



Brussels, 1 December 2025  
(OR. en)

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## COVER NOTE

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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	1 December 2025
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

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No. Cion doc.:	SWD(2025) 405 final
Subject:	COMMISSION STAFF WORKING DOCUMENT Evaluation of the Directive (EU) 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain Accompanying the document REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS Evaluation of the Unfair Trading Practices Directive

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Delegations will find attached document SWD(2025) 405 final.

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Encl.: SWD(2025) 405 final



EUROPEAN  
COMMISSION

Brussels, 1.12.2025  
SWD(2025) 405 final

## **COMMISSION STAFF WORKING DOCUMENT**

**Evaluation of the Directive (EU) 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain**

*Accompanying the document*

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE  
COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE  
COMMITTEE OF THE REGIONS**

**Evaluation of the Unfair Trading Practices Directive**

{COM(2025) 728 final}

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## Glossary

Term or acronym	Meaning or definition
BR	Better Regulation
CA(s)	Competent Authority(ies). Public authorities e.g. Ministries involved in the transposition of the Directive into national legal orders.
CAP	Common agricultural policy
CfE	Call for evidence
CMO	Regulation (EU) No 1308/2013 establishing a common organisation of the markets in agriculture
Commission	European Commission
CoR	Committee of Regions
Council	Council of the European Union
DG(s)	Directorate(s)-General of the European Commission
(UTP) Directive	Directive (EU) 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain
DSO	Days of sales outstanding
EA(s)	Enforcement Authority(ies)
EC	European Commission
EEN	Enterprise Europe Network
EESC	European Economic and Social Committee
EP	European Parliament
EU	European Union
ISG	Inter-service steering group
JRC	Joint research centre
MCDA	Multi criteria decision analysis
MS(s)	Member State(s) of the European Union
NGO(s)	Non-governmental organisation(s)
RSB	Regulatory Scrutiny Board
SDG(s)	Sustainable Development Goal(s)
SME(s)	Small and medium sized enterprise
SWD	European Commission Staff Working Document
TFEU	Treaty on the Functioning of the European Union
UTP IA 2018	Impact Assessment accompanying the UTP Directive proposal
UTP(s)	Unfair trading practice(s)

## 1. INTRODUCTION

The [Directive \(EU\) 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain](#) (‘UTP Directive’ or, if not specified otherwise, ‘Directive’) sets minimum rules to better protect farmers and small and medium sized suppliers operating in the agricultural and food supply chain, including primary production in the fishery and aquaculture sectors, from trading practices that are considered unfair. This document presents the findings of the **first interim evaluation of the Directive** which assessed the extent to which it is successful in doing so.

### 1.1. Purpose and scope of the evaluation

The legal base for this evaluation is Article 12 of the UTP Directive. It requires the European Commission to carry out an evaluation assessing the effectiveness of the measures implemented at national level aimed at combating unfair trading practices (UTPs) in the agricultural and food supply chain as well as the effectiveness of cooperation among national, competent enforcement authorities (EAs) and, where appropriate, to identify ways to improve that cooperation.

The evaluation **serves as a basis to the Commission’s Report** on the Directive to the European Parliament, the Council of the European Union, the Committee of Regions and the European Economic and Social Committee **by 1 November 2025**. As groundwork to the Report, the evaluation informs reflections on the opportunity and, if relevant, extent of possible amendments of the UTP Directive. **This deadline directly affects the evaluation’s timing.**

The evaluation period spans from the entry into force of the Directive from end of April 2019 up to March 2025. Given the need for transposition of the EU rules by EU Member States (MSs) into their respective national legal orders, a 12-month transition period for existing agreements, as well as evidence gathering activities and availability, the **focus of the evaluation lies in the period 2022-24.**

The geographical focus of the evaluation is the EU. The evaluation assesses the effectiveness of the EU measures as implemented in MSs, hence with a focus on the **EU dimension of the Directive** and especially **on minimum harmonisation** i.e. those elements of the Directive representing the minimum, common EU level standard that MSs were obliged to transpose into their national legal orders and implement. It does not systematically evaluate the national transposing legislation and measures of each MS. Additional, MSs-specific elements are considered as contextual elements in view of a more refined assessment. Put differently, the evaluation’s approach mirrors the principle of subsidiarity.

Besides fulfilling the legal obligation set out in the Directive, the evaluation has been executed in light of the Commission’s [Better Regulation](#) (BR) framework, a set of (analytical) tools and procedures to which the European Commission (EC) committed itself in view of better policy making. In line with them, this evaluation report covers **all five main evaluation criteria** set out therein. It examines to what extent the Directive has been:

- **effective** in meeting its objectives of strengthening the resilience of weaker operators in the agri-food supply chain, in particular farmers, of improving the functioning of the agri-food supply chain and of contributing to fair living standards for the agricultural community <sup>(1)</sup>;
- **efficient** in terms of cost-effectiveness i.e. the proportionality of costs the Directive imposed compared to benefits it produces to main stakeholders;
- **relevant** compared to past, current and emerging needs related to tackling abuses of power imbalances in the agri-food supply chain;
- **coherent** with the common agricultural policy (CAP) and other, pertinent EU policies;
- providing **EU added value** i.e. producing results beyond those that would have been achieved by MSs acting each on their own i.e. adopting (or not) national UTP related legislation.

The evaluation process strived to collect to the best possible extent all available evidence, complementing it with extensive data collection primarily drawing from

- (1) an **evaluation support study** <sup>(2)</sup>, which, starting from in-depth analysis of 91 secondary sources, encompasses **extensive, targeted consultation activities** in the form of (i) **two workshops**, (ii) about **130 interviews**, (iii) **three targeted surveys** (covering wholesalers and retailers, EU and national level sector associations (from farming to agri-food retail, together representing around 1.1 million member companies) and to public authorities, (iv) **10 case studies** focusing on selected agri-food supply chains in different MSs. Case studies, the CA/EA survey and parts of the interviews and sector association survey delve also into national aspects.

In terms of recurrent evidence collection i.e. **monitoring**:

- (2) **the annual public survey**, <sup>(3)</sup> open to **suppliers** in the agri-food chain under the scope of the Directive, covering **five survey waves**: from a pre-implementation baseline year 2020 to 2024;
- (3) **annual reports by MSs to the EC**, reporting on about 10 metrics encompassing, the numbers of guidance cases, investigations, formal complaints, sector inquiries, infringements, for the years 2021 to 2024;

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<sup>(1)</sup> Given Article 12(2) of the Directive, particular attention has been paid to this criterion.

<sup>(2)</sup> [`Evaluation support study of the EU Directive 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain`](#) (DOI: 10.2762/2191333).

<sup>(3)</sup> Interactive dashboards on survey results carried out by the Commission's science and knowledge service, the Joint Research Centre (JRC), are publicly available here: <https://datam.jrc.ec.europa.eu/datam/topic/UTP/>.

- (4) regular EU level **UTP Enforcement Network meetings** among competent EAs with the participation of the EC.

In terms of further main evidence sources:

- (5) **first assessments and interim evaluations on national transpositions** of the Directive ([Belgium](#) (December 2024), [Denmark](#) (November 2024), [Germany](#) (October 2023), [Sweden](#) (2025));
- (6) **national level annual activity reports of EAs** at times complemented by *ad hoc* surveys and analytical briefs <sup>(4)</sup>;
- (7) **SME panel targeted survey** carried out by the EC to directly reach SMEs in the agri-food supply chain and complementing (2) *above* to specifically target small operators which are predominantly operating also as ‘buyers’;
- (8) **previous EC reports on the Directive** of [October 2021](#) (‘UTP Report 2021’) on the state of transposition and implementation of Directive and [April 2024](#) (‘UTP Report 2024’) on an updated state of play of the implementation accompanied by a Commission [Staff Working Document](#) (SWD – ‘UTP SWD 2024’) with further details on [MSs’ transposition choices](#) and enforcement activities.

Further sources of evidence are the [evaluation report of the EESC](#), and the [Opinion of the Fit4 Future Platform](#), a high-level expert group, in operation from 2021-24, composed of stakeholders and representatives from MSs assisting the Commission in simplifying and future-proofing existing laws. A summary of the consultation of stakeholders can be found in *Annex V Stakeholders’ consultation - Synopsis report*.

In addition, in terms of **methodological approaches** the evaluation encompasses multi criteria decision analysis (MCDA), cost models, supply chain analysis, descriptive statistical analysis as well as some *ad hoc* approaches to estimate costs and benefits accrued to stakeholders paired with qualitative analysis. *Annex II Methodology and Analytical models used* provides a more detailed explanation. It also presents limitations to the evaluation more in detail and how these were addressed and mitigated.

Indeed, this evaluation faces **four non-negligible limitations**: Firstly, the main limitation is the **short time span of actual implementation** of the Directive, which suggests that **results have not yet fully materialised** <sup>(5)</sup>. Secondly, different legislative situations at the start of the implementation period as well as transposition in many cases beyond the minimum harmonisation requirements of the Directive, make the EU level evaluation complex. It is challenging to **disentangle impacts resulting from the implementation of the minimum harmonisation provisions from the ones of national transpositions and attribute effects only to the elements present in the Directive**. A third set of limitations concerns the difficulty, intimately linked to the specific kind of problems the Directive

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<sup>(4)</sup> Hyperlinks to web-pages of national EAs are collected and published at the [EC’s UTP Webpage](#). A large majority of annual activity reports can be retrieved there. Summaries can be found in *Annex VI*.

<sup>(5)</sup> This limitation was also acknowledged by the [Fit for Future Platform](#), in its [Opinion](#) adopted in 2024.

seeks to address, to **retrieve quantitative and robust data**, for instance, information linked to confidential commercial transactions, or the ‘fear factor’ (see *below*). Finally, strong external factors such as, for instance, high inflation due to the consequences of the COVID 19 pandemic, paired with the complexity of agri-food supply chain(s) confound the effects of the Directive making attribution of effects to the Directive challenging.

These interacting limitations and challenges are compounded by the **limited empirical evidence in the post-implementation period** and the **uniqueness of the Directive** as regulatory instrument with no comparable approaches in terms of scope and depth outside the EU that could be taken as evaluation benchmark <sup>(6)</sup>.

## 2. WHAT WAS THE EXPECTED OUTCOME OF THE INTERVENTION?

This section recalls the rationale and most important components of the Directive. It also presents what success of the Directive was expected to look like and derives points of comparison on how to compare it to what actually happened.

### 2.1. Description of the intervention and its objectives

Power imbalances in markets have been an ongoing concern for market operators, academics and policymakers across all EU economic sectors, when they become a source of risk for abusive behaviour by more powerful market participants. Two used conceptual frameworks to capture power imbalances are ‘market power’ and ‘bargaining power’. Although related, the concepts capture distinct traits of power. **Market power**, often associated with high levels of concentration in a relevant market, can be defined as ‘*the ability of a firm to raise prices above competitive levels in a profitable way*’ <sup>(7)</sup>. This generates profits for the supplier (buyer) but diminishes demand (or supply) in the product markets, leading to welfare losses. Many parts of the agri-food market are more complex than the simple scenario where just one side has market power. In the agri-food chain many interactions involve both horizontal and vertical coordination typically achieved through contracts. These contracts can boost the overall economic benefits but the distribution of these among transacting operators depends on their relative **bargaining power**. Bargaining power focuses on the arrangements between transacting parties (e.g. through written contracts) and not on the (relevant) market as a whole i.e. a multitude of market participants. In line with this approach, the party that is to gain the most from being involved in a transaction is the potentially more vulnerable one and has less bargaining power than the other <sup>(8)</sup>. In the context of these often bilateral (or multilateral <sup>(9)</sup>)

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<sup>(6)</sup> Though there have been several studies **before** the implementation of the Directive i.e. before 2021, scientific, empirical literature on the effects on the ground after 2021 is yet scarce. See, for instance, the bibliography to the evaluation support study for an overview.

<sup>(7)</sup> [BR-toolbox](#), Tool # 24.

<sup>(8)</sup> Falkowski, J., C. Ménard, R.J. Sexton, J. Swinnen and S. Vandeveld (Authors), Marcantonio, F. Di and P. Ciaian (Editors) (2017), [Unfair trading practices in the food supply chain: A literature review on methodologies, impacts and regulatory aspects](#), European Commission, Joint Research Centre.

<sup>(9)</sup> Cafaggi, Fabrizio and Iamiceli, Paola, [Unfair Trading Practices in Food Supply Chains. Regulatory Responses and Institutional Alternatives in the Light of the New EU Directive](#) (2019), discusses multilateral exchanges in global food supply chains (p.11).



interactions of market operators, one party can obtain a concession from another by threatening to impose a cost or withdraw a benefit if the concession is not granted. While both bargaining and market power can result in lower prices or surplus transfers, *‘the key difference is that the exertion of market power always determines lower trade level compared to perfect competition, while this conclusion is not necessarily true in the case of bargaining power’* <sup>(10)</sup>.

EU competition law is clear in addressing the **abuse of** dominant position, i.e. anticompetitive behaviour by dominant undertakings. However, a focus of competition law on market power by addressing anticompetitive practices of dominant undertakings, may not always be able to capture all (abuses of) power relations <sup>(11)</sup>.

The issue of (abuses of) **bargaining power** has been especially acute in the EU **agricultural sector** with agricultural producers being particularly exposed to the ‘emergence’ of bargaining power imbalances due to specific, contextual conditions inherent to this sector, which expose them to potentially abusive behaviour by stronger counterparties in their transactions.

Although risk is inherent in all economic activity, agriculture is **fraught with uncertainty**, in particular, but not exclusively, due to **weather** which has a direct impact on the variability of the quantity and quality of produce supplied. Moreover, there are **long production lags** due to the **biological processes** on which agricultural production depends. These factors can have a significant impact on farmers’ production activities, and yet they have practically no control over them.

These (uncertain) circumstances often cannot be fully captured by contracts. This so-called incompleteness of contracts is a further factor contributing to the emergence of bargaining power imbalances <sup>(12)</sup>.

**Moreover, short-run inelastic <sup>(13)</sup> supply** exposes agricultural producers: processors’ contracts are typically shorter than the lifetime of the assets required by farmers to produce, leading to the ‘holdup’ problem <sup>(14)</sup>: anticipating that, for example, processors can take

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<sup>(10)</sup> Sorrentino, Alessandro, Carlo Russo, and Luca Cacchiarelli. 2018. [‘Market Power and Bargaining Power in the EU Food Supply Chain: The Role of Producer Organizations.’](#) Section 2.2.

<sup>(11)</sup> Ibid; as well as UTP IA 2018 Annex H: *‘Indeed competition law only deals with situations where a particular seller/buyer possesses a “dominant position” in that it has some power over buyers/suppliers in general, and not only over one or few particular firm(s), and where there are likely anti-competitive effects. Therefore, unequal bargaining power and resulting imbalances in trading relationships rarely imply an infringement of competition law. Such issues may be, where appropriate, addressed by other policy tools, [...]’* (emphasis added). As well as: Renda, A., Cafaggi, F., Pelkmans, J., Iamiceli, P., de Brito, A. C., Mustilli, F. and Bebber, L. Study on the [Legal Framework Covering Business-to-Business Unfair Trading Practices in the Retail Supply Chain](#). DG Internal Market, European Commission, 2014.

<sup>(12)</sup> Russo, C., editor (2020), JRC, [Pass-through of unfair trading practices in EU food supply chains](#).

<sup>(13)</sup> Inelasticity refers to a situation where the quantity demanded or supplied of a good is relatively unresponsive to changes in price (and the other way around). For instance, even if the price of a good increases or decreases (substantially), the amount consumers buy, or producers sell does not change much. Demand and supply of agricultural and food products are typically considered inelastic.

<sup>(14)</sup> The hold-up problem occurs when two parties may be able to cooperate (e.g. trade) for mutual benefit, but one party takes advantage of the situation after the other party has made a non-recoverable

advantage of short-run inelastic supply, agricultural producers underinvest in specialised production assets relative to the (socially) optimal level pointing towards a market failure.

**Short run supply in-elasticities** of agricultural production are further exacerbated by the **perishability of products** and **limited selling channels**. The EU agri-food supply chain is characterised by market concentration in processing, distribution and retail stage, while on the contrary the farming stage is fragmented. <sup>(15)</sup> Limited selling channels might also be the consequence of **geographical circumstances**: an agricultural producer in a remote area might have only a single processor to which to sell a perishable product e.g. milk <sup>(16)</sup>.

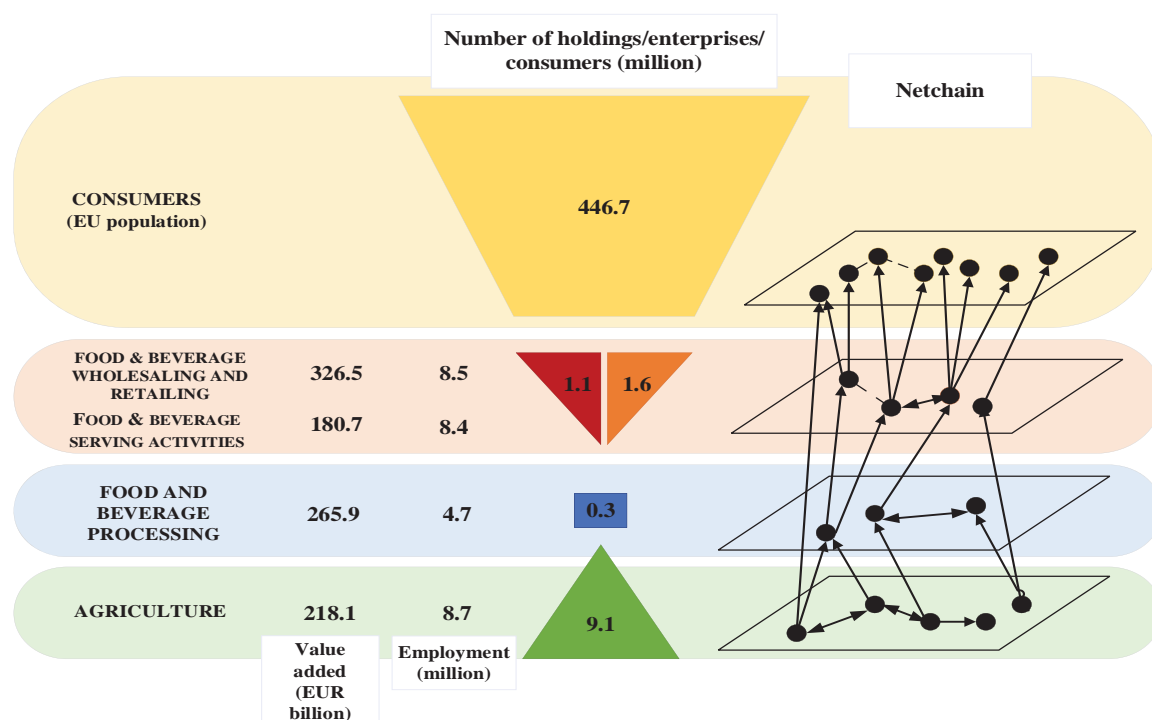
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investment. For example, if a supplier invests in specialised equipment to produce goods for a specific buyer, the buyer might later demand a lower price, knowing that the supplier cannot easily switch to another customer without incurring significant costs.

(<sup>15</sup>) Eurostat, [Key Figures on the European Food Chain – 2024 Edition](#) for an overview; European Commission, Joint Research Centre Technical Report - [Market Power in Food Industry in Selected EU Member States](#) (2021) for a more detailed discussion of various metrics, sub-sectors, geographical levels and stages in the EU agri-food supply chain. Also a recent study has shown that, the EU agri-food chain displays notable market concentration in particular at the manufacturing and retail and wholesale stage and markups in some MSs, supporting the notion that **market** power likely exists in several of the European agri-food chain(s), potentially creating negative welfare and distributional effects. See Nes, Kjersti, Liesbeth Colen, and Pavel Ciaian. 2024. '[Market Structure, Power, and the Unfair Trading Practices Directive in the EU Food Sector: A Review of Indicators.](#)' for an in depth discussion. The authors also discuss turnover thresholds employed to approximate bargaining power in the UTP Directive finding that '*Despite limited theoretical and empirical support for the use of turnover as an indicator of power, we find that – in its practical implementation – most buyers in the highly concentrated food subsectors, would indeed fall under the directive. While being a very imprecise indicator, it has the advantage of being easy and provide predictability in the legal rights and obligations for operators engaging in transactional relationships.*'

(<sup>16</sup>) Ibid. as well as Eurostat, [Farm Structure Survey 2020](#). For a discussion at the time of the legislative proposal see UTP IA 2018 Annex C, especially parts 1 to 5.

*Figure 1: Stylised representation of the EU agri-food net chain from farmers to consumers (2022).*



Source: DG AGRI based on [CAP specific objectives explained – Brief No. 3, Key Figures on the European Food Chain – 2024 Edition](#) and Russo, C., editor (2020), JRC, [Pass-through of unfair trading practices in EU food supply chains](#). For agriculture: number of holdings and employment, 2020.

Food is a necessity, and consumers will continue to purchase it even when prices change. While this **in-elastic demand** for food is not detrimental to agricultural producers in all circumstances, it can (and often does) amplify (demand) shocks in terms of enhanced price volatility, further intensifying the pressure on the bargaining power to the detriment of agricultural producers.

Finally, as already discussed in the UTP IA 2018, increased market orientation in agriculture has come with challenges for farmers. Successive reforms of the CAP since 1992 have led to a shift from price to income support. Accordingly, primary producers no longer experience systematic price support via market measures. Support through the CAP is provided through decoupled income support (so called direct payments) i.e. monetary support payments not related to production levels of the farmer who get them. The integration of EU agri-food supply chains in global markets presents opportunities but also risks. Trade barriers have been removed through trade agreements. This has resulted in EU prices of agricultural products being largely aligned with world market prices. EU agriculture has become more competitive in this new global context contributing to the recurrent annual trade surpluses the EU has achieved in food products. **But the removal of price support and the insertion into global markets have exposed the EU agri-food sector to global market instabilities and their corollary, price volatility.**

All these elements contribute to farmers, on average, being in a situation with **less relative bargaining power when compared to average downstream operators in the EU agri-food supply chain they trade with** i.e. sell their produce. This relative disparity makes them vulnerable to unfair trading practices, such as unilateral impositions by trading

partners downstream i.e. taking advantage of their superior bargaining power thought practices that grossly deviate from good commercial conduct and are contrary to good faith and fair dealing. These practices are not only perceived as unfair, contributing to a climate of distrust, but can also impair the efficient functioning of the agri-food supply chain.

