



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Deputy Director-General, in charge of Directorates G, H and I

Brussels, 14 January 2022

AGRI.DDG3/G.1/[Art 4.1]

Ares(2022)294571(b)

By e-mail only

[Art 4.1 (b) - Privacy]

Thank you for the questions in your letter of 18 October 2021 concerning the implementation of the Directive (EU) 2019/633 on unfair trading practices ('the Directive'). In your e-mail, you inquire whether the Directive is applicable to business relations *between* joint or linked enterprises.

According to Article 1 of the Directive, the Directive constrains possible unfair behaviour in relations between buyers and suppliers in the agricultural and food supply chain. It applies to buyers, or groups of buyers, whether registered in the same State as the supplier or in another State including in non-EU States.

As indicated in recital 10, the protection of the Directive should benefit agricultural producers, any natural or legal person that supplies agricultural and food products; the constraining effect of the Directive applies also to producer organisations (e. g. cooperatives) and associations of producer organisations when they buy products from their farmer members. The same logic applies to linked or joint enterprises when they buy agri-food products; in this regard, it does not matter for the application of the Directive that the buyer and supplier pertain to the same enterprise. This is also inherent to the objectives of the Directive to protect weaker suppliers of agricultural and food products that are particularly vulnerable to unfair trading practices vis-à-vis stronger buyers.

As mentioned in your letter, the annual turnover of the suppliers and buyers, respectively, should be calculated in accordance with the relevant parts of the Annex to Commission Recommendation 2003/361/EC and in particular Articles 3, 4 and 6 thereof, including the definitions of 'autonomous enterprise', 'partner enterprise' and 'linked enterprise', and other issues relating to the annual turnover.

[Art 4.1 (b) - Privacy]

Directorate for Agricultural Land,
Plant Production and Market
Croatian Ministry of Agriculture

[Art 4.1 (b) - Privacy]

The present opinion is provided on the basis of the facts as set out in your request for information of 18 October 2021 and expresses the view of the Commission services and does not commit the European Commission. In the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the European Court of Justice to provide a definitive interpretation of the applicable Union law.

Please be advised that we intend to share your questions and our replies with other Member States and designated enforcement authorities via the CIRCABC system to facilitate the consistent transposition of the Directive. Doing so, we will redact any personal information.

Yours sincerely,

(Signed)

Michael SCANNELL

c.c.: [Art 4.1 (b) - Privacy] Croatian Permanent Representation to the EU