.

Article 20

Committee tasks

1 The Committee may examine all matters relating to the application of this Regulation raised by its chairman, either on his own initiative or at the request of the representative of a Member State.

2 In particular, it shall examine and evaluate how the arrangements for cooperation provided for in this Regulation are working.

Article 21

Reports

1 Member States shall communicate to the Commission the text of any provisions of national law that they adopt, or of agreements other than to deal with individual cases that they conclude, on matters covered by this Regulation.

2 Every two years from the date of entry into force of this Regulation, the Member States shall report to the Commission on the application of this Regulation. The Commission shall make these reports publicly available.

3 The reports shall address:

- a any new information about the organisation, powers, resources or responsibilities of the competent authorities;
- b any information concerning trends, means or methods of committing intra-Community infringements, particularly those that have revealed shortcomings or lacunae in this Regulation or in the laws that protect consumers' interests;
- c any information on enforcement techniques that have proved their effectiveness;
- d summary statistics relating to the activities of competent authorities, such as actions under this Regulation, complaints received, enforcement actions and judgments;
- e summaries of significant national interpretative judgments in the laws that protect consumers' interests;
- f any other information relevant to the application of this Regulation.

4 The Commission shall submit to the European Parliament and the Council a report on the application of this Regulation on the basis of the reports of the Member States.

Article 22

Entry into force

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply from 29 December 2005.

The provisions on mutual assistance set out in Chapters II and III shall apply from 29 December 2006.

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

Done at Strasbourg, 27 October 2004.

For the European Parliament

The President

J. P. BORRELL FONTELLES

For the Council

The President

A. NICOLAI

Status: This is the original version (as it was originally adopted).

- (1) [OJ L 166, 11.6.1998, p. 51](#). Directive as last amended by Directive 2002/65/EC ([OJ L 271, 9.10.2002, p. 16](#)).