Within this context, the policy discussion about measures addressing unfair practices at the EU level dates back to 2009. There was consensus among a large part of stakeholders that such trading practices were occurring throughout the agri-food supply chain and were detrimental to its good functioning <sup>(17)</sup>. Some MSs had implemented legislation at national level. The EC had put forward several EU level soft measures based primarily on voluntary approaches to address unfair practices, such as the ‘Supply Chain Initiative’ <sup>(18)</sup>. However, given the persistence of MSs legal and, in part, *de facto* heterogeneous situation in terms of occurrence as well as level of protection granted to weaker suppliers <sup>(19)</sup>, stronger action

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(<sup>17</sup>) ‘There is a wide-spread consensus that UTPs occur throughout the food supply chain. Their frequency distinguishes the food supply chain from other supply chains in terms of the magnitude of the problem. [...] Specific UTP rules in 20 Member States bear witness to the significant concern about UTPs at the national level. [...] The open public consultation of 2017 confirms the perception that UTPs are an issue in the food supply chain: 90% of respondents agreed or partially agreed that such practices existed. Confirmation rates ranged between 80% for trade organisations to 98% for civil society respondents, 93% for organisations in the farming sector and 86% for organisations in the agri-food sector. A 2016 study also concluded that UTPs occurred across all Member States and at all stages of the food supply chain and that they were perceived as serious by most stakeholders.’ UTP IA 2018 p. 12 and p 13. See also recital 8 of the Directive.

(<sup>18</sup>) See UTP IA 2018 (p.8 as well as Annex A).

(<sup>19</sup>) A detailed overview on ‘Specific regulations on Unfair Trading Practices in Member States in the Business-to-Business Retail Supply Chain’ before the adoption of the Directive can be found in Annex F (p.142-259) of the UTP IA 2018. Before the introduction of the UTP Directive, the laws regulating UTPs in MSs differed in several ways:

- The presence of dedicated UTP legislation itself: Some MSs did not have any legislation on UTPs (Estonia, Luxembourg, Malta, the Netherlands). Others had legislation limited in scope mainly consumer-type UTP approach (Belgium, Denmark, Finland, Sweden). While others had specific legislation on UTPs which however differed.

- The legislative coverage and instruments: Italy, for instance, had adopted specific business-to-business legislation for UTPs, where the definition of UTPs was incorporated by reference into its legal framework. In contrast, Belgium extended consumer protection laws to cover certain business-to-business practices, focusing primarily on pre-contractual information and advertising.

- The scope of legislation: for instance, Croatia's Act on the prohibition of UTPs provided both general and specific lists of prohibited UTPs based on the type of relationship, such as between supplier and buyer or reseller. Similarly, the French Commercial Code included both general provisions and specific provisions related to distribution contractual relations.

- The types of practices covered: Slovenia, for example, targeted payment periods longer than 45 days, differing slightly from the more common 30-day period in other MSs. Ireland specifically addressed last-minute order cancellations concerning perishable products as part of its UTP regulations.

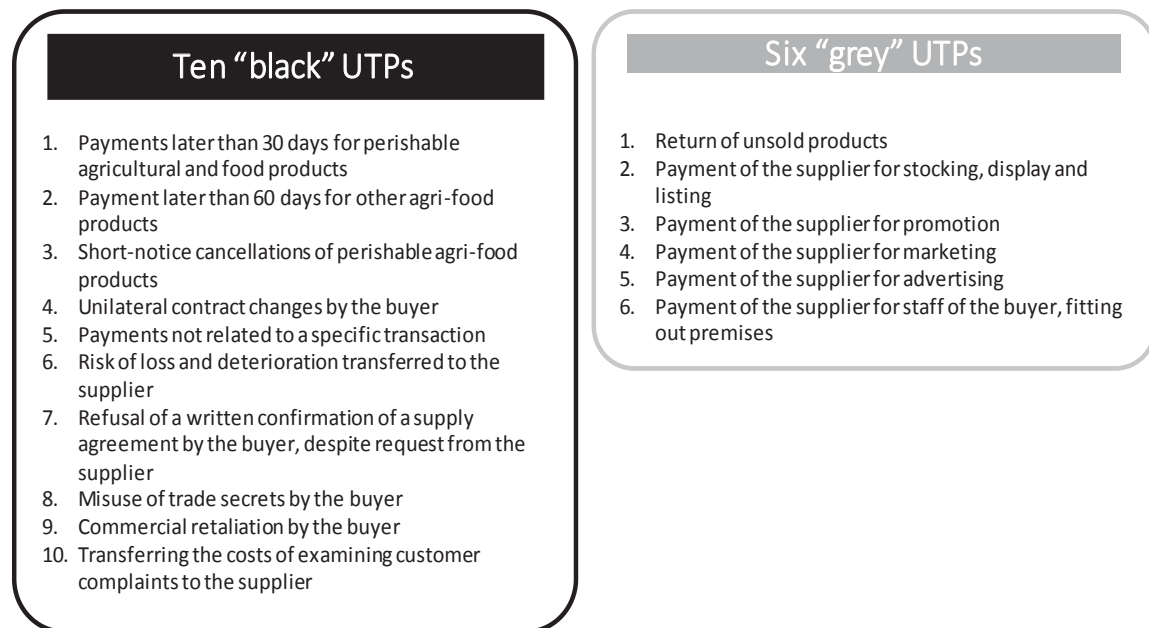
- The legal frameworks and principles adopted: Germany used a principle-based approach, prohibiting the abuse of relative market power, particularly when it involved SMEs. Poland employed a prohibition on imposing unfair contractual advantages contrary to the principles of morality.

- Enforcement mechanisms: For instance, in the UK (a MS at the time), the Groceries Code Adjudicator enforced UTP regulations with powers to levy fines and impose requirements on grocery retailers. Italy's

at EU level was necessary. This to grant to **all** EU agricultural producers a **minimum level of protection** and make **coordination across MSs effective** in view of the EU internal market.

To do so, the Directive codifies **16 unfair trading practices** (Article 3). **Ten black UTPs** are prohibited, whatever the circumstances. A supplier cannot agree to them. **Six grey UTPs** are prohibited only if not agreed beforehand in clear and unambiguous terms between the parties.

*Figure 2: List of UTPs in the Directive.*



Source: Evaluation support study.

The Directive applies to **agricultural and food products** i.e. products listed in Annex I to the TFEU as well as products not listed in that Annex but processed for use as food using products listed in that Annex. The Directive also applies to services that are ‘ancillary’ to the sale of agricultural and food products, as far as explicitly referred to in Article 3 of the Directive, such as marketing or promotional services provided by the buyer to the supplier.

Moreover, the Directive contains several other key provisions. Firstly, although bargaining power can be influenced by several (concurring) factors like information asymmetry, availability of substitutes at a specific moment and place in time etc., the Directive establishes **annual turnover thresholds of different operators to approximate and operationalise relative bargaining powers** and therefore imbalances in bargaining power between a supplier and a buyer in view of policy enforcement (Article 1, Recital 14). These thresholds represent framework conditions for the protection granted to the relatively

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enforcement was carried out by its Competition Authority, which had the power to impose penalties for non-compliance with national UTP legislation.

- How MSs included SMEs and addressed cross-border considerations: Some MSs adopted a combination of legislation and self-regulation.



weaker supplier<sup>(20)</sup>. Secondly, UTPs are to some extent passed through the agri-food ‘netchain’ – the web of operators’ interactions (so called ‘pass-through’)<sup>(21)</sup>. In principle, this can happen in both directions, upstream and downstream. However, given the circumstances of agricultural producers presented above, they are more likely passed through from downstream to upstream actors; **the Directive, hence, not only applies to the first stage of supply, i.e. the agricultural producer to the first buyer, but to subsequent stages i.e. sales as well** (Article 1, Article 2). The Directive applies to sales where either the supplier or the buyer, or both, are established in the EU (Article 1). Thirdly, in view of – if not exclusively, mainly – protecting agricultural producers, the protection applies in **one direction only**, namely protecting from UTPs perpetrated by buyers towards suppliers (Article 1). The 350 million annual turnover threshold in the Directive is regarded as an upper limit beyond which suppliers are regarded to be less exposed to the contextual pressures specific to the agricultural sector leading to imbalances in bargaining power<sup>(22)</sup>.

In terms of implementation the Directive provides for national enforcement by mandating the designation (Article 4) of **national competent enforcement authorities (EAs) entrusted with at least six powers** as set out in Article 6 to carry out enforcement. EAs should have the power to initiate and conduct investigations, to require market operators to disclose necessary information, to carry on site inspections when investigating, to take decisions finding an infringement, to require the buyer to bring the practice to an end, to impose or initiate proceedings for the imposition of fines or other penalties and interim measures, and to publish the decisions concerning the infringements and fines.

The EAs should be able to act *ex officio* or following a complaint. The effects of decisions requiring a buyer to bring an UTP to an end depend on national legal orders. They may be limited the operator suspected or condemned for breaking the national UTP law and/or may produce effects beyond the complainant if other participants in the agri-food chain have adopted similar conducts originated by the same practice. As EAs may take measures to ensure the confidentiality of complainants, enforcement by EAs contributes to tackle the

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(20) The Directive applies to certain UTPs which occur in relation to sales by: (a) suppliers which have an annual turnover not exceeding EUR 2 million to buyers which have an annual turnover of more than EUR 2 million; (b) suppliers which have an annual turnover of more than EUR 2 million and not exceeding EUR 10 million to buyers which have an annual turnover of more than EUR 10 million; (continuing with other three thresholds up to EUR 350 million).

(21) Russo, C., editor (2020), JRC, [Pass-through of unfair trading practices in EU food supply chains](#), p 63. See also recitals 7 and 9 of the Directive referring to cascading effect i.e. unfair trading practices being passed on to agricultural producers.

(22) See recital 9 of the Directive: ‘Unfair trading practices are particularly harmful for small and medium-sized enterprises (SMEs) in the agricultural and food supply chain. Enterprises larger than SMEs but with an annual turnover not exceeding EUR 350 000 000 should also be protected against unfair trading practices to avoid the costs of such practices being passed on to agricultural producers. **The cascading effect on agricultural producers appears to be particularly significant for enterprises with an annual turnover of up to EUR 350 000 000.** The protection of intermediary suppliers of agricultural and food products, including processed products, can also serve to avoid the diversion of trade away from agricultural producers and their associations which produce processed products to non-protected suppliers.’ (emphasis added)

‘fear factor’<sup>(23)</sup> i.e. weaker operators being afraid of commercial retaliation and therefore not coming forward.

The EAs meet in a network of national EAs coordinated by the EC for sharing and exchanging best practices, and information on new cases and developments (Article 8).

These enforcement powers together with the UTP framework are expected to lead to an effective enforcement against UTPs, including through the monitoring, investigation and sanctioning of UTPs and where relevant through cooperation across EAs. Cooperation is especially important in the case of **cross-border cases**, meaning cases in which the involved parties are established in at least two different MSs. Effective enforcement can reduce the occurrence of UTPs, and, in case of damages occurred due to an UTP, provide suppliers with access to effective redress.

In this context, it is important to recall again that the Directive is a minimum harmonisation Directive: following at least the minimum standards set out in the Directive that need to be transposed into national law, the provisions aim to ensure an EU wide minimum level of protection of suppliers across MSs and the contribution to a level playing field in the internal market. In addition, additional national UTPs rules need to be compatible with the rules on the functioning of the Internal Market (Article 9).

This is expected to lead to an overall improved functioning of the agri-food supply chain, in particular shield agricultural producers and small suppliers of food products from unfair behaviour and in general promote a fair business culture.

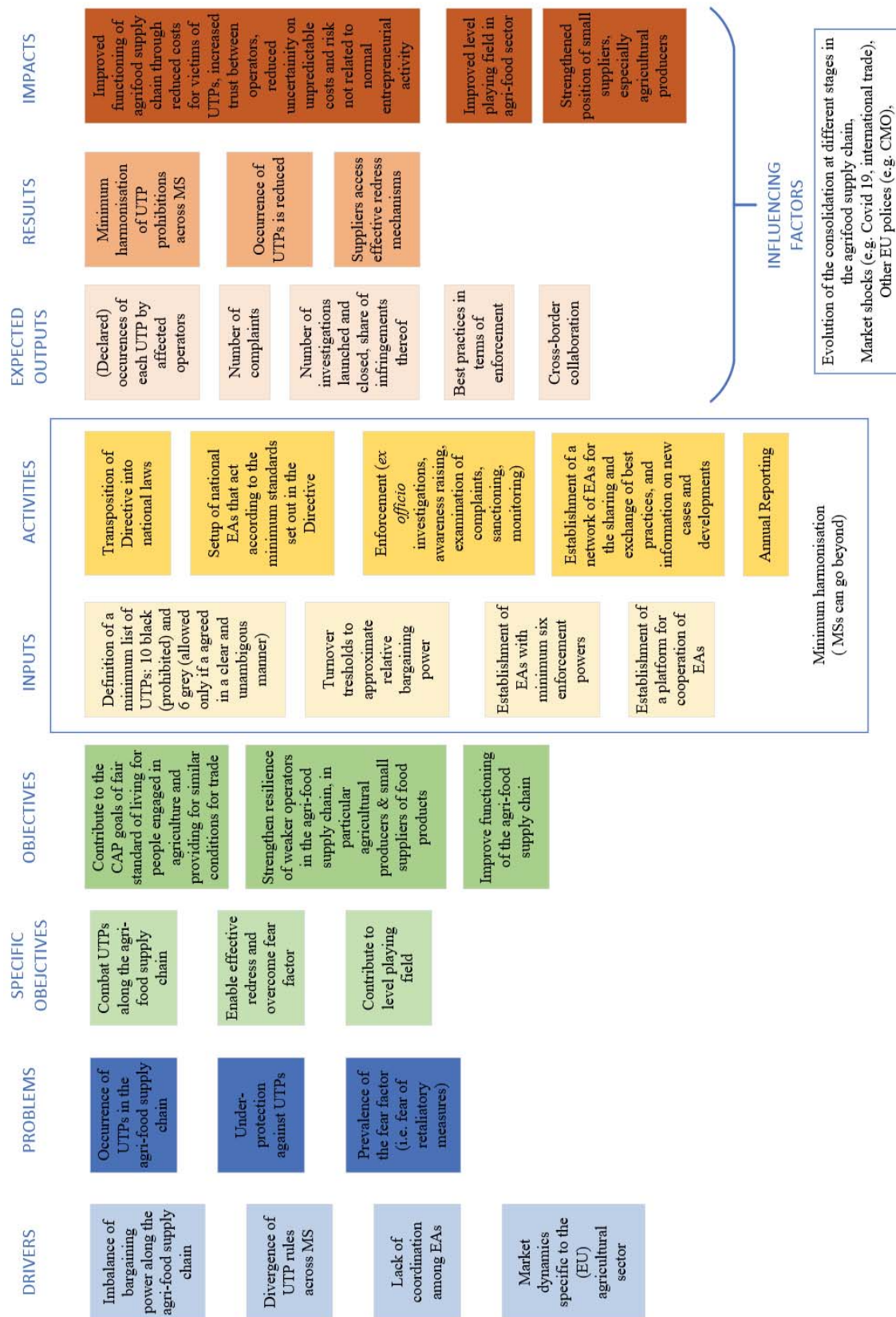
The Directive is set to contribute to the achievement of several SDGs. By providing for a better agri-food supply chain it contributes towards **SDG 2 – zero hunger** and **SDG 8 – Decent work and economic growth**. By making transactions fairer, making it easier for agri-food operators to integrate into value chains and markets, it contributes to the achievement of **SDG 9 – Industry Innovation and infrastructure**.

*Figure 3* represents in a stylised manner how the Directive is expected to work taking into consideration the elements presented in this section.

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<sup>(23)</sup> For a discussion see Fałkowski, J., C. Ménard, R.J. Sexton, J. Swinnen and S. Vandeveldel (Authors), Marcantonio, F. Di and P. Ciaian (Editors) (2017), *Unfair trading practices in the food supply chain: A literature review on methodologies, impacts and regulatory aspects*, European Commission, Joint Research Centre. See also Annex B of the UTP IA 2018. Several (for example, Ireland, the Netherlands) but not all EAs admit anonymous complaints or tip-offs. Usually, during the judicial phase the identity needs to be disclosed. See a discussion *4.1 To what extent was the intervention successful and why?*.

Figure 3: Intervention logic of the Directive.



Source: DG AGRI, based on the evaluation support study.



## 2.2. Point(s) of comparison

When proposing the Directive, the Commission expected impacts to be mostly economic; to a respectively lesser degree also social and environmental <sup>(24)</sup>. No explicit, **quantitative** targets defining success were identified, either in the UTP IA 2018 or in the Directive itself. Nonetheless, the assessments carried out at the time by the EC in the context of the legislative proposal, allow to estimate **expectations about the main (quantitative) impacts** and to derive key metrics on how the achievement of success was to be assessed. The possible monitoring indicators proposed in the UTP IA 2018, in combination with the estimated impacts, and actual monitoring arrangements are used to establish the points of comparison for the purpose of this evaluation.

**For economic operators:** notwithstanding assessment challenges, impacts were quantitatively estimated in terms of orders of magnitude. **Direct benefits** in terms of avoided harm by eradicating the occurrence of UTPs were estimated between EUR 2.5 billion to 8 billion per year (EUR 1 billion to 3.3 billion for agricultural SMEs and EUR 1.5 billion to 4.7 billion for food SMEs) via a 1-2% of total annual turnover of operators estimation; **Indirect benefits** of improved trust in the food supply chain and related reduced transaction costs, increased level playing field and coordination between national EAs as well as appropriate (pecuniary) remedies were not quantified. **One off costs** were found to be negligible to EUR 1.4 million; **recurrent costs** between zero to EUR 193 000 per year, per non-SME operator <sup>(25)</sup>.

**For consumers:** no major impact was expected.

**For MSs:** detailed analysis of the legal *status quo* at the time can be retrieved in Annexes F and G of the UTP IA 2018. Some MSs had already legislation in place. *Table 1* summarises expected benefits. **One-off costs for national administrations:** negligible to between EUR 228 000 and EUR 3 million per administration depending on the extent of pre-existing structures. **Recurrent costs:** negligible to between EUR 708 000 and EUR 3 million per administration, per year depending on enforcement modalities and already pre-existing enforcement, as well as EUR 950 median value per administration year for attending an annual EU level coordination meeting.

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<sup>(24)</sup> See UTP IA 2018 p.51. To contextualise the analysis, it should be noted that the EU co-legislators in exercising their legislative prerogatives, amended the legislative proposal; in some parts also substantially. These amendments are taken into account e.g., in the presentation of the intervention logic above. However, as there are no publicly available impact estimations of amendments, their expected impacts are accounted for in view of establishing the points of comparison here only where feasible. Key amendments included: adding black practices, transforming proposed grey practices into black ones; adding grey practices; introducing a set of legislation-specific thresholds, beyond the proposed definition that in the proposal had followed [Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises](#). E.g. not including headcounts of a company.

The four originally proposed black UTPs, to a large extend linked to **perishability**, included: i) late payments above 30 days of perishable products, ii) cancellation of orders of perishable food products short notice, iii) unilateral and retroactive change in the terms of the supply, and iv) banning the practice of forcing a supplier to pay for the wastage of food products occurring on the buyer's premises.

<sup>(25)</sup> See Annex 3 of UTP IA 2018, p. 93 and Section 6.2.1 p.53. Note that estimates were made at a time when the United Kingdom was part of the EU.

**Table 1: Overview of the benefits of the proposed UTP measures.**

Benefit	Benefitting MSs	Potential Impact
Introduction of a UTP regime (Annex F, Table n.1)	4 (EE, LU, MT, NL)	Large
More comprehensive UTP approach (Annex F, Table n.1)	4 (BE, DK, FI, SE)	Medium
Extension of UTP regime beyond retailers (Annex F, Table n.3)	5 (LT, CZ, HU, IE, UK)	Medium
Added enforcement of UTP rules (Annex F, Table n.6 & n.7)	8 (EE, LU, MT, NL, BE, DK, FI, SE)	Medium
Level playing field for competition	28 (all)	Small
Coordination across MS	28 (all)	Medium

Source: UTP IA 2018, p.59; References in the table point to Annexes of the UTP IA 2018, not of the present document. UK was part of the EU at the time of the UTP IA 2018. For abbreviations of MSs codes see [Eurostat](#).

**Socio-economic and environmental impacts** <sup>(26)</sup> were expected in terms of i) improved predictability of business relations for economic operators in the agri-food supply chain; ii) increased trust between partners and a strengthening of the ‘Supply Chain Initiative’; iii) positive impact in terms of social cohesion by virtue of approximating commercially relevant conditions for operators active in the production and trade of food products in MSs; iv) complementarity with voluntary initiatives at MS level to enhance the importance of voluntary dispute resolution; and v) no significant, direct impact on the environment. Operators who are not subject to UTPs may, however, be left with more economic margin to invest in producing in environmentally sustainable ways and to prevent food waste.

The UTP IA 2018 also discussed other expected impacts including: how a specific list of prohibited UTPs would be preferable to a general (‘principles-based’) prohibition; how covering both agricultural products and food products would avoid potential negative impacts; the scope in terms of operators: (i) all operators in the food supply chain protected or protection restricted to weaker operators; (ii) question of coverage of third-country suppliers possibly opening the door for trade diversion if not covered; the enforcement modalities including coordination: value of coordination would lie in working towards the harmonised application of EU UTP rules, including a EU Network <sup>(27)</sup>; type of legal instrument to be used: the option of detailed harmonisation was discarded because of the expected impracticability and resistance by MSs given the already existing legislation in some MSs and the to some degree different structures for the agri-food supply chain across the EU <sup>(28)</sup>.

<sup>(26)</sup> See UTP IA 2018, p.61.

<sup>(27)</sup> According to MSs, the costs of **annual reporting** would go from no additional costs, as they would be integrated in the existing operational costs, to up to EUR 20 000. Participating in an annual coordination meeting in Brussels: median value EUR 950 per year (average EUR 1 327). In addition, the costs for the EC of organising the coordination meeting were estimated at EUR 17 000. ICT costs, mainly related to setting up and running an online coordination platform, were estimated at EUR 50 000.

<sup>(28)</sup> For an overview see for example [Key Figures on the European Food Chain – 2024 Edition](#) and its [previous edition in 2021](#) as well as historic data on the [EU agri-food data portal](#).

The points of comparison, along which the actual situation presented above will be compared with the expected situation, are presented in the following paragraphs <sup>(29)</sup>.

In order to determine the extent to which the implementation and enforcement of the Directive have been effective in reducing the occurrence of UTPs listed in the Directive, the following approaches have been followed by this evaluation:

A first approach consists in considering the **number of UTP cases handled by EAs** in the 27 MSs, especially, but not exclusively, in terms of investigations resulting in an infringement – this metric has the merit of being an objective starting point, based on data from EAs; however, it is arguably incomplete as *‘the efficiency of a public enforcement regime is not necessarily a function of the number of its enforcement cases; nor can its effectiveness be measured by exclusively counting decisions by competent UTP authorities.’* <sup>(30)</sup>.

For these reasons, this approach is complemented by the **perception of stakeholders on the occurrence of UTPs**. This has the merit of considering the UTPs that do not result in a formal investigation, complaint or litigation. However, the metric can be subject to limitations linked, among others, to the understanding, perceptions and possible biases of consulted stakeholders.

A second angle to effectiveness consists in the assessment of the **effectiveness of enforcement measures, introduced to fight UTPs, including preventive or less formal measures**. This assessment relies on the collected evidence to determine which preventive approaches, such as *ex-ante*/guidance measures, are deemed more effective in reducing the occurrence of UTPs, and which enforcement measures appear to be more effective in combating UTPs and providing **relief** to victims, responding to UTPs once they occur (*ex post*).

A third angle, the evaluation assesses to what extent the implementation and enforcement of the Directive have been effective in relation to **cooperation among competent EAs** and the ability to effectively address cross-border cases. The assessment relies on the number and perceived contribution of cooperation initiatives.

Moreover, the Directive’s contribution in mitigating the negative impact of UTPs on the living standards of the agricultural community is addressed, in the context of the wider legislative framework in which the Directive is embedded, with particular attention to coherence across the various levels of intervention.

A further dimension to assess the degree of success of the Directive consists in considering whether the costs accrued to the various stakeholders are in line with the expectations and proportionate to the benefits as well as if these accrue to the same stakeholder category along the supply chain and across MSs.

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<sup>(29)</sup> A more detailed explanation is available in *Annex III Evaluation matrix*.

<sup>(30)</sup> UTP IA 2018, p. 70. An increase in reported cases, might be a symptom of an increased occurrence in UTPs. It might be also a result of an increased enforcement activity without any correlation on the occurrence of UTPs on the ground.

Background information on inflation at various levels and market concentration levels in the different stages of the agri-food supply chain are important to appropriately contextualise the findings.

### 3. HOW HAS THE SITUATION EVOLVED OVER THE EVALUATION PERIOD?

Having described how the Directive was intended to function, identifying expectations and ways to compare them to what actually happened, this section provides a **factual summary** of the evolution and current state of play of the Directive's implementation after its adoption, both from a **legal angle** as well as from an **'on the ground' perspective**.

MSs had to notify transposition measures of the Directive by May 2021, approximately two years after its adoption and apply those transposition measures by November 2021. However, no MS had notified all transposition measures for a complete transposition of the Directive by May 2021 <sup>(31)</sup>. The Directive is hence only applicable since end 2022 in all MSs. Furthermore, existing contracts had to be brought in line within 12 months after publication of national measures. This leaves mere two full years – three years at best – for effects of the UTP Directive to be captured in the present evaluation.

#### **MSs' transposition choices went well beyond the minimum harmonisation level set in the Directive**

The accompanying SWD to the UTP Report 2024 presents an overview of MSs' transposition choices of the Directive into their national legal orders as well as their notification date to the EC.

In terms of instrument choice, the Directive allows MSs to choose how they incorporate its provisions into their national legal orders. 13 MSs, including Cyprus, Denmark, Estonia, and Ireland, introduced new and separate legislation specifically for UTPs. By contrast, 14 MSs, including Austria, Belgium, and Germany, chose to amend existing legislation to transpose the Directive. This, in most cases, but not all (see e.g. Italy) reflects the presence of an already more or less developed UTP-related legal framework before the adoption of the Directive.

In view of the scope of application and business size, the Directive sets a threshold of EUR 350 million turnover below which suppliers are protected, but MSs can extend this scope. Some MSs chose to protect suppliers beyond this threshold. For example, Lithuania has legislation that applies to retailers with significant power, defined as having at least 20 stores with a surface area of at least 400 m<sup>2</sup>, and an aggregate income of not less than EUR 116 million. 6 MSs transposed the Directive regardless of business size i.e. albeit with some exceptions, not sticking to the turnover thresholds of the Directive. 6 MSs followed the threshold logic targeting business relationships between suppliers whose annual turnover is lower than a given threshold, and buyers whose annual turnover is higher than the same threshold. 13 MSs enlarged the scope on business size to varying degrees.

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<sup>(31)</sup> 23 MSs did in 2021 mostly in the third quarter (Q3) of the year and 4 MSs in 2022. Timing is roughly in line with transposition of Single Market Directives. See [Single Market Scoreboard](#). Annex II presents a more detailed elaboration on how this affects the evaluation.

Overall, MSs followed the distinction between black and grey practices (except Hungary which does not follow the distinction). 16 MSs added practices to the list of black UTPs. For specific types of UTPs, certain MSs chose to go beyond the minimum level by, for example, applying stricter terms for payment delays (11 MSs).

Regarding enforcement measures and penalties, MSs designated EAs, with a high degree of variation regarding the types of authorities they empower and their enforcement strategies. Germany, for example, designated its Federal Office for Agriculture and Food as a sector-specific authority, while other MSs, like Bulgaria, designated their national competition authorities. When considering financial penalties and remedies, different choices of MSs beyond the minimum level are apparent as well. For instance, the minimum and maximum thresholds for fines and other equally effective penalties (where existing) vary ranging from EUR 5 (Germany) to EUR 5 000 (Slovenia) for minimum amounts and EUR 2 329.37 (Malta) to EUR 2.5 million (Portugal) for maximum amounts, or from 0.2% (Latvia) to 10% (Czechia, Hungary, Italy, the Netherlands) of the infringing party's turnover for maximum amounts.

The Directive allows for stricter regulations at the national level. Some MSs have adopted more protective measures, such as shorter payment terms than the Directive's prescribed 30 and 60 days for perishable and non-perishable goods, respectively. For instance, Poland has implemented stricter conditions on contract cancellations to enhance supplier protections. Certain MSs have introduced prohibitions on pricing practices that exceed the Directive's requirements. For example, some MSs may have bans on selling below production cost <sup>(32)</sup>.

In sum, the UTP Directive established a minimally harmonised baseline for addressing UTPs providing for a more uniform approach than before the adoption of the Directive across the EU. Although now a minimum protection is granted in the whole EU, MSs exercised the foreseen discretion in several areas. This resulted in variations in legislative instruments, scope, enforcement mechanisms, and more in general, diversity across MS choosing to add new practices to the list of UTPs while maintaining the minimum level of protection. These changes can be partly explained by the necessity to align to pre-existing legislation and to fill the enforcement gaps that had emerged in cases where legislation was present.

MSs that have transposed closer to the minimum harmonisation level of the Directive are in general MSs without any pre existing specific legislative framework to address UTPs. MSs with pre existing rules tended to expand the scope of application of the Directive and maintained the wider scope of application of pre-existing legislation.

Transposition checks and conformity checks of the transposition measures by the EC showed variations in transposition choices by Member States and in the level of protection of national transposition laws, in particular in relation to the possibility for buyers to cancel orders of perishable products under Article 3(1)(b)), the charging of payments as referred to in Article 3(2)(b), and the transposition of Article 3(4), whereby MS must ensure the black and grey UTPs listed in the Directive constitute mandatory provisions overriding any other rules that would apply to a supply agreement. Conformity checks are still ongoing

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<sup>(32)</sup> For an analysis of the topic spanning also beyond selling below production cost see [‘Study on regulatory and voluntary schemes for fair agricultural remuneration’](#) (DOI: 10.2762/0016025)



for the transposition measures of some MSs. Some MSs have amended their transposing legislation after the notification of transposition. These changes as notified to the EC are reflected in the UTP Report 2024 and accompanying SWD up to 1 March 2024. In addition, Belgium, Germany and Ireland have introduced changes to their transposition measures in the remainder of 2024.

### Enforcement of MSs differs

Each MS has set up an EA entrusted with at least the six defined powers set out in the Directive.

Some MSs had already dedicated authorities enforcing UTP-related national legislation (e.g. Spain). Other MSs set up new entities or delegated enforcement powers to established entities, for instance, competition authorities (e.g., Sweden, Poland), or consumer authorities (e.g., Belgium). In most MSs, enforcement measures and mechanisms are organised as administrative enforcement. In such cases, administrative decisions can be challenged before courts in accordance with national procedural laws. In some MSs, enforcement is reserved to courts (e.g. imposition of penalties in Austria, Finland; in France courts may adopt injunctions, corrective measures and civil penalties at the request of the administrative authority).

Enforcement, besides the transposition choices of MS and the powers given to EAs, is also influenced by the availability of resources and the enforcement strategy chosen (see more *below* in Section 4.1 and *Annex VI Summary of EAs enforcement activities*).

The number of UTP cases handled by EAs in the 27 MSs, with the related share of investigations resulting in an infringement, can be drawn from annual reporting EAs submit to the EC. Table 2 provides yearly aggregate numbers.

**Table 2: Activity reports of EAs – reporting periods 2021- 2024**

	2021(a)	2022	2023	2024	Total
Number of complaints received	15	178	277	223	693
Number of guidance cases	n.a.	809	673	564	2 046
Number of <i>ex officio</i> cases opened	172	1 393	1 113	1 306	3 984
Number of investigations opened	170	1 437	1 590	1 413	4 610
Number of investigations closed	66	812	1 021	563	2 462
Number of investigations resulting in finding an infringement	-	218	271	265	754

Source: Evaluation support study and own computations based on MSs notifications to the EC. (a) 15 MS (out of 27) notified their national implementing measures to the EC by 31 July 2021 (complete transposition of the Directive).

EAs opened a total of 4 610 investigations in the four years considered (2021-24): Around 53% (2 462) of these investigations were closed over this period. Of the 2 462 investigations opened in total between 2021 and 2024, **90 % were reported by four MSs** (Cyprus, Spain, Hungary, Italy), with 13 EAs from other MSs reporting a limited number (each less than 5) of opened investigations.

Out of the opened investigations, **754 (30% of closed investigations) resulted in findings of infringement**. The total amount of fines for established infringements amounted to EUR 15.1 million in 2022 and EUR 24.4 million in 2023 (EUR 20 million amount to Poland only). In 2024, the fines in the EU amounted to EUR 2.4 million <sup>(33)</sup>.

In the first years of implementation, some EAs (e.g., in Denmark, Ireland, Lithuania and the Netherlands) concentrated significant efforts on **awareness raising and outreach**, and less on enforcement strictly speaking.

Guidance cases where EAs provide guidance about how they apply the law were also used, especially in 2022. This approach was linked to the low number of complaints received in some MSs. The need to **build up the EA's reputation and trustworthiness among stakeholders**, and to raise awareness among operators on UTP legislation are key concerns for consulted EAs.

At the same time, some EAs increased the number of *ex officio* inspections performed (Belgium, Italy, Spain, Lithuania) i.e. cases started by an EA on its own initiative, as a way to overcome the issue of limited complaints received. *Ex officio* inspections are often performed on the grounds of risk-based assessments of sectors/stages of the supply chain. *Ex officio* cases opened by EAs may be based on the findings of an inspection or of other information gathering tools. In line with data on investigations closed provided above, Cyprus, Spain, Hungary and Italy reported the highest number of *ex officio* cases opened in the 2021-24 period. **More details can be found in Annex V Stakeholders' consultation - Synopsis report**. As explained in more detail in *4.1 To what extent was the intervention successful and why?*, enforcement strategies and enforcement costs differ between MSs.

A key element and reason for EU level intervention was the need to be able to address cross-border cases. In line with Article 8 of the Directive on the requirements on cooperation among EAs, the EC facilitated the setting up of the UTP Enforcement Network, composed of representatives of EAs. The Enforcement Network aims to ensure a common approach concerning the application of the rules set out in the Directive and the sharing of good practices, of new developments and of new enforcement tools. Additionally, it may issue recommendations as part of its collaborative efforts in enhancing the enforcement framework. Between June 2022 and October 2025, the Enforcement Network met three times at the level of heads of the EAs, twice at technical level and once in a mixed setting. Six additional focus meetings for in-depth discussions on specific technical topics (e.g., the calculation of turnover thresholds, cross-border enforcement, and buying alliances) were organised in the same time span.

In addition to the Network's meetings, some EAs reported bilateral or multilateral exchanges and/ or cooperation initiatives between EAs. For example, the Swedish EA maintains regular contact with other EAs in Nordic countries; the Italian EA implemented cooperation activities with the EAs of Spain, France, Portugal, Sweden and Denmark in 2022 and 2023.

The survey of national public authorities, covering those responsible for transposition of the Directive and EAs, carried out in the context of the external support study confirmed

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<sup>(33)</sup> The amounts of fines may yet be subject to changes as in some cases they were/are still confidential or in the administrative process and therefore not included in the total.

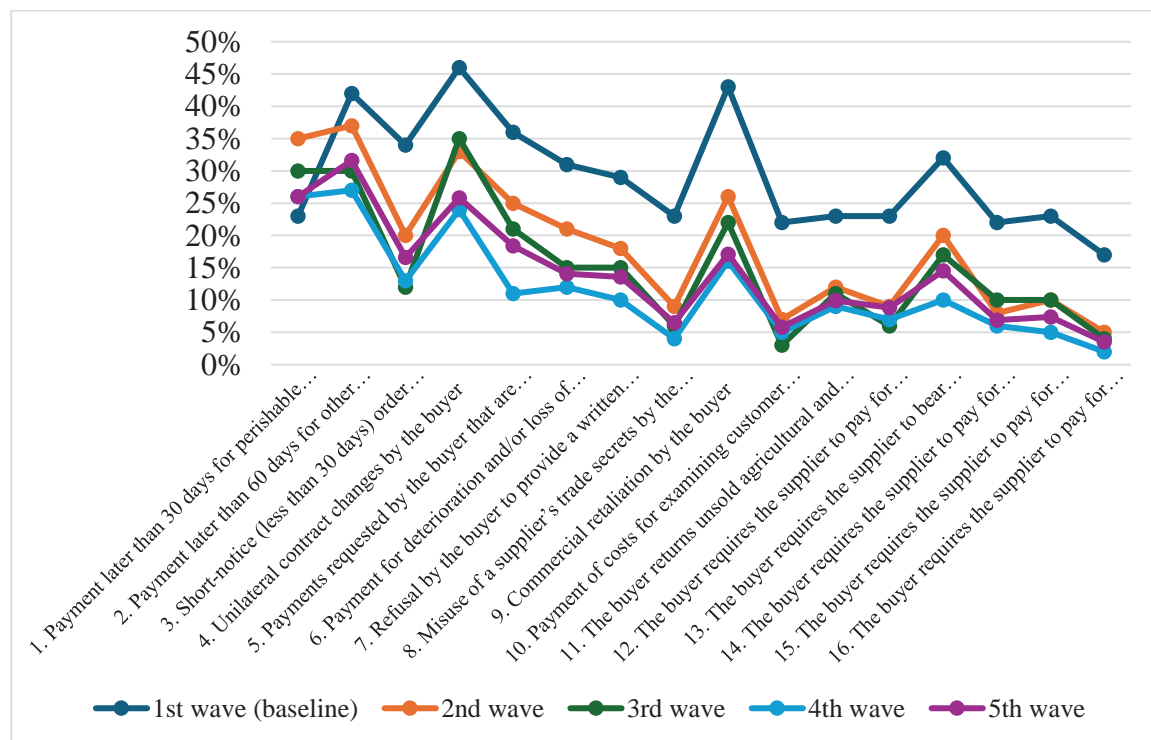
that the number of cooperation initiatives increased after the Directive's implementation. 75 % of respondents reported that cooperation initiatives improved to some extent the effectiveness of enforcement activities related to the UTP Directive mainly through the exchange of investigative methods, experiences, and best practices to fight UTPs; periodic round table meetings to facilitate cooperation; an online system designed to facilitate the exchange of information across EAs set up by the EC. The EC also set up a [public webpage](#) directing amongst others to information of national EAs.

### Positive trend of declining UTPs experienced by operators on the ground

The **perception of affected stakeholders on the occurrence of UTPs** sheds some further light on whether and how the situation has evolved following the transposition of the Directive, complementing the metrics related to enforcement.

According to the recurring survey of suppliers run by the JRC there is a diminishing trend for all UTPs when compared to the baseline survey (wave 1) (dark blue line in *Figure 4*). This trend came to a halt in the last survey (wave 5) carried out at the end of 2024. Black UTPs (numbers 1 to 10) are more frequently experienced by suppliers than grey UTPs (numbers 11 to 16), which appear to be less widespread.

**Figure 4 Evolution of experienced UTPs.**



Source: JRC UTP survey. Due to readability the full name of UTPs is not displayed here. For the full name of UTPs please see Section 2. Question: 'Have you experienced any of the following practices during the last three years with one of your buyers?' Note: the 'last 3 years' refers to full calendar years, e.g. the period 2017-19 etc. Participation to the JRC survey is open to all agri-food suppliers on a voluntary basis: the sample is thus not selected and non-constant.



29.5 % of respondents in 2024 (5th wave) were not aware of the Directive <sup>(34)</sup>. The share of non-awareness increases to 39.7 % among agricultural producers. Among the most frequently experienced UTPs are unilateral contract changes by the buyer and payment delays for non-perishable products were experienced by over 25 % of respondents in the JRC surveys, although both have decreased in incidence since 2020 <sup>(35)</sup>. Generally speaking, late payments may be easier to ascertain, compared to other UTPs, since evidence on the time of payment can often be retrieved. They also appear to be the most frequently experienced UTPs <sup>(36)</sup>. More evidence pertaining to the evolution on the ground can be found in *Section 4* and *Annex V*.

**Case study the Netherlands- Focus on Pig meat, sugar and potato supply chains (Source: evaluation support study)**

The [Dutch Unfair Trading Practices Act for the Agri-Food Supply Chain \(UTP Act, 2021\)](#) incorporated the Directive into Dutch legal order. Its implementation in the Netherlands meets the Directive's minimum standards through a direct transposition. Before the UTP Act 2021, there were no specific rules governing unfair trading practices in the agri-food supply chain, aside from regulations on late payments.

The [Dutch Authority for Consumers and Markets \(ACM\)](#) is responsible for enforcing the UTP Act and has the authority to impose penalties, including fines, similar to those in competition and consumer law enforcement. A unique feature of the Dutch implementation is the [Dispute Resolution Committee for Unfair Trading Practices in the Agricultural and Food Supply Chain](#), which assists in resolving disputes between agri-food suppliers and buyers in the Netherlands and is also authorised to handle UTP cases.

Regarding the prevalence of unfair trading practices in the Netherlands, the number of cases processed by the ACM and the Dispute Resolution Committee under the UTP Act so far seems to be quite limited, with only the [Vion pig slaughterhouse case](#) and the [Lactalis dairy processor case](#) reported. This limited activity might be due to a lack of awareness among stakeholders about the UTP Act; several stakeholders consulted in the three supply chains examined in the case study (pig meat, sugar, potatoes) confirmed this lack of awareness. A [survey carried out by the ACM in 2022](#) and presented in a report indicated that most respondents encounter few UTPs in their sectors. However, this does not apply to all practices, such as late payments and last-minute cancellations.

**Case study Spain – Focus on Wine and Fruit and Vegetables (F&V) supply chains (Source: evaluation support study)**

Spain has considerable experience with legislating on UTPs, beginning with the introduction of the '[Ley de la cadena](#)' in 2013. Many of the provisions included in the Directive were already addressed by this law. Since then, the law has been amended twice, in 2020 and 2021. Spanish legislation continues to extend significantly beyond the UTP Directive. As of the end of 2023, the *Agencia de Información y Control Alimentarios (AICA)* had initiated approximately 2 000 disciplinary actions for non-compliance with the law since its inception, with Autonomous Communities also conducting inspections at the regional level.

The most frequently identified unfair trading practice is non-compliance with payment deadlines, accounting for about 40% of cases, followed by the absence of contracts, which makes up 20%. Wholesalers are the most frequently sanctioned entities in the supply chain, followed by the processing industry. Operators in the fruit and vegetable and wine sectors are the most commonly penalised.

<sup>(34)</sup> Number of respondents: 434. The 4th wave of the survey (2023/2024) had 1 511 respondents, 38 % of which were not aware of the Directive.

<sup>(35)</sup> These results are in line with the **survey of SMEs** where the two most prevalent UTPs were payment delays over the 30- and 60-days limits, followed by the cancellation of orders for perishable agri-food products at short-notice.

<sup>(36)</sup> In September 2023 the EC proposed a [Regulation on combating late payment in commercial transactions](#) explicitly also addressing the agri-food supply chain (see Articles 2 and 3). It proposes more stringent conditions for payment terms. If adopted by the co-legislators as proposed, the Regulation would, in general, apply also to the agri-food sector.

## Unintended effects mainly linked to differences in transpositions by MSs on elements going beyond the minimum requirements

Unintended effects of the Directive are understood to include any effects caused by its implementation and enforcement that **differ** from the ones that were pursued by the Directive, as identified by the intervention logic in *Section 2.1*. A certain unintended effect may be seen as negative by some stakeholders, and as positive (or at least neutral) by other stakeholders.

The results of the three surveys of the external support study provide a broad appraisal of the perceived occurrence of the unintended effects of the Directive and/or of its transposition at national level within stakeholder groups. **There are some significant differences in the prevailing perceptions within each group.** The majority of public authorities did **not** identify any unintended effects, whereas important parts of surveyed business associations and in particular retailers identified **mostly unintended negative effects** <sup>(37)</sup>. Interviews (including in the context of case studies) confirmed the trends that emerged from the surveys. Several business stakeholders (together with most experts interviewed in the context of the evaluation support study) highlighted certain unintended effects of the Directive and/or of the national transposing legislation. **Uncertainties regarding legal requirements for intra-EU cross-border supplies of agri-food products, due to differences in the transposition of the Directive**, emerged as a recurrently perceived unintended negative effect across the three surveyed groups (CAs/EAs, business associations, retailers). This was also the case with the related perceived **inconsistent enforcement of the Directive in intra-EU cross-border UTP cases**. Another noteworthy identified unintended negative effect was the **protection given also to large suppliers**, due to the removal of turnover thresholds in national transposing legislation. **Few and no major unintended positive effects** of the Directive/of national implementing legislation were highlighted by stakeholders.

## The agri-food sector experienced disruptive external pressures in the first years of implementation of the Directive

The first years of the Directive coincided with a period marked by several exceptional external factors notably the COVID-19 <sup>(38)</sup> pandemic and Russia's war of aggression against Ukraine. These have influenced, among others, price levels and input costs especially in the period covered by this evaluation. *Figure 5* depicts the evolution of price levels for farmers, processors and consumers with respect to 2015. *Figure 6* shows the

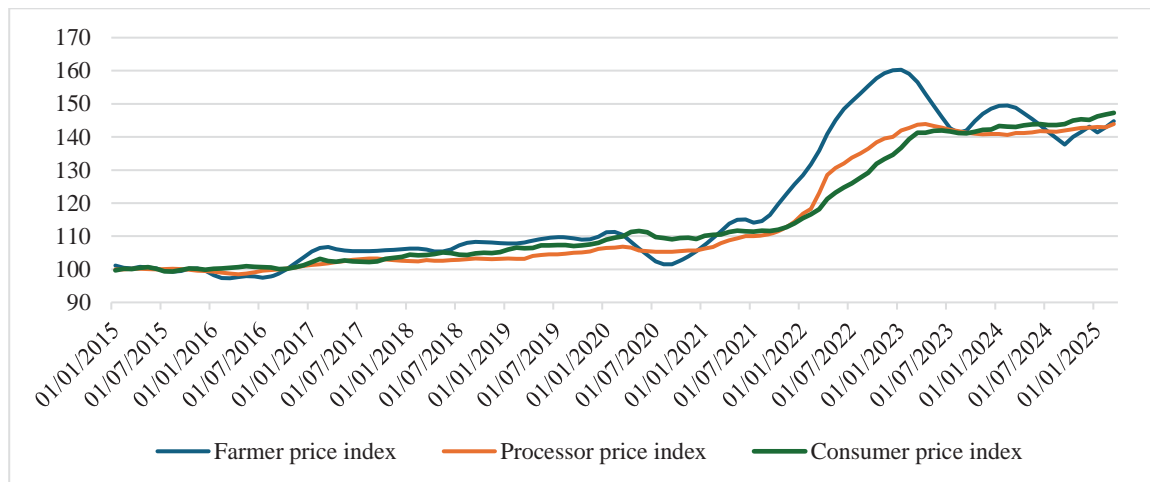
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<sup>(37)</sup> More precisely, 63 % of CAs/EAs (24 respondents) did not identify major unintended effects; this perception is less widespread among national business associations (35 % of 111 respondents), EU-level business associations (31 % of 16 respondents) and retailers (16 % of 73 respondents). The share of respondents that identified mostly negative unintended effects is the highest among retailers (73 % of 73 respondents), and decreases moving from national business associations (35 % of 111 respondents) to CAs/EAs (21 % of 24 respondents) and EU-level business associations (19 % of 16 respondents).

<sup>(38)</sup> While many stakeholders mention the negative effects of COVID-19 in increasing UTPs, it is interesting to note that in the baseline survey, when asked about the effect of COVID-19 on UTPs' occurrence: [Food Chain - UTP - survey results](#). 75 % of the 759 respondents across different agricultural supply chains indicated that they were **not** affected in terms of increased occurrence of UTPs.

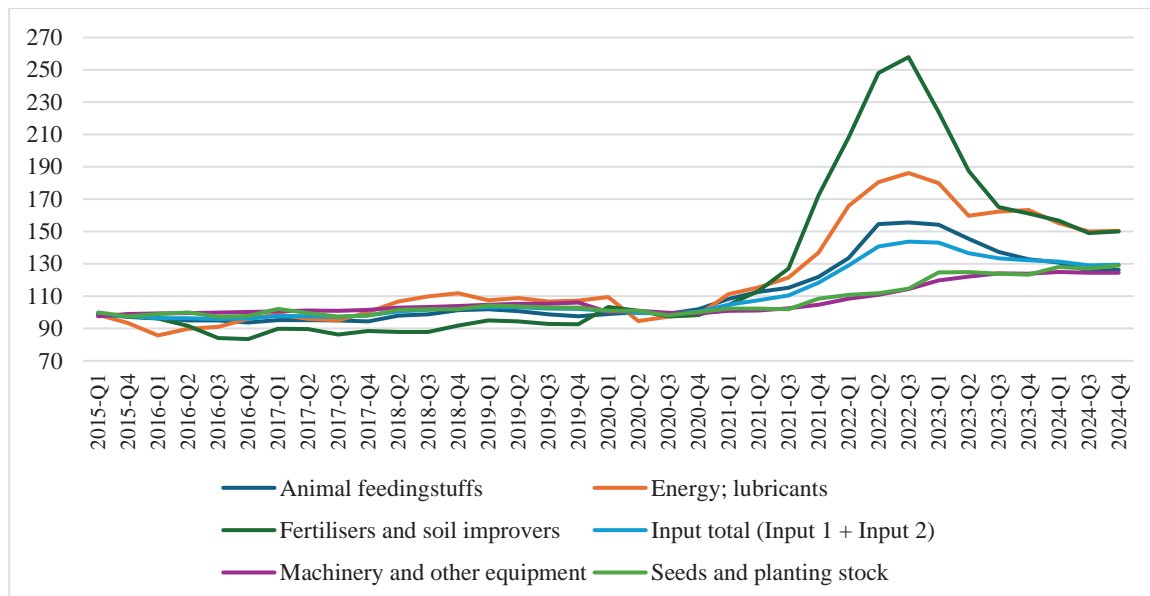
price evolution for selected agricultural inputs. *Figure 7* compares the evaluation consumer price inflation with price inflation for food, which has sharply risen in the past years.

**Figure 5: Price transmission along the food chain (Index 2015=100).**



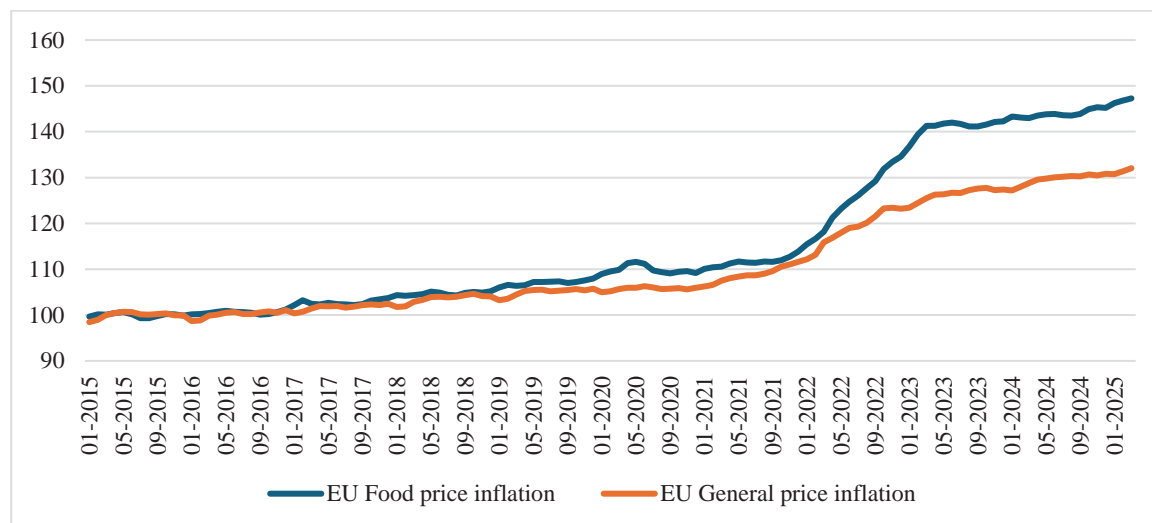
Source: [Agri food data portal](#) based on Eurostat. Farmer prices (blue): what the farmer receives. Processor prices (orange): what the processed product costs to greengrocers and to supermarket purchase department. Consumer prices (green): what consumers pay at the store. All compared to their respective base level in 2015 (vertical axis).

**Figure 6: Index of purchase prices for means of agricultural production (Index 2020 =100).**



Source: [Agri food data portal](#). The index of purchase prices of the means of agricultural production measures the change in the prices paid by domestic producers (farmers) for their intermediate inputs, at EU-27 level. The index covers key inputs such as fertilisers, energy, animal feed, seeds, and other essential resources. All compared to their respective base level in 2015 (vertical axis).

**Figure 7: Consumer general and food price inflation evolution (Index 2015=100).**



Source: [AGRI food data portal](#) based on Eurostat. Much richer and more granular data are available on the portal at product category level as well as MSs level. Monthly data.

## 4. EVALUATION FINDINGS

### 4.1. To what extent was the intervention successful and why?

#### Heterogeneous approaches and level of enforcement by EAs

The number of infringements found, 754 in the four years from 2021 to 2024 compared to the large number of existing contracts and sales transactions in the EU agri-food sector <sup>(39)</sup>, has been interpreted by some stakeholders – especially in the retail stage – as an indication that UTPs have been largely phased out from the market. On the contrary, associations representing agricultural producers and – to some extent – processors, do not share the same positive view on the number of infringements. The **fear of retaliation** is deemed to still be an important factor behind the small number of complaints received, limiting enforcement against UTPs. In general, it is necessary to account for this **polarisation of views** when delving into further outcomes of the analysis.

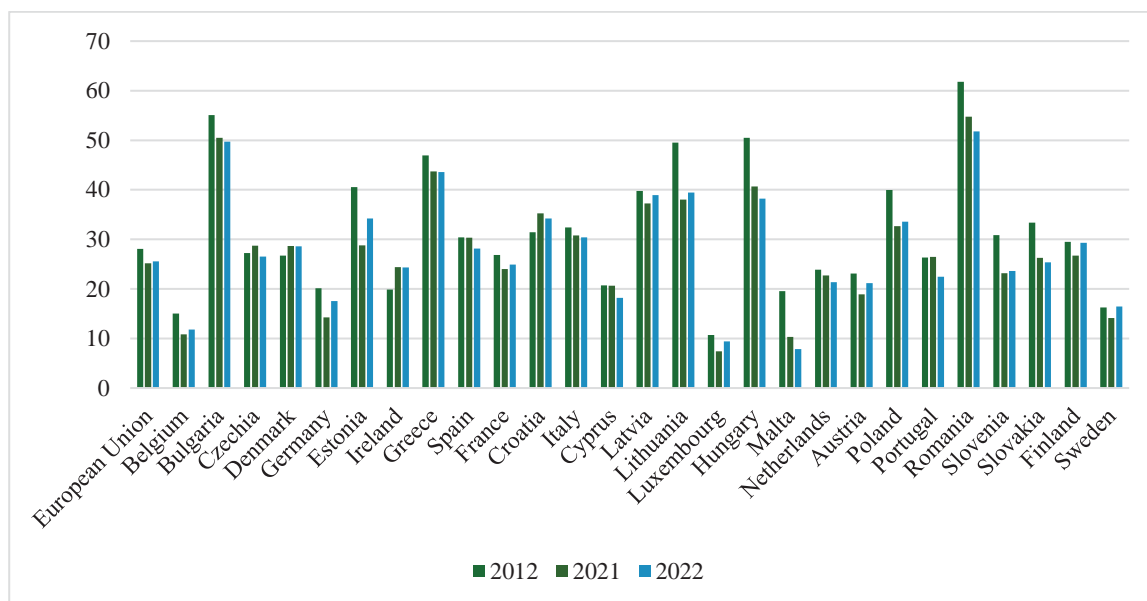
According to insights from the case studies and interviews of the evaluation support study, ways to tackle UTPs less formally than filing a complaint, opening an investigation and finding an infringement appear to play an important role in some MSs. For example: i) in France, mediation through the Mediator service is mandatory before any referral of a case to civil courts; ii) in Germany, some investigations were discontinued after the alleged perpetrator cooperated with the EA to end the practice; iii) in Denmark some UTP issues were solved through dialogue between the parties and the reference business associations; iv) in Austria the [‘Fairness Office’](#) serves as a first point of contact, carrying out a confidential and anonymous analysis of complaints. Only after this preliminary

<sup>(39)</sup> According to Eurostat [Key figures on the European Food Chain 2024 edition](#) the number of holdings/enterprises in the agriculture, food and beverage processing and food and beverage wholesaling and retailing stages in 2022 amounted to overall 10.1 million. (p.10) Contracts are very likely to be multiple of these; commercial transactions an even higher multiple.

examination, and with the consent of the affected party, the case is forwarded to the EA (Federal Competition Authority) for formal investigations.

The number of enforcement activities and especially infringement cases do not seem to be strongly correlated with the occurrence of UTPs on the ground but rather dependent on the strategic choices on, among other factors, enforcement of EAs, the previous experience in enforcement due to pre-existing national legislation, the amount of resources available for enforcement, and the size and structure of the agricultural sector in a given MS <sup>(40)</sup>. For instance, the share of agricultural production in gross value added along the food chain varies across the EU from just below 10 % in Malta and Luxembourg to around 50 % in Bulgaria and Romania.

**Figure 8: Share for primary producers in gross value added along the food chain (%).**

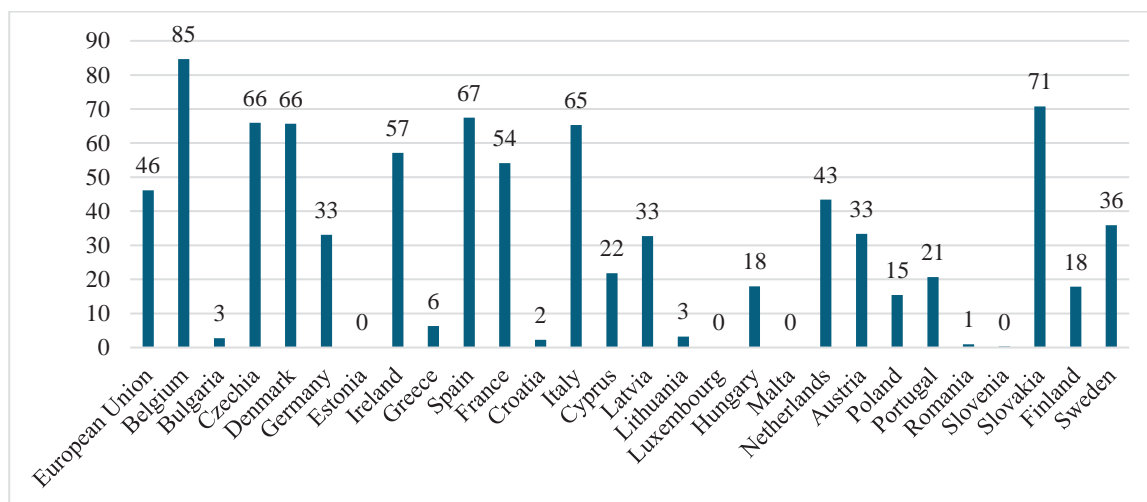


Source: [Agri food data portal- Adding value](#).

In terms of integration of the agricultural supply chain at the level of primary producers the situation is also heterogeneous. For instance, in the fruit and vegetable sector the share of production marketed by recognised producer organisations varies between virtually none in some MSs to shares of 85% in Belgium (average 2018-2022).

<sup>(40)</sup> The Agri food data portal presents a vast array of indicators depicting this heterogeneity. For instance through analytical factsheets about the agricultural sector at EU and MSs levels.

**Figure 9: Average share of fruit and vegetables production marketed by recognised producer organisations 2018-2022 (%).**



Source: [Agri food data portal- Adding value](#)

Moreover, EAs also enforce national transposing legislation that in some cases goes beyond the minimum requirements of the Directive. The number of infringements presented here and in *Section 3* and *Annex V* as well as enforcement activities in *Annex VI* should be read in light of the rather recent transposition of the Directive: sufficient, dedicated resources for enforcement appear to not yet be available in all MSs.

The available evidence does not yet allow to fully assess the extent to which MSs' choices in implementation and enforcement affect the effectiveness of the UTP Directive, including in reducing the occurrence of UTPs and addressing the fear of retaliation. MSs' choices reflect different starting points and needs as well as different enforcement strategies, and most MS have not yet conducted an evaluation of their transposition choices including those elements that go beyond EU minimum rules.

### **Diverging perceptions of stakeholders along the agri-food supply chain on the occurrence of UTPs**

For both black and grey UTPs, the relative majority of survey respondents (about 43 %) of the three surveys carried out in the context of the support study indicated that **no change has been identified in the number of UTPs on the ground**. Around 25% of respondents indicated that no UTPs have been identified at all, e.g., by their institution or among their members (in the case of associations). However, for roughly another 25% of respondents, the number of identified UTPs has **diminished over the years** of application of the Directive and transposing legislation <sup>(41)</sup>. For the majority of MSs, UTPs appear to have remained stable, or no UTPs were identified according to surveyed national public authorities. However, in Czechia, Germany, Denmark, Ireland and Portugal UTPs have diminished after the transposition of the Directive according to the EAs. Aggregated views

<sup>(41)</sup> Figures 3.1. (p.17) and 3.2 (p.18) of the evaluation support study summarise the replies. Total number of replies to this question: 144. Survey of public authorities: 24 replies from 20 MSs. Survey of sector associations: 15 replies from major EU-level associations, representing different stages of the agri-food supply chain; 105 replies from national associations, representing ~1.1 million member companies.



of stakeholders, as already highlighted, mask differences in perceptions when broken down by the stage in the agri-food supply chain <sup>(42)</sup>.

A majority of **associations representing agricultural producers** (about 70 % in dedicated survey for sectorial associations, 31 or 32 out of 45 for black and grey UTPs respectively) indicated that the number of UTPs (black and grey) remained the same after the implementation of the Directive. Nevertheless, the Directive is deemed by them to be a **significant advancement in the protection of primary producers** as numerous contracts between buyers and suppliers were revised and a common understanding around UTPs is spreading. Hence, the **Directive is perceived positively by associations representing farmers**, as a first step in the right direction. **At the same time, these associations do not consider that there is evidence indicating an actual decrease in UTPs at EU level** also due to the consistently high vulnerability given external market disruptions. The JRC annual survey specifically for agricultural producers finds that late payments as well as unilateral contract changes have all diminished when comparing the baseline wave of 2020 with the last survey wave in 2024.

**Associations representing processors** conveyed a more varied picture: about half of the survey respondents indicated no change either (especially in grey UTPs), but 45 % of them indicated a decrease in the occurrence of black UTPs and 33 % a decrease in grey UTPs. When further triangulating with other evidence sources, the Directive appears to be a first important step to rebalance contract practices in the supply chain, but the number of UTPs does not appear to have substantially decreased. More positive outcomes in terms of effectiveness were reported specifically in view of the **respect of payment terms** by retailers. Several consulted associations in the processing stage, across different sectors, reported a reduction of payment periods and that the 30 and 60-days payment terms are now respected in many MSs, at least as far as large retail chains are concerned.

The majority of **survey respondents having among their members wholesalers and retailers** reported that no UTPs have been identified. There have been noticeable changes from the perspective of retailers and wholesalers. Buyers have undergone training, and contracts have been updated in line with the Directive and transposing legislation. Overall, this stakeholder group reported that the occurrence of UTPs largely decreased following the Directive's implementation.

The Directive is also applicable to suppliers outside the EU if the buyer is located in the EU. The Directive is deemed a positive tool in this regard by stakeholders representing the segment. However, shortcomings are reported in terms of awareness of non-EU stakeholders similarly as for EU suppliers as well as possibilities to interact with national EA's to submit complaints e.g. considering linguistic barriers.

In addition to the above, a lack of awareness of the Directive may still be an issue for smaller suppliers, especially farmers. Larger suppliers and processors tend to have

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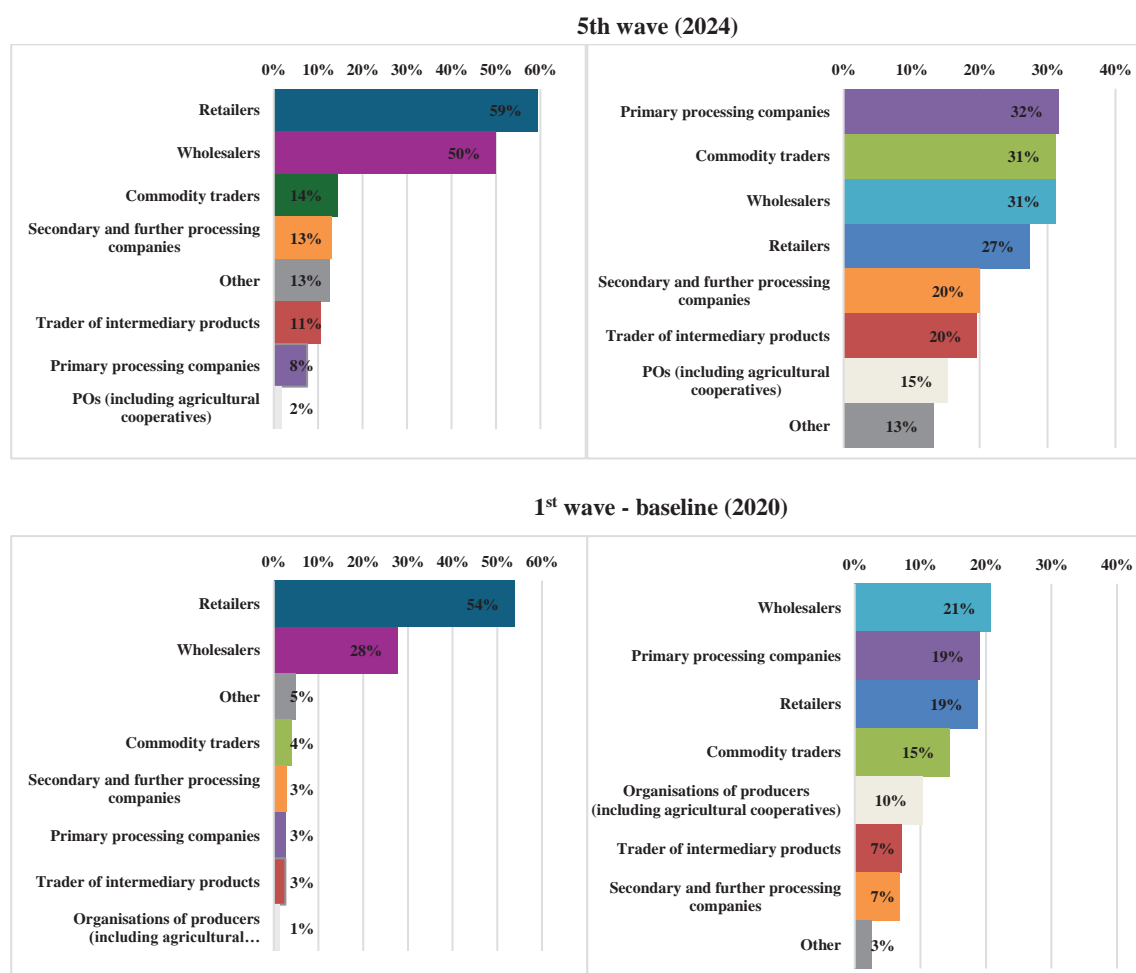
<sup>(42)</sup> These are broadly in line with the evaluation report of the EESC that also finds that while some progress has been made in reducing UTPs, they continue to occur in the MSs covered by the assessment (Bulgaria, Estonia, Germany, Hungary and Slovenia), and that different stakeholders, in line with what is presented here, have contrasting views on the degree of effectiveness of the UTP Directive in addressing the occurrence of UTPs.

moderate levels of awareness about the Directive and may still face challenges in understanding their rights and obligations under the Directive. Awareness of the Directive fluctuates between 62% and 76% of respondents of the JRC survey to suppliers, with no clear trend across the different waves <sup>(43)</sup>.

### UTPs occur throughout the agri-food supply chain

Investigating the extent of possible changes in pass-through has proven challenging. A comprehensive assessment was not possible. However, the JRC survey of suppliers also gathered insights on the **stage of the supply chain where UTPs are mostly encountered** (see *Figure 10*). For agricultural producers, buyers exposing them to UTPs are equally primary processors, commodity traders, wholesaler, and retailers. In turn, processors claim retailers and wholesalers to be the main perpetrators of UTPs.

**Figure 10: Type of buyers perpetrating UTPs according to JRC survey respondents (processors column left, agricultural producers column right).**



<sup>(43)</sup> Similar findings have for instance also been reported at MS level in Sweden in the [2025 report](#) comparing three previous surveys carried out by the Swedish EAs.



Source: evaluation support study, elaboration of the results of the JRC survey – 5th wave (2024) and wave 1 (2020) It was possible to select multiple profiling options. Wording of the question: ‘In which stage of the agri-food supply chain do buyers that expose you to unfair trading practices mostly operate?’.

### **Ex-ante measures are generally perceived positively to prevent UTPs**

Although an important focus in terms of enforcement of the Directive is on deterrence, preventive approaches through *ex ante* or guidance measures have been introduced in some MSs aiming to change how operators behave in the agri-food supply chain in a way that **reduces the likelihood of future UTPs**. This is done by changing the business environment and/or introducing certain safeguards in the contractual relationship between suppliers and buyers.

Combined results from all three surveys to businesses and public authorities reveal that (i) public campaigns, events, workshops, and documentation around UTPs to increase awareness amongst agri-food operators and (ii) introduction of a general obligation for written sales contracts in the national legal order are seen as effective measures.

Retailers appear to deem both as generally effective, while stakeholders representing the farming stage of the agri-food supply chain view the first (i) set of measures (albeit with some notable exceptions in Ireland and Germany) as not having been very effective. The obligation to have written sales contracts (ii), which has been introduced by some MSs, is the only *ex ante* measure deemed effective by a large part of farmers’ representatives (45%)<sup>(44)</sup>.

In addition to the above, some less widespread preventive approaches were identified positively by stakeholders. **Dialogue between operators and the EA** appears to be important and effective, especially in the initial years of implementation of the Directive. The **appointment of an internal UTP compliance officer** for ‘large buyers’, who exchanges with the relevant authority to verify and remove UTPs was deemed effective by 26 % of respondents. Moreover, the availability of a **consultation office within the CA or the EA**, to which all businesses can address questions and/or ask for legal opinions was mentioned by multiple public authorities as a way to provide informal guidance to companies. National authorities had mixed views on the actual preventive effect of introducing ‘**confidential tip-off mechanisms**’ to share relevant information anonymously to fight UTPs. Most respondents view the effectiveness of such tools in preventing/reducing UTPs *ex ante* as medium to low. Results are similar when the public authorities were asked to assess the effectiveness of ‘confidential tip-off’ mechanisms in combating UTPs once they occur. This scepticism appears to be linked to the persistence of ‘fear factor’ issues and to the actual anonymity of tip-offs.

Another measure with a primarily preventive focus has been the **creation of an Ombudsman** to help mediation between parties, and/or to help in the preparation of enquiries/complaints before the EA. This type of measure can be seen in connection with the promotion of voluntary alternative dispute resolution mechanisms under the Directive. While in place in some Member States, such mechanisms were reported as a less

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<sup>(44)</sup> 39 % of respondents of farming representatives indicated however that the **increased burden for farmers/small suppliers is one of the (negative) unintended effects of the Directive** (for example due to obligatory written contracts, shorter invoice periods and more complex contracts).

adopted/known measure. However, where used (e.g. in Austria), this was judged positively by respondents across different categories. Mediation efforts are also favoured by retailers, in lieu of formal investigations.

Finally, the **adoption itself of the Directive** has promoted more awareness about UTPs among supply chain actors (albeit with limitations) and has contributed to setting a standard in contractual negotiations between suppliers and buyers in the agri-food supply chain.

As for the perception regarding the occurrence of UTPs, different stakeholder categories have different views on ways to improve *ex ante* measures to reduce the occurrence of UTPs (and on the need to do so). From surveys addressed at business associations throughout the agri-food supply chain, it emerged that **there are still gaps in information provision and awareness-raising activities**. In particular, the provision of timely information (e.g., in case of changes to the national UTP legislation) and support to organisations in their dissemination activities towards members is lacking.

### **Low complaint rates persist among victims of UTPs**

As provided for in the Directive, EAs can initiate investigations *ex officio* or on the basis of a complaint. According to the latest survey conducted by the JRC on the topic (2024), only 51 % of respondents knew to which authority they should turn to file a UTP-related complaint. Looking at the results of the targeted SME survey conducted in 2024 through the Enterprise Europe Network, this share drops to 22 % (17 out of 78 replies to the question).

Suppliers indicate several reasons for not raising UTPs when they experience them. Even if Article 5(3) of the Directive requires EAs to ensure the protection of the identity of the complainant and other confidential information, a major obstacle continues to be the fear of some form of retaliation by the buyer, reported by 29 % of respondents in the last wave of the JRC survey. A 19 % share of surveyed suppliers thinks that unfair behaviour is customary practice in the sector, and thus not worth reporting. Lack of trust in the effectiveness of EAs' help is another important drawback for 19 % of respondents.

In this regard, the JRC survey results indicate that business associations representing suppliers identify the fear of retaliation and the maintenance of anonymity throughout the complaint process as crucial factors in establishing effective enforcement systems. Confidentiality was a major concern in several case studies, including those in Belgium, Spain, the Netherlands, and Sweden. Suppliers often express doubts about the likelihood of remaining anonymous and fear potential commercial retaliation, such as losing a customer. However, to ensure the alleged perpetrator's right to defence, some information about the complainant must generally be disclosed at a certain point in the procedure.

A possible solution offered by the Directive is to enable supplier associations or groupings to submit complaints on behalf of their members (Article 5), but widespread use of this possibility could be documented.

***Ex officio* cases and investigations** conducted by EAs are seen as a **crucial means of overcoming the limitations imposed by the fear of retaliation on the effectiveness of the complaint system**.

Alongside formal complaints (including confidential ones), anonymous tip-off mechanisms can also provide EAs with valuable insights without requiring the submission of a formal complaint, as is the case in countries such as France, Ireland, and Lithuania. These anonymous tips can support the EA's investigative efforts and inform the launch of *ex officio* cases or sector-level inquiries. However, in highly concentrated sectors or when a buyer has a limited number of suppliers, concerns regarding confidentiality persist, as the source of the tip-off may be easily identifiable. Overall, the majority of survey respondents in the three surveys of the evaluation support study across various categories rated anonymous tip-offs as moderately to minimally effective.

### **Penalties are generally perceived as effective to support compliance through deterrence**

The core enforcement mechanism of the Directive remains focused on deterrence through the imposition of effective, proportionate, and dissuasive penalties. Once an infringement has been established following an investigation, the Directive empowers EAs to issue decisions finding an infringement and **decisions requiring the buyer to bring the prohibited trading practice to an end**.

Furthermore, the Directive empowers EAs to impose on the buyer **finances and other equally effective penalties** and **interim measures**. Such fines and other equally effective penalties are viewed in many MSs as a key deterrent to ensure compliance with UTP legislation if they are sufficiently severe and strictly enforced. However, it should be noted that in several MSs fines imposed so far have been limited (with exceptions, or absent see *Section 3.1*), making it difficult to assess the effectiveness of this measure to this date.

In addition, the Directive contemplates the use of **reputational measures** through the regular publication of infringement decisions. This may include so-called '**name and shame**' approaches, where the names of buyers found to have committed UTPs are made public. According to stakeholders consulted across several MSs (e.g. Poland, Spain, France, Germany, Lithuania), such measures are seen as effective in reinforcing deterrence. In some instances, national stakeholders indicated that this measure should be applied more consistently and broadly. It was also observed that 'consumer facing' companies are most impacted by reputational risk.

### **Some MSs rely on additional measures to correct non-compliance and/or compensate victims of UTPs**

In addition to the enforcement measures provided for in the Directive, some MSs may make use of corrective or compensatory mechanisms not provided for by the Directive but present at national level. In the case of corrective mechanisms, these are meant to restore compliance after a breach. As such measures are part of national transpositions, their uptake may thus vary. However, several stakeholder categories could only provide limited feedback on the actual effectiveness of corrective measures due to the **limited number of actual cases handled by EAs in many MSs**.

For example, some EAs have the power to issue/agree on specific commitments/compliance activities on the part of the buyer. The possibility to issue/agree on commitment actions for offenders (the name and functioning of these measures vary across MSs and is not a power provided for in the Directive) is often considered an efficient

and effective alternative to the imposition of financial penalties (this is the case, e.g., of Czechia, Lithuania and Poland).

While only a few EAs provided extensive input on orders to comply (i.e., requiring require buyers to stop UTPs and take actions to ensure compliance), those who (can) apply them expressed positive judgements on the effectiveness of this measure.

While the Directive's primary focus is on administrative enforcement rather than on civil law consequences, some MSs may also provide for classical **civil law remedies against UTPs** (e.g., annulment of contract terms, restitution of charges, compensation for damages) as part of their transposing legislation. The annulment of contract terms was the corrective measure with the most positive judgment among representatives of the retail stage (62% of dedicated survey).

Overall, survey results of farming representatives found that additional measures are not well-known among farmers. Furthermore, most respondents from farming organisations believed that measures including orders to comply, financial penalties, and reputational measures were not effective deterrents compared to fines and other equally effective penalties and publicising decisions establishing the existence of a UTP which were seen as the most effective ways to tackle UTPs. The combination of reputational consequences and the potential for suppliers to recoup unjustified costs and expenses was also considered important. Some supplier associations, representing both farmers and processors, also advocated for increased harmonisation of penalties at the EU level.

Despite some limitations, associations representing suppliers generally expressed a positive view of the Directive. This positive assessment is in line with the findings of several case studies, which highlight the Directive's key merit in promoting a culture of fairness in business practices, a process that, although lengthy, has begun to take hold.

### **Shortcomings remain in cooperation on enforcement between EAs**

Overall, several EAs consulted during the study expressed a favourable opinion regarding the cooperation initiatives facilitated by the EC. The meetings of the UTP Enforcement Network are viewed as valuable opportunities for discussion and exchange amongst authorities from different MSs, and it was suggested that these should continue in the future. Nevertheless, certain shortcomings were also highlighted<sup>(45)</sup>. Cooperation initiatives show some limitations for 62.5 % of the surveyed public authorities. Reported limitations are mostly related to the **legal framework set by the Directive**, and its adequacy *vis-à-vis* the practical needs of enforcing the Directive in the case of cross-border transactions.

The evaluation corroborates the findings presented in the UTP Report 2024, which emerged from exchanges in the UTP Enforcement Network, that *'the general obligation in Article 8 [of the Directive] to provide each other with mutual assistance in cross-border investigations may not always provide a sufficient legal basis to ensure effective and efficient cooperation and enforcement'*.

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<sup>(45)</sup> For summary proceedings of the UTP Enforcement Network see the [Register of Commission expert groups](#), group E02730, meetings related to the UTP enforcement.

A consulted EA expressed that, at present, they can only exchange public information (e.g., information about current legislation and issued decisions) with EAs in other MSs. Another EA pointed out that the online platform set up by the Commission is not - in its current form - a practical tool for cooperation. The aim should be to align the exchange of information in UTP cases to the practices of the [European Competition Network](#) and the [Consumer Protection Cooperation Network](#), mentioned by EAs as positive examples. Some consulted EAs expressed the wish to have a **centralised system** (standard templates; online platform; an alert/notification system on cross-border cases) for safely exchanging information with other authorities and engaging in common enforcement activities. Enhanced guidance from the EC on how institutions should cooperate would also be important. The Network discussed on the need to improve the system with the EC.

Improving coordination and dialogue among EAs, especially for UTPs in cross-border transactions, is an aspect where further work is needed, also according to some key stakeholder representatives across the supply chain<sup>(46)</sup>. For them, the issue is often twofold and is intertwined with the differences in transposition choices and with maintaining a level playing field at EU level. Two aspects were mentioned: how cooperation at EU level can improve enforcement at MS level, and how cooperation should work in cross-border cases.

As regards the former, the **variety of approaches to enforcement** was noted by different stakeholders, with cooperation between authorities mentioned as a way to develop more aligned practices. In terms of the **enforcement of cross-border UTP cases**, many of the consulted business stakeholders and experts acknowledged a need to improve cooperation, but practical suggestions of how to do this were limited. EAs are focusing mostly on national cases at present, pursuing and sanctioning UTPs against buyers based in their own MS, even if these are part of a larger multinational.

Despite the above, a limited number of cases of positive cooperation between EAs in cross-border UTP enforcement were reported by stakeholders<sup>(47)</sup>.

Acknowledging the need to act, given the indications pointing towards some shortcomings in terms of EAs' cooperation and due to the political urgency following farmers' protest in 2024, the **EC proposed** on 10 December 2024 a **Regulation** on the cooperation aspect anticipating the publication of the analysis done as part of the evaluation<sup>(48)</sup>. The Regulation, if adopted, would establish a framework to facilitate EAs' cooperation in cross-border cases.

### **Stakeholders report greater transparency and certainty, and promotion of trust and fairness in business relationships**

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<sup>(46)</sup> Larger, cross-sectoral organisations were usually in the position of commenting on the topic, while several sectoral or smaller associations were less aware of current cooperation activities and possible improvements. Generally speaking, business stakeholders had limited information on the existing challenges in cooperation among EAs for cross-border cases.

<sup>(47)</sup> See evaluation support study p. 39 for more details.

<sup>(48)</sup> Proposal for a Regulation on cooperation among enforcement authorities responsible for the enforcement of Directive (EU) 2019/633 [COM/2024/576 final](#).



The **main benefit** identified from the implementation of the Directive by surveyed CAs/EAs was the strengthened protection for victims of UTPs <sup>(49)</sup>. **Other identified benefits** <sup>(50)</sup> were, in decreasing order of prevalence: i) more transparent price conditions; ii) terms of supply contracts less prone to ambiguous and unilateral interpretations and reduction of the number of unilateral and retrospective changes to contract terms (ex-aequo); and iii) an increase in the number of written supply contracts. Shorter payment terms and consideration of production costs in price-setting were also mentioned under the `other benefits` reply option.

The analysis of benefits was differentiated – to the extent possible – **by stage of the supply chain**, with a view to identifying any specificities that characterised a certain stage.

A great majority of surveyed business associations stated that **some monetary benefits** were experienced by their members because of the implementation of the Directive. The most frequently indicated benefits were (in decreasing order of prevalence): i) terms of the supply contracts less prone to ambiguous and unilateral interpretations (24 % out of 228 indications); ii) reduction of the number of unilateral and retrospective changes to contract terms (19 %); and iii) more transparent price conditions (15 %).

The vast majority of responding business associations reported that some **non-monetary benefits** were experienced by their members because of the implementation of the Directive. The most frequently indicated benefits were (in decreasing order of prevalence): i) improved trust between suppliers and buyers (19 % out of 254 indications); ii) increase in the number of written supply contracts (18 %); and iii) strengthened protection for members affected by UTPs in domestic transactions (17 %).

Several consulted stakeholders, especially in the farming and/or processing stages, also highlighted the following additional non-monetary benefits stemming from the Directive:

Highlighting the issue of UTPs and thereby promoting a discussion on the topic – and more generally on fairness in business relationships - among business and institutional stakeholders, at both EU and national level.

To some extent, the Directive has acted as a deterrent to perpetrating UTPs, mainly thanks to the start of investigations by EAs and the related risks for detected offenders (mainly stemming from penalties and reputational damage).

The Directive has also contributed to the development of a business culture where the concept of fairness is increasingly seen as something that operators can highlight in their promotional and marketing activities.

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<sup>(49)</sup> This was indicated 18 times out of a total of 83 indications (22 %).

<sup>(50)</sup> Indicated at least 10 times out of a total of 83 indications (prevalence in the 10-20 % range).

Even in the framework of a generally negative perception about the (lack of) benefits stemming from the Directive, some stakeholders at the retail stage acknowledged that the Directive has improved legal certainty about trading practices thereby contributing to improved trust between suppliers and buyers (the main non-monetary benefit identified in the survey of business associations).

#### **Case study Spain – Focus on Wine and Fruit and Vegetables (F&V) supply chains**

Due to Spain's extensive experience and broader scope of legislation, it is challenging to clearly attribute the Directive's impacts (indeed, consulted stakeholders generally believe the Directive has brought little change). Overall, since 2014, the *ley da cadena* appears to have been largely effective in reducing the occurrence of UTPs and addressing them when they do occur. The positive impact on payment periods is particularly notable. Additionally, the 2021 requirement to register contracts was viewed by many interviewees as having significantly reduced the occurrence of such practices. Most interviewees found 'naming and shaming' to be particularly effective, with penalties also seen as broadly effective. However, not all interviewees shared this positive view. The lack of cases for certain UTPs at specific stages of the agri-food chain, both historically and currently, was noted as a potential indicator of limited impact, and the varied impact of 'naming and shaming' depending on the stage of the chain was also questioned. The confidential tip-off mechanism was generally viewed positively, though its effectiveness was limited due to challenges in maintaining anonymity.

The overall positive assessment also extended to the law's impact in **reducing the impact of UTPs on farmers**. The most significant impact was perceived to be on payment periods, as farmers benefited from reduced financing costs previously incurred due to late payments. However, there is some uncertainty about whether the improvement in payment periods occurred before the law came into effect. Although there were positive impacts noted in mitigating other unfair trading practices, several cases were identified where the law had not reduced their impact on farmers. A notable example is the case of intermediaries in central supply markets within the fruit and vegetable sector, whose traditional methods of operation are difficult to control under the Directive and the law, despite some efforts to address this.

Regarding costs, the general perception is that the upstream stages of the chain have not incurred significant expenses due to the law, whereas the downstream stages might have. Chief among these costs were those related to the contract registration requirement, which some interviewees found particularly burdensome. **Benefits** were perceived to accrue to the upstream stages of the chain, including shorter payment periods and greater legal certainty. Whether costs outweighed benefits depends on the supply chain stage in question.

#### **Trend of decreasing number of days for the execution of payments points to economic benefits for the agricultural community**

The extent of the mitigating effect of the Directive felt by the operators in the farming stage is mainly assessed based on evidence collected through stakeholder consultation (including in the framework of case studies), in the support study, supplemented by desk research. In spite of the limited quantitative elements provided by stakeholders in the farming sector, the analysis of the available qualitative elements and the development of estimates based on assumptions allows for a qualitative and quantitative assessment of the nature and severity of the negative impacts of UTPs on operators in the farming stage and the effectiveness of the mitigation provided by the implementation and enforcement of the Directive.

A consideration emerging from the assessment is that the nature and – above all – the severity of the negative impacts of UTPs on operators in the farming stage, and on individual farmers in particular, derive from the combination of two intertwined elements:

- The **impact mechanism**, i.e., whether the operator: i) is the victim of a UTP (direct impact); or, ii) is affected by UTPs occurring in the downstream stages of the chain via the pass-through (indirect impact).

- The **level of countervailing power** at the farming stage, i.e., the diffusion and economic importance of Producer Organisations (POs)s, cooperatives, and similar organisational forms, since this contributes to determine the bargaining power of suppliers of agricultural products *vis-à-vis* their buyers.

The elements emerged from the assessment suggest that the severity of negative impacts can be significant for individual primary producers that are victims of UTPs perpetrated by a stronger buyer (direct impact/no aggregation); it may instead be limited for farmers that are members of POs and cooperatives, especially where there is a further level of aggregation and/or the organisations controlled by primary producers have integrated downstream operations like packing or processing.

Farmers and small suppliers tend to **perceive the severity of the negative impacts** of UTPs in relative terms, i.e., compared to the strength of other factors that can negatively affect their economic results (low yields, low selling prices, high production costs, etc.).

Most of the recent quantitative evidence comes from two surveys commissioned by national authorities in Ireland <sup>(51)</sup> and Lithuania <sup>(52)</sup>. These surveys suggest that while the overall extent of the adverse economic impacts of UTPs may be significant for some operators in the farming stage, other farmers do not experience significant negative impacts or are unable to determine with sufficient precision the extent of such impacts.

The assessment in the evaluation support study revealed that the main negative impacts of UTPs experienced in the farming stage, with particular regard to those affecting individual farmers, are the following (broadly ranked from the more widespread to the less common ones):

- (1) **Delayed payments.** The main negative impact is disruption to cash flow, which may in turn cause recourse to loans, with the related financial burden. The severity of these impacts was reported to vary, also in relation to the specific financial situation of each supplier. A quantitative assessment on a panel of just under 50 000 companies mainly operating in the farming stage or close to it found that the average payment period towards operators in the farming stage was significantly above the 60-days payment term in the years preceding the Directive (2015-2019).
- (2) **Cancellation of orders at short notice.** The main negative implications were identified in: the efforts needed to find an alternative outlet,

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<sup>(51)</sup> A survey conducted by a research company for the Department of Agriculture, Food and the Marine in 2023 asked farmers to estimate the costs to their business arising from UTPs. Within a pool of 709 respondents subject to one or more UTPs, 39 % claimed to be unsure of the estimated cost; 27 % estimated a cost up to 2 % of annual revenues for their business; 34 % reported an estimate higher than 2 %. The share of respondents claiming higher than 2 % costs did not vary significantly (31-34 %) across different sectors (beef, dairy, sheep), with the exception of the mixed group `cereals, poultry, other`, where it reached 40 %.

<sup>(52)</sup> The Agency of Agriculture carried out a survey in 2024 to assess the effects of the national transposing legislation on business operators. The results of the survey are publicly available (in Lithuanian only [link](#)). Based on the survey results, UTPs seem to have a significant negative impact on a minority of farmers only (6 %), mostly in terms of additional costs.



decreased revenues where sales to alternative customers occur at less favourable pricing conditions or complete loss of revenues, often combined with costs for product disposal, if no alternative outlet can be found. The most severe negative impacts are experienced in relation to the latter point, which concern perishable products (fruit and vegetables in particular).

- (3) **Additional costs and/or decreased revenues** related to UTPs such as unilateral changes of contractual terms by the buyer or payments for deterioration/loss of products on the buyer's premises (with particular regard to perishable products). The available evidence suggests that the severity of the related impacts is case-specific and can hence vary significantly.

To assess the potential benefits stemming from the implementation of the Directive (or, conversely, to provide quantitative indications on the negative impacts of delayed payments on the farming stage), the support study showcases an analysis of the trends of payment periods towards **operators in the farming stage** using Days Sales Outstanding (DSO) as a proxy <sup>(53)</sup>. The analysis compared the trend in DSO for a sample of companies that operate mainly in the farming stage (or close to that) of supply chains (and therefore mainly acting as suppliers) in selected MSs in the periods preceding and following the entry into force of the Directive <sup>(54)</sup>. The analysis revealed that while DSO remained stable or even increased in the period preceding the entry into force of the Directive, a **decrease** in DSO was recorded in three out of four analysed MSs (Italy, Poland, Spain). In Poland and Spain, DSO in 2023 were rather close to the 60-days payment term established for non-perishable agricultural and agri-food products in the Directive. Nevertheless, the **observed evolution is in line with the expected effects of the Directive**.

The same approach was replicated using [FADN data](#), a yearly survey of 80 000 EU farms. Here it was also not possible to distinguish between the 30 days payment term and the 60-days payment term. Results are overall in line with the ones presented in the evaluation support study: DSO is declining over the 2014-2022 period for farms in the sample.

The external study team also estimated the potential economic benefits for operators in the farming stage that would stem from further reduction of DSO to meet the 60-days payment

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<sup>(53)</sup> DSO are a measure of the average number of days that it takes an operator to collect the payment for a sale. DSO are computed by dividing the average accounts receivable during a given period, in this case a year, by the total value of sales during the same period, and then by multiplying the result by the number of days in the period being measured.

<sup>(54)</sup> To put the data quantified in the exercise in a broader context, it is useful to consider the figures on 'average payment period in days' for all businesses reported in the [EU Payment Observatory Indicators Mapper](#) database for the four MSs covered (data are available for 2019 and 2023; **no specific figures for the agricultural sector and for the food and beverage sector are available**): France: 65 days in 2019, 62 days in 2023; Italy: 50 days and 62 days; Poland: 62 days and 65 days; Spain: 65 days and 62 days. Whereas the DSO quantified in the exercise for 2019 are significantly above the average payment periods for **all businesses** in the MSs of interest (73-89 days versus 50-65 days), quantified DSO for 2023 in Italy, Poland and Spain are much closer to this source (63-70 days versus 62-65 days), with France still lagging behind (88 days versus 62 days).

term <sup>(55)</sup>. These benefits would mainly be in the form of **potential additional yearly cash flow for suppliers**, which is assumed to translate into **reduced recourse to loans, reduced insolvency, and increased availability of financial resources for investments**. The average additional yearly cash flow per company of the panel used in the evaluation support study is estimated to range in an order of magnitude from around EUR 16 000 in Poland to nearly EUR 175 000 in France (where DSO in 2023 was still substantially above 60 days) <sup>(56)</sup>.

### **Variability in transposition and enforcement costs for MSs**

The analysis of costs and benefits for each stakeholder is mostly based on quantitative and qualitative evidence from the external support study. A more detailed and schematic analysis of costs and benefits can be found in *Annex IV Overview of benefits and costs*

The analysis on **costs incurred by public authorities**, based mainly on labour input, revealed **variability of both transposition and enforcement costs**, irrespective of the presence/absence of pre-existing legislation. This variability is in part related to differences in labour effort, and in part related to different wage levels across the EU as well as enforcement strategies.

**Transposition costs** range from an estimated one/a few thousand euro to over EUR 150 000 in some MSs that did not have previous UTP legalisation in place (the Netherlands, Denmark). However, transposition costs are estimated to be substantial (close to or above EUR 100 000) also in some MSs (Croatia, Ireland) that had pre-existing legislation. The most plausible explanations are that achieving compliance with the Directive required extensive amendments, that several new provisions were added to the pre-existing legislation in the framework of the transposition, and/or that an *ex-ante* impact assessment was carried out. Moreover, the decision to go beyond the minimum requirements of the Directive and/or of pre-existing national UTP legislation may have had implications on the extent of the transposition costs.

**Annual enforcement costs** also display variability and are broadly in line with expectations in the UTP IA 2018. Variability is also related to the different nature of enforcement activities carried out in each MS, and the number of these activities. In general, enforcement costs are estimated to be close to EUR 800 000 in MSs with extensive enforcement activities (Spain, Italy and France in particular, which all had pre-existing UTP legislation, and whose transposition of the Directive went significantly beyond minimum harmonisation). However, there are some noteworthy exceptions, especially in MSs without pre-existing UTP legislation (Denmark, the Netherlands, Estonia and Malta in particular).

More than half of the surveyed CAs/EAs (13 out of 24) perceive the enforcement of the relevant national legislation (i.e., the application of ex ante/guidance and corrective

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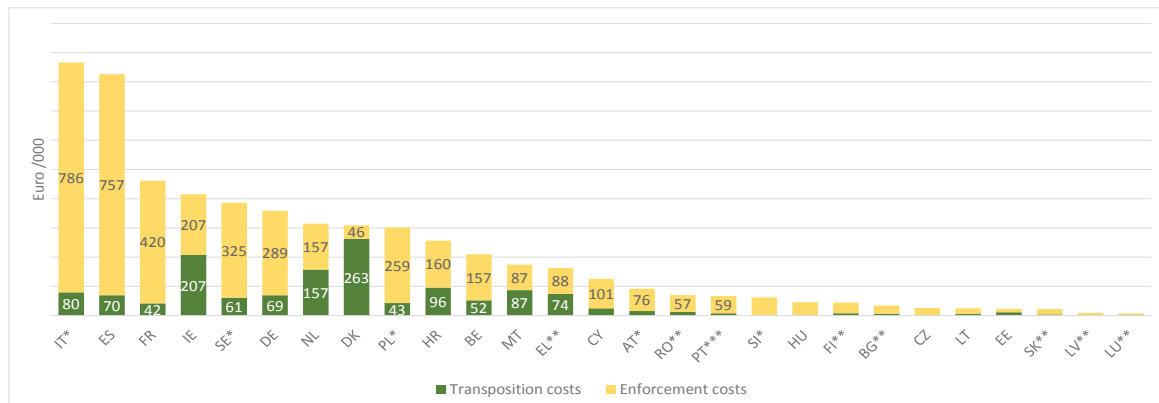
<sup>(55)</sup> The impossibility of distinguishing in the dataset the turnover and trade receivables related to sale of perishable products did not allow to perform an analogous exercise for the related 30-days payment term. In any case, the consideration of the sole 60-days payment term in the exercise translated into a prudent estimate of the potential benefits in terms of additional cash flow for suppliers.

<sup>(56)</sup> The methodology for this estimation, as well as the related limitations, are explained in Annex 1 of the external support study.

measures) as their **most time-consuming activity**. Four EAs reported that the monitoring and assessment of UTP cases requires most of their time, while seven EAs reported that other activities are the most time-consuming ones. Indicative estimates of the **costs for investigating a UTP case** were also made. The analysis revealed **significant variability**.

It is also useful to note that over half of the respondents in MSs with pre-existing UTP legislation (eight out of 12) deem that more time is spent on enforcement activities since the entry into force of the Directive, compared to the previous period.

**Figure 11: Estimated transposition costs and enforcement costs of the Directive in the 27 MSs (in thousand EUR).**



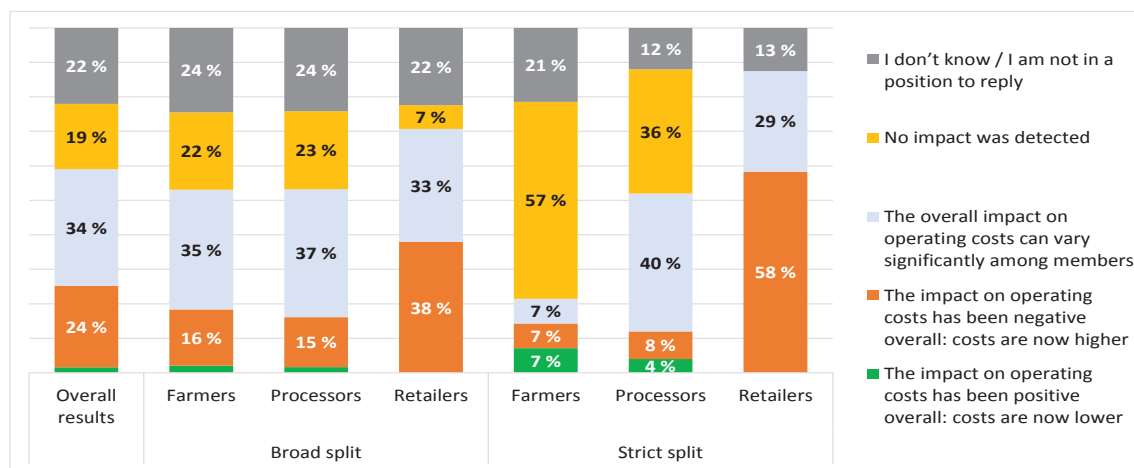
Source: elaboration of data from the survey of CAs and EAs, case studies, and Eurostat in the evaluation support study. \* MSs whose labour cost was estimated through assumptions on ISG for transposition. \*\* MSs whose labour cost was estimated through assumptions on FTEs for both transposition and enforcement \*\*\* MSs whose labour cost was estimated through assumptions on FTEs for enforcement. For more details see *Annex IV Overview of benefits and costs*. Note that the degree of enforcement activities before the Directive already varied for MSs that already had UTP related legislation and enforcement.

Data on the importance and extent of **cost items other than labour costs** was more limited and did not allow for any meaningful overall inference.

### **Compliance costs for businesses are small compared to the turnover of the sector**

**Costs incurred by business operators:** The direct and indirect costs incurred by business operators in relation to the implementation of the Directive vary in nature and extent according to a combination of elements. In the first place, a key determinant is the prevalent activity performed by operators (suppliers, buyers, both equally), the approach to the enforcement at national level and whether they are (alleged) offenders or (alleged) victims. The paucity of evidence made it difficult to carry out estimates based on assumptions. Nevertheless, the **analysis of survey results** allowed for an **appraisal of the main trends**– to the extent possible – **by stage of the supply chain**.

**Figure 12: General impact of the Directive's implementation on the operating costs.**



Source: External evaluation support study: elaboration of data from the survey of business associations.

In terms of the **order of magnitude of the overall cost impact on business operators** stemming from the implementation of the Directive at national level, the case studies in Germany, Sweden and Denmark allowed the collection of some quantitative elements. An assessment made in 2021 for the German *Bundestag* <sup>(57)</sup> estimated the one-off **compliance costs with the German UTP legislation at around EUR 12.5 million** for the national economy as a whole, corresponding to EUR 36.20 per company. Another assessment made in 2024 for the German *Bundestag* <sup>(58)</sup> estimated the one-off compliance costs for the national economy as a whole at **EUR 1.24 million in relation to the recent amendment of the national UTP legislation**, once in force. A [2023 report](#) by the Swedish EA *Konkurrensverket* (KKV) featured estimates by sectoral associations according to which compliance with the Swedish UTP Act had cost **buyers** approximately **EUR 12 million**, with an average expenditure per company of around EUR 4 300. An *ex-ante* assessment of the impacts of the Danish UTP Act, made in 2021, estimated at around **EUR 19 million the overall one-off adaptation costs** <sup>(59)</sup> for business operators, of which around EUR 7 million for buyers and EUR 12 million for suppliers. The overall recurring compliance costs for business operators (post-adaptation) were estimated at around EUR 336 000 per year, of which around EUR 202 000 for buyers and EUR 134 000 for suppliers.

In terms of **direct monetary cost impacts deriving from specific activities**, those concerning checks by public authorities and modification of existing contracts/contractual clauses were rated as 'high' or 'medium' by the highest shares of respondents to the survey carried out in the context of the evaluation support study (25 % and 29 %, respectively, out of a total of 114 surveyed associations). Moreover, impacts deriving from drafting and agreement of new contracts/contractual clauses (where none were required before) were rated as 'high' or 'medium' by significant shares of respondents (21 % and 18 %, respectively).

<sup>(57)</sup> [Draft of a Second Act to Amend the Agricultural Market Structure Act](#), 25.01.2021: Anlage 2.

<sup>(58)</sup> [Draft of a law amending agricultural law provisions](#), 25.06.2024.

<sup>(59)</sup> Costs for gathering and updating information about suppliers' business size, segmentation of procured goods as perishable and non-perishable goods, re-negotiation of contracts, and training of staffs.

**Retailers** appeared to bear the highest per operator costs according to the support study. **Scarce quantitative evidence on the costs incurred by operators in the farming and processing stages** of the chain for complying with the relevant national legislation emerged from interviews with business stakeholders and independent experts, and from case studies.

**Compliance costs for processors** <sup>(60)</sup> were reported in the dedicated survey to business associations carried out in the evaluation support study as ranging from EUR 2 000 to EUR 40 000 per operator in the meat supply chain, depending on a combination of factors, including the applicable legislation, the size of the firm, the complexity of its procurement patterns and the number of its suppliers and customers.

As for **compliance costs incurred in the farming stage**, qualitative elements emerging from interviews and case studies suggest that they are limited, thus confirming what emerged from the analysis of survey results.

The most significant **direct monetary cost impacts for national business associations** were found to derive from (in decreasing order of prevalence): i) support to members on contractual matters, in order to ensure compliance with the Directive (aggregate share: 43 % of 121 respondents); and ii) handling UTP-related requests or complaints from members and training on UTPs, ex-aequo (aggregate share: 40 %).

#### **Case study the Netherlands- Focus on Pig meat, sugar and potato supply chains**

According to stakeholders, most large operators in the Netherlands are aware of the UTP Act, which has become a key reference in contract negotiations between suppliers and buyers. Stakeholders in the processing stage noted that the UTP legislation has had a preventative effect on certain elements, such as the 30-day payment term for perishable goods, and has established a suitable set of minimum requirements for companies to follow. However, those interviewed in the pig meat supply chain indicated that the impact of these preventative measures has been rather limited due to a lack of awareness among suppliers, and also buyers, about UTP legislation in the Netherlands. Despite the presence of an anonymous tip-off system, farmers still seem worried about being identified when reporting a UTP.

In the Netherlands, the CA has faced several adjustment costs to implement the UTP legislation. These include, for example, setting up the dispute committee (EUR 185 000) and employing additional staff members (two FTEs) to manage UTPs. The EA hired eight more staff members to address UTPs. Additionally, the CA allocated an annual sum of EUR 930 000 to the EA for executing its statutory role—namely, enforcing the UTP Act—and another EUR 50 000 is allocated to the Dispute Resolution Committee (which also receives EUR 5 000 per case for incidental costs). The EA allocated between EUR 4 000 and EUR 7 000 for staff training costs. Both the CA and EA view the costs incurred as highly proportionate to the benefits derived from the UTP legislation. It proved challenging to quantify benefits and costs at the farm level in the three supply chains examined in the case study. Compliance costs were highlighted by one processor, who spent EUR 250 000 to adhere to the UTP legislation. A consulted stakeholder in the pig sector reported that the efforts and costs associated with the [Vion case](#) were substantial due to a lack of knowledgeable lawyers (which increased the legal consultancy costs incurred by the complainants) and the reputational damage to the processor; in contrast, the perceived benefits were limited, as pig farmers were not compensated for the economic damage suffered.

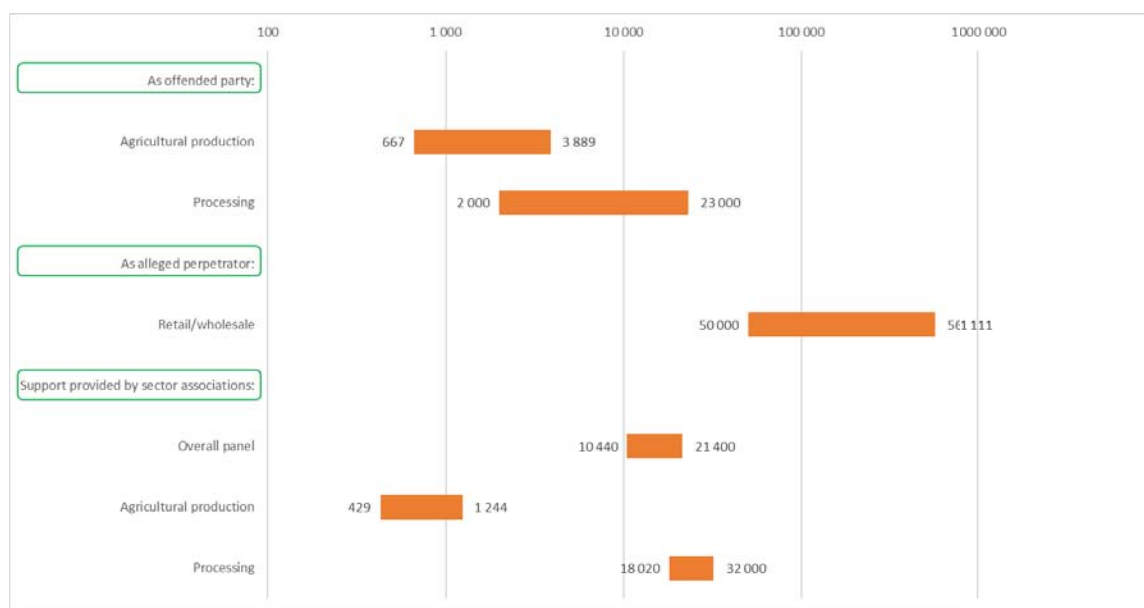
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<sup>(60)</sup> Compliance costs mainly derive from the adaptation of the business operators' organisational structure, operational procedures and contractual arrangements to comply with the national transposing legislation. They include, *inter alia*, revision of existing contracts, training of personnel involved in procurement and marketing activities, etc. It is also worth reminding that processors generally act as both suppliers and buyers with regard to the Directive.



The external study also attempted to estimate the cost for an operator that stems from being involved in a UTP case. **Costs for suppliers operating in the farming stage are reported as lower than those incurred by suppliers operating in the processing stage (when being ‘victims’ in a UTP case).** The costs for buyers, all reported by surveyed retailers/wholesalers, are significantly higher than those incurred by suppliers, and include disbursements for any penalties imposed on them (leaving aside the economic implications of reputational damage, which are hard to quantify). Higher average costs (in absolute terms) for buyers are in part related to their large size and to the fact that they source from a high number of suppliers, often based in multiple MSs. The costs incurred by reference associations supporting members in UTP cases were also reported to vary significantly.

**Figure 13: Indicative costs: i) for an operator involved in a UTP case as suppliers (alleged victim) or buyer (alleged perpetrator); ii) for a national sector association supporting a member company/farmer in a UTP-related case.**



Source: External evaluation support study: elaboration of survey results (business associations; retailers/wholesalers). It was not possible to report cost ranges for operators in other stages of the supply chain as alleged perpetrator because of the small number of replies from categories other than retailers/wholesalers.

### **Proportionality of costs perceived positively by farmers, while questioned by wholesalers and retailers**

The majority of the surveyed CAs/EAs stated that that the **administrative burden for the authorities** related to the implementation of the Directive is **proportionate to the benefits** achieved. An equally positive judgment was expressed by the majority of the surveyed CAs/EAs on whether the **administrative burden for business operators** related to the implementation of the Directive is **proportionate to the benefits** achieved.

Stakeholders in the **farming stage** of supply chains converged on a **generally positive judgment**. In their view, the benefits for operators deriving from the implementation of the Directive at MS level far outweigh the compliance costs and any other direct and indirect costs. Several stakeholders in this stage, however, deemed that there is still room for improvement in terms of benefits from combating UTPs in the agri-food supply chains.



These could be delivered through a combination of more effective enforcement and expanded scope of the protection from UTPs ensured by legislation.

The perceptions of stakeholders in the **processing stage** emerged as **more articulated and nuanced**, even though they were **generally positive**, i.e., indicating that the costs related to the implementation of the Directive are at least proportionate to the benefits, or that the latter outweigh the former.

As for stakeholders in the **wholesale** and (especially) **retail stages** of supply chains, a wide convergence on a **negative judgment** emerged from the assessment. These stakeholders consider that the compliance costs and other direct and indirect costs for operators resulting from the implementation of the Directive outweigh the limited benefits accruing to them. This is confirmed by the share of business associations representing these stages of the chain that did not identify any monetary (especially) or indirect/non-monetary benefits stemming from the Directive.

### **Consistency and synergies between the UTP Directive and other EU legislation with similar objectives**

The assessment of coherence between the UTP Directive and other EU-level interventions that have similar objectives include the identification of any 'synergies' and/or inconsistencies/conflicts in terms of addressing UTPs.

There is a high degree of coherence between the UTP Directive and the [CMO Regulation](#), where the Directive complements the structural approach of the CMO Regulation. <sup>(61)</sup> The CMO Regulation aims to strengthen farmers' position in the chain through structural tools that empower farmers to act collectively and increase their market leverage, for example, by encouraging collective action through producer organisations and cooperatives, through exemptions from competition rules that allow farmers to cooperate more effectively or by setting a general contractual framework. Conversely, the UTP Directive acts at the level of individual commercial relationships, providing a protective framework which is designed to shield farmers and other weaker suppliers from a specific abusive behaviour by buyers.

One concrete example of how the two instruments complement and reinforce each other lies in their approach to contractual relations. Under the CMO Regulation, MSs can require the use of written contracts for the sale of agricultural products. Because written contracts are easier to trace and monitor, they can promote transparency and facilitate the fight against UTPs. Consequently, the rules on contracts of the CMO Regulation can complement and reinforce the UTP Directive, but they do not replace it. This is because even clearly documented contracts can still reflect unequal bargaining power and include unfair or disproportionate terms, such as return clauses that place all risk on the supplier, or because certain practices may arise during the life of the contract, like unilateral changes to what was agreed or last-minute order cancellations.

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<sup>(61)</sup> The same degree of coherence also holds with respect to the common organisation of the markets in fishery and aquaculture products [Regulation \(EU\) 1379/2013](#).

The [Corporate Sustainability Due Diligence Directive](#) (CSDDD), adopted in June 2024, complements to some degree the UTP Directive by promoting responsible purchasing practices, including in the agricultural sector. It will apply across economic sectors to large EU and non-EU companies with a significant presence on the EU market. The Directive will require in-scope companies to identify, assess and address human rights and environmental adverse impacts in their own operations, those of their subsidiaries and of the companies' business partners in their chains of activities. They will need to take appropriate measures to tackle potential or actual adverse impacts, including making necessary investments, providing support to their business partners, in particular SMEs, and making necessary changes to their purchasing practices, design and distribution practices. In addition, the in-scope companies will be required to adopt climate transition plans.

In December 2024, the Commission adopted a [proposal with targeted amendments to the CMO](#) Regulation. Among other things, the proposed amendment aims to reinforce the contractual rules applicable to the sales of agricultural products under Articles 148 and 168 of the CMO Regulation. More specifically, the proposal would make written contracts mandatory by default, while providing for certain exceptions or flexibilities. In this regard, the proposed rules would preserve the complementary nature of the UTP Directive to the CMO rules on contracts. As outlined above, compulsory written contracts can be useful to improve transparency and fight against UTPs, but they are not a replacement for UTP rules, which ensure fairness and accountability throughout the duration of the business relationship.

The UTP Directive requires EAs to cooperate with each other and with the Commission and to offer each other mutual assistance in UTP investigations with a cross-border dimension. However, the experience of EAs shows that the current legal framework is not apt to address procedural difficulties that may exist when carrying out cross-border actions, exchanging information or collecting fines from operators in other MSs.

In December 2024 the Commission [proposed new rules on cooperation for cross-border enforcement against UTPs](#) which would further develop the cooperation obligations of EAs under Article 8(1) of the UTP Directive and provide them with the tools to allow for the implementation of the mutual cooperation mechanism, the ultimate objective being to provide for tools to ensure a proper enforcement of EU law. The two legal instruments are thus complementary and coherent with each other since the Commission proposal does not alter in any way the UTP Directive and has a limited scope, aiming to enhance and make operational already existing obligations under the UTP Directive.

[The Late Payments Directive](#) is closely linked to the UTP Directive, and the legal relationship between the two is explained in the recitals to the UTP Directive. The Late Payments Directive complements the UTP Directive's emphasis on timely payments.

Under the current framework, the prohibition of late payments in the UTP Directive is complemented by the rules on the consequences and remedies of late payments as laid down in the Late Payments Directive. The features of this relationship will be preserved under the Commission [proposal for a Late Payment Regulation](#), which was published after

the adoption and transposition of the UTP Directive and is not yet in force, as it remains under negotiation by the co-legislators.

Among other things, the proposal aims to introduce a 30-days cap on payments in business-to-business transactions across all sectors. Although consistently adjusting the payment deadline applicable to the delivery of non-perishable agri-food products under the UTP Directive, the proposal recognises the *lex specialis* nature of the rules that exist in the agri-food sector. For this reason, the proposal is without prejudice to stricter payment deadlines that may apply under national transposition laws, to the methods of calculating the starting point of the payment period (*dies a quo*), or to the specific enforcement and complaint mechanisms which exist in the agri-food sector.

Should the Late Payments Regulation be adopted, it would reinforce the enforcement of payment deadlines but would not render the sector-specific protections under the UTP Directive redundant.

[The Protection of Trade Secrets Directive](#) establishes a framework for the protection of undisclosed know-how and business information (trade secrets) against unlawful acquisition, use, and disclosure. Although it addresses a different aspect of business conduct and is not only applicable in the agri-food supply chain, as the UTP Directive, it also aims to create a fair and balanced business environment.

The UTP Directive prohibits the unlawful acquisition, use, or disclosure of trade secrets, as defined by the Trade Secrets Directive. The two instruments are consistent with each other, as the UTP Directive refers to the definitions of the Trade Secrets Directive on what constitutes a 'trade secret' or 'lawful' *versus* 'unlawful' acquisition. At the same time, the UTP Directive complements the Trade Secrets Directive by offering a different enforcement approach. While the Trade Secrets Directive provides for civil remedies through the courts, the UTP Directive allows EAs to investigate and sanction violations, offering an additional and more immediate layer of protection for farmers and small suppliers in the agri-food sector.

[The Misleading and Comparative Advertising Directive](#) aims to protect traders against misleading advertising and the unfair consequences thereof and to lay down the conditions under which comparative advertising is permitted. It complements the UTP Directive in relation to provisions on advertising.

[The Commission Recommendation on the definitions of company sizes](#) is coherent with the UTP Directive, as it defines small and medium-sized enterprises (SMEs), which are also relevant in the context of the UTP Directive.

Synergies were identified between the **EU competition rules** and the UTP Directive, with the former addressing the potential impacts of anticompetitive behaviour and abuses of dominant position, and the Directive addressing UTPs imposed by more powerful buyers on agricultural producers or small food suppliers. However, some differences in perspective were noted, particularly the fact that the UTP Directive relies on turnover as a proxy to assess bargaining power, which may not provide a complete view of the relative power of the parties involved but has the advantage of facilitating intervention when needed.

As outlined in the UTP IA 2018, UTP rules have been designed to be compatible with and complementary to EU's competition rules<sup>(62)</sup>. Although closely related, the two frameworks have distinct scopes and objectives.

EU competition law aims to preserve effective competition on the internal market, with a focus on preventing anticompetitive behaviour that affects or is likely to affect price, quality, consumer choice or innovation. In contrast, UTP rules address the impact of superior bargaining power in individual trading relations, targeting situations where one party imposes disproportionate or unfair terms or practices on the other.

This difference in scope is also reflected in how each instrument considers the notion of 'power'. Whereas competition law assesses market power structurally, typically through the lens of dominance in a given, relevant market, the UTP rules rely on a relational assessment of bargaining power, using differences in turnover as a proxy to identifying asymmetries in the supplier-buyer relationship. For example, a firm that is not dominant under competition law may still wield enough leverage to impose unfair conditions on weaker suppliers.

Ultimately, these differences reflect distinct but complementary policy objectives that justify the continued relevance of UTP rules: competition law aims to safeguard consumer welfare by preserving efficiency, while UTP rules are designed to protect weaker suppliers, and particularly farmers, from unfair treatment while contributing to the long-term resilience of the agri-food sector.

[The EU Code of Conduct on Responsible Food Business and Marketing Practices](#), launched in 2021 as a voluntary industry initiative and since mid 2025 known as the 'Agri-Food Code', is considered relevant and complementary to the UTP Directive. The Code, which has been signed by 155 agri-food organisations to date, includes several relevant aspirational objectives, each with indicative actions, focused on topics such as sustainable sourcing or partnerships within the chain.

In terms of other initiatives based on a voluntary approach, some stakeholders also noted synergies with the Supply Chain Initiative (SCI), which was in place from 2013 to 2019 and improved dialogue in the agri-food supply chain. It was formed by multiple EU-level organisations representing various sectors, including the food and beverage industry, branded goods manufacturers, the retail sector, SMEs and agricultural traders. Its purpose was to encourage equitable business practices within the food supply chain as a foundation for commercial interactions. The SCI established a framework to implement and enforce a series of Principles of Good Practice, designed to conduct business respecting contractual freedom and promoting competitiveness.

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<sup>(62)</sup> Annex H of the UTP 2018 IA prepared by the Chief Economist – DG COMPETITION, refers to risks of interventions in pricing agreements for competition in market oriented economies: 'UTP regulations should be very carefully tailored in order not to prevent trading partners from engaging in efficiency-enhancing agreements or trading conditions'; 'Regulating prices it is even more challenging if one wants to maintain the room for operators to innovate in a market-oriented economy'.

The objective of the UTP Directive to protect a 'weaker' party against unfair practices by a 'stronger' party is consistent with the objectives of EU consumer law <sup>(63)</sup> which is to protect the weaker party – the consumer – in the business-to-consumer relations.

#### 4.2. How did the EU intervention make a difference and to whom?

This section assesses the UTP Directive's effects described in the previous sections, by taking an **EU-level angle** i.e. to what extent the Directive's harmonised minimum requirements have created EU added value for the targeted stakeholders versus a non-harmonised status quo before the Directive.

The assessment focuses on differential benefits versus a non-harmonised situation that are related to the objective to contribute to 'level playing field conditions' for operators of different MSs. Any other differential benefits for stakeholders that can be related with sufficient certainty to the implementation and enforcement of the Directive across the EU are also considered.

The consulted stakeholders have an overall **positive view of the added value** deriving from the entry into force of the Directive.

**There are two mechanisms working in opposite directions regarding the contribution of the Directive to the level playing field.** To some extent, the Directive has led to greater clarity and a more uniform approach in dealing with UTPs. However, differences across MSs on how the Directive is transposed and implemented have emerged. It appears that **the overall level of harmonisation has increased, especially when considering the previous non harmonised situation . However, differences after transposition remain, in the definition of the scope of application, in the consequences of infringements to UTP rules imposed by public authorities** and in the number of national practices qualified as unfair by one or the other MS. To some stakeholders, this difference is not necessarily a negative outcome. MSs can adapt the Directive as it best suits their national specificities to minimise costs and maximise benefits, since some markets are highly local. However, the majority's view was that differences in transposition at national level are the source of the most serious challenges and shortcomings affecting the EU added value of the Directive.

The analysis of survey results allows an appraisal of the differential benefits stemming from the Directive, as perceived by different stakeholder groups and across various stages in the supply chain summarised in the following table.

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<sup>(63)</sup> In particular Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market (UCPD) and Council Directive 93/13/EEC on unfair terms in consumer contracts (UCTD).



**Figure 14: Importance of the differential benefits stemming from the harmonised minimum requirements in the Directive, according to survey respondents.**

Likert scores	CAs & EAs	Business associations			Wholesalers & Retailers
		Overall	Farmers only*	Processors only*	
Improved definition of UTPs at both national and EU level	2.54	1.69	2.00	1.92	1.01
Improvement of pre-existing national legislation (if any) dealing with UTPs (i.e., simplification/streamlining of legislation)	1.92	1.32	1.36	1.60	0.58
Reduction of differences in the legislation addressing UTPs across EU MSs (improved EU-level harmonisation)	2.25	1.54	1.43	2.04	0.88
Strengthened protection for victims of UTPs in domestic transactions	2.46	1.37	1.50	1.64	0.99
Establishing a level playing field for operators of different MSs in cross-border intra-EU transactions	1.96	1.40	1.43	1.72	0.68
Establishing a level playing field for operators of different countries in transactions with non-EU operators	1.46	1.14	1.07	1.24	0.36
Strengthened protection for non-EU operators that are victims of UTPs by EU operators	1.33	0.93	0.93	0.88	0.36
Other benefits	1.17	0.30	0.21	0.08	0.23

Source: External evaluation support study, No importance = 0; Maximum importance = 3.

The evaluation support study used the perceived importance scores by including them in an MCDA approach and based on the analyses carried out through the study under the various evaluation criteria, attempted an overall synthesis. Details of this assessment can be found in section 3.5 of the evaluation support study as well as in *Annex II Methodology and Analytical models used*. The MCDAs were applied separately for assessments at the level of some MSs, and for an EU-level assessment. The baseline scenario was concisely assessed on the grounds of the situation in EU MSs prior to the implementation of the Directive. Considering several factors that feed into the analysis, **the Directive's harmonised minimum requirements appear to have created EU added value** (score of 2.98 vs. 2.16 without a Directive in place, out of 5).

### 4.3. Is the intervention still relevant?

The overall relevance of the Directive was deemed satisfactory by the majority of surveyed national authorities (CAs/EAs) and business associations (operating at EU and national level). However, in the case of retailers, only a minority expressed a similar positive judgment about the Directive's relevance. Several respondents across the three targeted categories highlighted some limited cases of mismatches between the original objectives of the Directive and the current needs to combat UTPs, while not calling into question its relevance.

The recitals of the Directive identify imbalances in bargaining power between parties as a key element leading to UTPs. One of the primary arguments put forward by those who question the overall relevance of the Directive, as well as by some of those who acknowledge its merits, is that the Directive is not designed to address the most serious root cause of the weak bargaining power of many suppliers of agri-food products (individual farmers, small producer organisations, and small cooperatives in particular), which lies, *inter alia*, in the fragmentation of supply.

Another important point is that the Directive is not designed to influence the mechanisms of price formation along the agri-food supply chains, despite aiming to improve transparency in price formation and/or changes to contractually agreed pricing mechanisms/price levels.



However, it should be recalled that the common agricultural policy (CAP) as well as the common fisheries policy (CFP) have traditionally included measures, notably through the respective Common Market Organisations (CMOs), aimed at promoting the aggregation of supply in the primary production stage, strengthening the bargaining power of primary producers, and improving their remuneration.

**Case study Spain – Focus on Wine and Fruit and Vegetables (F&V) supply chains**

Although the Spanish law and the Directive are generally seen as **relevant** to the issues they were initially intended to address, consulted stakeholders have identified several gaps. These notably include emerging new UTPs and the inability to apply the law to certain transactions, particularly those involving the *mercás*, large wholesale food distribution centres, due to the deposit contract system and use of intermediaries, as well as imports and exports, which are crucial for the F&V sector. Some interviewees felt that the scope of the law and Directive is too limited, while others believe it has already extended beyond the original focus on primary production.

Finally, concerning **EU added value**, the Directive is considered to have established a harmonised base at the EU level. However, there are significant concerns about variations in provisions and implementation across the EU, particularly given the justified perception that the Spanish law is stricter than that in most other MSs.

Several points regarding the Directive's relevance have been raised by stakeholders, with at times polarised views. For each of these points put forward by some stakeholders, there are others who express doubts or opposite views. The key points include:

- (1) The removal of relative turnover thresholds and the consequential extension of protection from UTPs to all suppliers, regardless of their size, which some stakeholders believe would have a positive or negative influence on the relevance of the Directive in addressing the originally identified needs <sup>(64)</sup>.
- (2) The 'cascading effects' discussed in recitals 7 and 9 of the Directive, which some stakeholders link to the need to grant protection to all suppliers, regardless of size.
- (3) The 'bi-directional' protection from UTPs, which would protect small buyers from UTPs perpetrated by large suppliers.
- (4) The introduction of a 'general fairness clause' in the Directive, which would prohibit any trading practice deemed unfair, even if not included in the lists of prohibited specific practices.
- (5) The elimination of the distinction between 'black' and 'grey' UTPs, with the latter becoming 'black' UTPs.

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<sup>(64)</sup> In this regard findings from [‘Market Structure, Power, and the Unfair Trading Practices Directive in the EU Food Sector: A Review of Indicators.’](#) are interesting. In their analysis of market concentration rates compared with turnover thresholds of the UTP Directive they find that *‘with a few exceptions, the UTP directive covers the highly concentrated sectors for the agricultural sector quite well, also in smaller Member States.’*

- (6) The consideration of derogations from specific provisions in the Directive in cases of 'hardship/force majeure', as suggested by some stakeholders in the processing stage and independent experts. <sup>(65)</sup>
- (7) Requests for an expansion of the scope of the Directive, including the possibility of extending its applicability to all deliveries by member farmers to cooperatives and producer organisations <sup>(66)</sup>.
- (8) The inclusion in the Directive of an explicit prohibition of sales below the cost of production, which was discussed during the legislative process but not included in the final text. Some MSs have introduced or maintained this prohibition in their national legislation <sup>(67)</sup>.
- (9) The inclusion in the Directive of an obligation to have written contracts, which is already included in the implementing legislation of some member states and is part of the [proposed revision of the CMO Regulation](#). The main arguments in favour of this obligation are certainty on contract conditions and improved possibilities for controls by EAs.

**Few and relatively limited (at least for now) 'genuinely new needs' in terms of combating UTPs appeared.** This could be due to the rather short period that has passed since the entry into force of the Directive and the completion of its transposition in all MSs.

The most significant cases concern 'new' practices that have been adopted by some retailers, that are perceived as unfair by their suppliers, and which are not explicitly included in the current harmonised list of UTPs in the Directive. These practices include **requests by retailers to their suppliers to help cover the costs of voluntary initiatives** – promoted by the retailers themselves and not related to compliance with any legal obligations – focusing on **social and/or environmental responsibility** (e.g., support to charities, campaigns about the environmental sustainability of agri-food products, etc.). Even if these initiatives have no linkage with the supply of products, suppliers they often consider that if they were to refuse to support such initiatives, there would likely be negative consequences on their business relationships with retailers. The **increasing diffusion of the 'pay on scan' model in retail outlets** <sup>(68)</sup> was also highlighted by certain consulted stakeholders as an attempt to circumvent the Directive's provisions on payment

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<sup>(65)</sup> It is worth considering that where national legislation makes written (sales) contracts compulsory, Articles 148 and 168 of [Regulation \(EU\) No 1308/2013](#) require that such contracts include rules applicable in the event of force majeure.

<sup>(66)</sup> The potential extension of the scope of the Directive is also discussed by scholars: see for instance [Knapp \(2020\)](#).

<sup>(67)</sup> UTP Report 2024 four MSs (Spain, Croatia, Hungary, Italy) have introduced provisions on sale or purchase below production cost; three MSs (Spain, Hungary, Romania) have introduced provisions on re-sale at a loss; and two MSs (Spain, Italy) have introduced obligations to respect a certain price level. Germany has analysed the issue in its national level evaluation.

<sup>(68)</sup> In 'pay on scan model' the start of the payment period by the buyer is triggered by the purchase of the product by the **final customer** rather than by the delivery of the product to the buyer (retailer). Hence, it entails a period of indefinite length after the delivery in which the product can sit in the warehouse or on the shelf before the related payment period is actually triggered.

terms. These emerging practices according to the evidence that could be gathered in the evaluation do not seem to be widespread. Although in time to come, further evidence might suggest otherwise, they do not appear to fundamentally put into question the continued relevance of the Directive.

#### **Case study the Netherlands- Focus on Pig meat, sugar and potato supply chains**

Some stakeholders believe that the turnover thresholds set by the Directive, which were incorporated into the UTP Act, limit both the effectiveness and relevance of the UTP Act. Some complaints are filed by organisations representing hundreds of suppliers (such as in the *Vion* case), requiring the EA to verify the turnover of all suppliers involved. Additionally, the absence of a legal basis for information exchange with other EAs and the inadequacies in the tip-off system (as per Dutch General Administrative Law, the supplier's name must be disclosed when reporting a violation, which often deters suppliers from pursuing a UTP case) are seen as shortcomings by some consulted stakeholders.

Most of the consulted stakeholders feel that the Directive has helped establish a minimum standard for fair business practices at the EU level, but there are still uncertainties about addressing UTPs in cross-border transactions.

In this regard, it is interesting to note that only a minority - (22 %) - of the 81 respondents to the survey in support of the evaluation carried out through the SME Panel in 2024 reported that their clients had found ways to circumvent the Directive's provisions since the beginning of 2022. This suggests that buyers have not found 'innovative solutions' to that purpose that are perceived as unfair by the affected suppliers. However, the survey results suggest that this phenomenon is not yet particularly widespread.

The evaluation also revealed no significant cases where the influence of external factors (e.g., price volatility in agri-food markets, disruptions in global logistical chains) caused such changes in the original needs expressed in the UTP IA 2018 to make the tools of the Directive unfit for addressing them.

## **5. WHAT ARE THE CONCLUSIONS AND LESSONS LEARNED?**

### **5.1. Conclusions**

Conclusions of the evaluation process are to be seen within the mentioned limitations of the assessment and cannot be isolated from the broader context in which UTPs can occur as well as related EU-level policy (initiatives).

The Directive appears to have contributed to **positive trends in the prevention of and fight against UTPs**: Decreases in black and grey UTPs were reported by stakeholders in the annual JRC survey. Improvements are perceived in the reduction of payment delays (30- and 60-day terms), among the most occurring UTPs.

Stakeholders' experiences are divided: farmers and processors reported some, albeit small, improvements, while retailers noted compliance efforts by large buyers as a key factor in reducing UTPs which in their view have now largely been eradicated.

Although there has been an increase in UTP investigations, pointing towards a gradual catch-up in enforcement efforts by EAs, their overall number is still rather low across the EU when compared to the number of sales transactions, especially in some MSs. Approximately one third of closed UTP investigations between 2021 and 2024 led to a finding of UTP infringement.

The relatively short time span that has passed since the implementation of the Directive does not allow to judge conclusively on its effectiveness in reducing the occurrence of UTPs in the EU agri-food-supply chain.

The Directive has however been **effective in contributing to promoting a fairer business culture in agri-food supply chains**.

The main identified elements that hinder the Directive from fulfilling its full potential are the still unsatisfactory level of awareness among business operators about the Directive and its below potential national enforcement in some MSs; this element is strongly linked to the short time frame since its implementation. Moreover, constraints on a more effective cooperation among EAs were also reported with particular regard to the lack of a legal basis within the Directive to exchange confidential information with other EAs, and to effectively provide mutual assistance in cross-border UTP cases.

Although the Directive has created certain costs for the national authorities responsible for its implementation and for business operators who primarily or exclusively act as suppliers (i.e., those whom the Directive aims to protect), based on extensive qualitative evidence those costs **can be regarded as being proportionate to the benefits that have been achieved**.

In the specific case of farmers, the benefits of the Directive outweigh the costs. As expected from a policy intervention that provides protection to suppliers, the assessment revealed that for business operators who primarily or exclusively act as buyers e.g., with regard to retailers, the costs and burdens incurred outweigh the benefits. However, the evaluation did not find any evidence to suggest that these costs and burdens resulted in significant damage or operational disruptions to the affected operators. The assessment highlighted a scarcity of quantitative evidence regarding compliance costs for operators, but qualitative evidence suggested that, for SMEs, these costs are not substantial.

The limited availability of quantitative evidence on costs for operators including the extent of economic damages caused by UTPs as well as their benefits in quantitative and monetary terms, is linked to the intrinsic nature of the issue, which often concerns transaction-specific circumstances, as further elaborated in *Annex II* under the evaluation's limitations. This data-related limitation is likely to pose an ongoing challenge, especially when considering the need of proportionality with regard to the administrative burden on operators when establishing evidence gathering strategies. Business operators who primarily or exclusively act as suppliers, as well as national authorities involved in the implementation of the Directive, generally converged **on a positive assessment of its ongoing relevance** in addressing the needs that prompted its introduction. By contrast, business operators who primarily or exclusively act as buyers, and retailers in particular, questioned the usefulness of the Directive in mitigating the negative impact of UTPs on the living standards of the agricultural community. They observed that the Directive is not designed to address the root causes of imbalances in bargaining power or to influence the mechanisms of price formation along the agri-food supply chains, although it does aim to improve transparency in price formation and/or changes to contractually agreed pricing mechanisms/price levels.

It is also worth considering whether sufficient time has passed since the entry into force of the Directive and its transposition at MS level to allow for a conclusive judgement on its

relevance in addressing the originally identified needs. Some stakeholders and experts have observed that the experience in terms of enforcement is still limited, and it may be too early to conclude whether the Directive has serious enough shortcomings in terms of relevance to justify substantial changes to its provisions.

Moreover, certain policy elements that were already being discussed at the time of the UTP proposal remain central to the policy debate. These include: the extension of protection from UTPs to all suppliers, regardless of their size, with six MSs having included or maintained provisions to this effect that go beyond the scope of the Directive. The lack of bi-directional protection from UTPs in the Directive, meaning the protection of weaker buyers from UTPs perpetrated by stronger suppliers, which significantly contributes to the perceived imbalance between the costs and benefits of the Directive for buyers. Some stakeholders in the farming sector have also raised concerns about the absence of an explicit prohibition on sales at prices below the cost of production in the Directive.

The evaluation identified only a few, limited, genuinely new needs in terms of combating UTPs that have emerged since the Directive came into force.

The **coherence assessment** revealed no conflicts or inconsistencies between the Directive and other EU interventions that directly or indirectly address UTPs, or other relevant EU-level initiatives and objectives. On the contrary, the assessment identified complementarity with interventions and initiatives. The greatest coherence was found between the UTP Directive and the CMO Regulation, both of which work to strengthen the position of farmers in the supply chain.

The evaluation suggests that the Directive **contributes to creating EU added value**, primarily by providing a minimum level of protection from UTPs to suppliers across the EU, including in MSs where such protection was previously unavailable. This, in turn, reduces national differences in this regard, positively contributing to a level playing field within the EU's internal market, in line with the Directive's objectives. However, the 'minimum harmonisation' nature of the Directive at the same time allowed for **significant heterogeneity in enforcement approaches and for a number of practices qualified as unfair by one or the other MS**. This is reported by some operators, notably retailers, operating across MSs, as making it difficult to operate throughout the EU. This difference is partly explained by national transposing legislation, partly due to differences on the ground and in part due to the short time frame of implementation to date.

## 5.2. Lessons learned

The UTP Directive is an important component of EU agricultural policy, which, through an array of policy instruments including the CMO, sectoral interventions, and direct income support for farmers, aims to achieve the overarching goals set out in the TFEU.

Despite the relatively early stage of implementation of the Directive, the evaluation has identified some challenges that can hinder the achievement of the full potential of the Directive in reducing the occurrence of UTPs. Several EAs appear to not have yet fully used their potential to conduct UTP investigations, particularly *ex officio* investigations, which has been found to be an effective way to address the 'fear factor' among victims of UTPs.



The introduction of measures to provide restitution and compensation to victims of UTPs has been limited. In most cases, victims can only seek compensation through ordinary civil court proceedings, which may not provide adequate anonymity.

In addition, the evaluation has also highlighted room for improvement in terms of the Directive's awareness, especially for small and medium sized operators in the upstream stages of the agri-food supply chain. To improve the level of awareness of the Directive, the role of producer organisations and sector organisations in addressing UTP-related issues emerged: although these organisations are already providing support, there is still potential for further strengthening their efforts, for example, by providing dedicated awareness-raising activities on UTP legislation and filing complaints on behalf of their members. This could help address confidentiality concerns and reduce the obstacles for individual operators, not only for EU-based operators but also for non-EU suppliers. The evaluation has also identified some limitations in the practical, user-centric information available on the Commission's website to direct farmers, SMEs, and non-EU suppliers in dealing with UTPs, especially in cross-border transactions.

The EU level Enforcement Network introduced by the Directive appears to be a useful forum for cooperation among EAs. Nevertheless, the evaluation found the need to deepen cross-border cooperation, particularly on procedural enforcement elements, such as the exchange of confidential information. Stronger cross-border cooperation may also contribute to further strengthening the EU level playing field in the EU internal market. The proposal by the EC for a Regulation on cooperation is expected, if adopted, to facilitate EAs' cooperation in cross-border cases.

The Directive continues to appear to be overall relevant. No strong, genuinely new needs emerged. Most of the issues raised by stakeholders were already discussed at the time of the Directive's proposal. For example, several stakeholders expressed concerns and suggestions on how, in their view, the Directive should be improved, by abolishing turnover thresholds, introducing bi-directional protection and introducing new UTPs, such as rules on selling products below production cost. Opposing views among various stakeholders in the stages of the agri-food supply chain emerged on the opportunity and extent of needed changes to the Directive. The fact that many of the suggestions for changes were already discussed at the time of the Directive's proposal, with similarly diverging views, suggests that the Directive as it stands may represent an overall balanced and proportionate approach for intervention at EU level.

Finally, the gathering of quantitative evidence on compliance costs and the economic harm caused by UTPs, especially when taking into account especially difficult to track cascading effects, is an ongoing challenge. While the JRC survey has addressed this issue to some extent, and the present evaluation made use of dedicated *ad hoc* approaches, the information gathered is in parts still insufficient. To overcome this challenge, and mindful of the complexity of the task and involved administrative burden to stakeholders, it may be necessary to consider enhancing periodic monitoring activities at EU and national level to collect more robust data in this specific regard.



## **Annex I Procedural Information**

### **Lead DG**

Directorate-General Agriculture and Rural Development (DG AGRI)

### **Decide planning references**

PLAN/2023/1063 (linked to the Report on the main findings of the evaluation to the European Parliament and to the Council, as well as to the European Economic and Social Committee and the Committee of the Regions: PLAN/2023/1075)

### **Work Programme reference**

Commission Work Programme 2025 (COM(2025) 45 final), Annex II

### **Exceptions to the Better Regulation guidelines**

The evaluation was carried out without a public consultation. This course of action was pursued because the Directive targets business-to-business relationships in a specific sector, the agri-food supply chain, and not the broad, general public. Besides the [call for evidence](#), open to the general public, and the targeted, yearly public consultations open to all agri-food suppliers, as well as regular exchanges with EAs, further targeted consultations on the various stakeholders have been carried out in the context of this evaluation. See *Annex V Stakeholders' consultation - Synopsis report* for a summary.

### **Organisation and timing**

This evaluation was carried out in accordance with Article 12 of the UTP Directive. The evaluation work draws, among other sources of evidence (see *Annex II Methodology and Analytical models used* and *Annex V Stakeholders' consultation - Synopsis report*), on an evaluation support study, contracted under a DG AGRI Framework Contract.

The evaluation support study, carried out by the external contractor, started in February 2024 and was completed in March 2025. The work was carried out in conformity with the DG AGRI procedure for the organisation and management of evaluation support studies carried out by external contractors.

The evaluation support study as well as evaluation overall was supervised under the technical and contractual management of DG AGRI's Policy Performance Unit A.3. An Inter-service Steering Group (ISG) among different EC DGs was established, with the mandate to steer the overall evaluation process throughout its duration by providing feedback on the consultation strategy and the call for evidence, the terms of reference for the evaluation support study and by contributing to monitor the work of the evaluation support study as well as to prepare this evaluation report. Besides DG AGRI, the ISG was composed of the Secretariat-General (SG) of the Commission and invited DGs: COMP, GROW, JRC, JUST, MARE, TRADE and SJ. The ISG started its meetings in June 2023 and held 8 meetings.

The EC reached out to the general public through a [call for evidence](#) published on 22 October 2023 on the ‘[Have Your Say](#)’ platform. The call for evidence set out the context, scope and aim of the evaluation. During the six-week feedback period, 46 stakeholder contributions were received. These did not require changes of the overall approach towards the evaluation.

## Consultation of the Regulatory Scrutiny Board

This standalone evaluation SWD was subject to scrutiny by the Regulatory Scrutiny Board (RSB), an independent body within the Commission that advises the College of Commissioners by providing central quality control and support for Commission impact assessments and evaluations. An upstream meeting, involving RSB members as well as representatives from SG, DG AGRI and JRC, was held on 6 December 2024. The RSB hearing was held on 18 June 2025. The RSB gave a positive opinion with reservations which have been addressed as follows:

RSB remarks	Uptake in the evaluation report
The report should clearly present the heterogeneous situation in terms of UTP occurrence as well as the level of protection granted to weaker economic operators in the different Member States before and after the implementation of the Directive. It should discuss key factors influencing this heterogeneity, including the fact that some Member States already had a UTP-related legislation in force, varying levels of enforcement and the differing size and specificities of the agri-food chain in different Member States. To the extent possible it should then make conclusions and present the lessons learned, for instance in terms of impact on fear factor or on deterrence to UTPs.	<p>Annex VI has been added to the report. It provides an overview of the different enforcement activities as reported by MSs in relation to UTP enforcement. It also briefly summarises national evaluations carried out to date.</p> <p>References to the existing mapping of UTP-related legislation before the adoption of the UTP Directive have been strengthened in the text. Also, a summary of the main aspects in which national legislations differed has been added in the text in the form of an extensive footnote.</p> <p>The references to the UTP 2024 SWD, which presents a detailed overview of national transposition of the Directive, have been made more explicit. The text presenting main differences in transposition choices has been enriched.</p> <p>References to indicators showing differences in the agricultural sector and agri-food supply chain in different MSs have been made more explicit. Exemplifying graphs have been inserted in Section 4.1.</p> <p>A detailed assessment of each national transposition law, including the MSs specific needs and reasons that led to transposition choices beyond the minimum harmonisation set out in the Directive, is beyond the scope of the EU level evaluation.</p>
The report should further analyse the effectiveness of the Directive in terms of reaching the specific objectives and analyse which indicators can be used for this. It should explain how these indicators can be measured and which methods and data are needed for this and future evaluation(s) in terms of the effects on economic operators. Given that the rates of late payments seemed to decrease before 2022, and that the number of UTP complaints seemed to increase after the intervention, the report needs to assess to what extent any decrease in the UTPs can be attributed to the intervention.	<p>Annex II has been amended including a reference to indicators used to approximate market power and their relation in view of bargaining power.</p> <p>Limitations on the attribution of effects are mentioned there as well.</p>

RSB remarks	Uptake in the evaluation report
Whereas the stakeholder views on effectiveness are divided (buyers vs. suppliers), the costs and benefits are not clearly identified and quantified. The report should provide a better economic analysis based on observational data to understand the implications and the potential impacts on different stakeholder groups. The analysis of effectiveness and efficiency, should as far as possible, go beyond opinion data and be primarily based on observational data on market outcomes, such as profit margins, market shares, etc. To the extent possible the analysis should include an analysis of pass-through effects including on final consumers. All costs and benefits for all stakeholders, including both the suppliers and buyers should be identified and form part of the analysis of efficiency.	<p>Cost and benefits for all stakeholders along the supply chain are discussed in the evaluation report.</p> <p>Limitations to the analysis are expressed in Annex II, notably the fact that bargaining power does not refer to a sectorial concept (as market power) but needs to be seen in the context of bilateral, concrete commercial interactions which pose fundamental challenges to the use of observational data.</p> <p>References to market concentration levels have been added as contextual elements in Section 2 and Annex II.</p>
The report should also reflect how the UTP prohibitions might impact on the number of transactions, the quantities exchanged and the price at which they are exchanged. Effects of this on the general objective of improving the functioning of the agri-food supply chain should be assessed. Conclusions to the effect that the costs outweigh the benefits or that the intervention is a success should be avoided unless they are based on data of market outcomes accounting for all costs and benefits accruing to all stakeholders. In case the report identifies evidence or data gaps, it should reflect it in the conclusions and propose mitigating measures in the lessons learned.	<p>The conceptual explanation of expected consequences of bargaining power has been refined in Section 2.</p> <p>The reference to data gaps has been made more explicit in the conclusions part.</p> <p>An explicit reference to qualitative evidence related to costs and benefits has been added in the text.</p>
Innovative solutions to circumvent unfair trading practices such as the 'pay on scan' practice should be further discussed and assessed against the effectiveness and relevance of the Directive. The report should explain how and to what extent the Directive addresses or not those emerging practices.	More details on the practice(s) have been added in the main text. Short explanations have been added in view of the Directive under Section 4.3.
The report should better analyse the coherence - and the risk of overlaps - of the Directive with existing and recently proposed initiatives such as the proposal for a Regulation on combating late payments in commercial transactions (payment times), the proposal for targeted amendments to the common market organisation of agricultural products and other CAP Regulations (written contracts, price conditions, mediation service) and the proposal for a Regulation on cooperation among EAs responsible for the enforcement of the UTP Directive.	The text under section 4.1 has been enriched in view of better explaining the complementarity of existing legislation with the Directive, notably the CMO and the Late payment Directive. The Section has also been amended to provide more details on the coherence between the Directive with legislative proposals concerning the Late Payment Regulation, the targeted amendments of the CMO and the UTP cross border Regulation. Not only aspects of consistency have been mentioned but also explanations of synergies, for instance, the proposal for mandatory written contracts helping also UTP enforcement.

## **Evidence used together with sources and any issues regarding its quality**

Evidence was collected under the evaluation support study covering, besides secondary evidence, primary data collection in the form of interviews, surveys and workshops on a variety of stakeholders at various levels (Individual, Regional, MS-level, EU-level). Overall, the ISG found the conclusions to be based on the evidence and analysis presented in the support study and judged the work to be of good quality as documented by the final quality assessment of the evaluation support study.

Besides the evaluation support study, the main sources of evidence used comprehended: the feedback on the [call for evidence](#), the annual public survey to agri-food suppliers carried out by the JRC, annual reports by MSs' EAs to the EC, regular EU level UTP Enforcement Network meetings among national EAs and the EC, first assessments and interim evaluations on national transpositions, annual activity reports of EAs available at national level at times paired with additional *ad hoc* surveys and analytical briefs, SME panel targeted survey, previous EC reports on the transposition and implementation of the Directive of October 2021 and April 2024, with accompanying SWD summarising the transposition choices of MSs. Further key sources of evidence were the evaluation report of the EESC and the Opinion of the Fit4 Future Platform. For more information see *Annex II Methodology and Analytical models used* and *Annex V Stakeholders' consultation - Synopsis report*.

## **Use of external expertise**

External expertise related to the evaluation analysis has been employed in the form of an evaluation support study (see also above).

## Annex II Methodology and Analytical models used

This Annex presents the system of methods employed in the evaluation i.e., *how* the evaluation has been carried out.

The evaluation's approach takes as a blueprint the evaluation support study. The evaluation questions by design coincide with the study questions of the evaluation support study. The overall approach encompasses a mix of qualitative and quantitative methods. These cannot always be neatly separated by evaluation question or evaluation criterion as methods are often horizontal, contributing to several evaluation criteria and evaluation questions. They are intricately linked to the primary evidence gathering activities whose existence, in many cases, *per se* constitutes a way of *how* the evaluation has been carried out and therefore are part of the methodology.

Table 3 explains the methodological approaches, makes references to the sources of evidence employed together with these approaches, concisely outlining their strengths and limitations to convey a sense of their robustness. Methodological approaches are also related to the main evaluation criterion(a) and evaluation question(s).

As a final introductory point, methodological approaches need to be seen in the context of the overall study limitations mentioned in *1.1 Purpose and scope of the evaluation* and further explained here:

**Firstly, the main limitation is the short time span of actual implementation of the Directive<sup>(69)</sup>.** MSs had to notify transposition of the Directive by May 2021 i.e. approximately two years after adoption and apply the Directive by November 2021. However, **no MS notified complete transposition of the Directive by May 2021<sup>(70)</sup>.** The transposition measures of the Directive are only applicable since end 2022 in all MSs. Furthermore, existing contracts had to be brought in line within 12 months after publication of the transposing legislation in the national Official Journal. This leaves mere two full years – three years at the very best<sup>(71)</sup> – for effects of the UTP Directive to materialise, also considering the bulk of the additional primary data collection of the evaluation carried out in 2024 to meet the legal deadline for 2025. As a result, consulted stakeholders, across all types, and experts on several occasions reported limited experience with the actual implementation of some measures and could only provide their contribution accordingly.

**Secondly, different legislative situations at the start of the implementation period as well as implementation in many cases well beyond the minimum harmonisation requirements of the Directive, make the EU level evaluation complex.** As determined in the [2018 Impact Assessment](#) accompanying the UTP Directive's legislative proposal MSs had different approaches to UTPs in the agri-food supply chain ranging from no dedicated legislation at all to rather articulated national provisions: roughly half (14 MSs) had already related legislation to a varying degree in place that was amended, others (13

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<sup>(69)</sup> This limitation was also acknowledged by the [Fit for Future Platform](#), in its [Opinion](#) adopted in 2024.

<sup>(70)</sup> 23 MSs did in 2021-mostly in the third quarter (Q3) of the year, 4 MSs in 2022. Timing is roughly in line with transposition of Single Market Directives. See [Single Market Scoreboard](#).

<sup>(71)</sup> This ideal, minimum evaluation period is discussed in the [BR-toolbox](#), (p. 386): '[...] sufficient time should have passed since its implementation to ensure **at least three years**' worth of sufficiently full set of data, meaning the evaluation cannot be produced before the fourth year following implementation'.



MSs) introduced new and/or separate legislation. This provides for several, simultaneous evaluation baselines and makes establishing a pre-Directive, EU baseline complex. Moreover, many MSs went beyond the commonly mandated minimum in the implementation to varying degrees <sup>(72)</sup>. It is, hence, challenging to **disentangle impacts resulting from the implementation of the minimum harmonisation provisions** and attribute effects only to the elements that are due to the elements present in the EU legislation. These differences in transposition choices in some instances, made it difficult for EU-level stakeholders to form an overall opinion on the Directive's effectiveness.

**A third set of limitations concerns the difficulty, intimately linked to the specific nature of the needs the Directive seeks to address, to retrieve quantitative and robust data.** As further explained *above*, UTPs by their very nature happen in the context of specific commercial relationships between operators. These relationships are frequently related to (i) confidential, commercial information, which, in turn, makes it hard to access and gather information. A further element complicating not only enforcement of the Directive but also the evaluation in terms of obtaining information is the so called (ii) 'fear factor' <sup>(73)</sup>. Moreover, (iii) some UTPs can be against the law, but also be perfectly legitimate, depending on the specific context involved in the concrete case (see grey UTPs). This further contributes to the difficulty of robust data retrieving. Finally, especially operators downstream of the farming stage but before the retail stage (iv) often act as both suppliers but also buyers in their business operations depending on the specific business transaction. For example, in one commercial interaction they may be in a stronger position *vis-a-vis* their supplier, in another they might be themselves a supplier to a stronger buyer.

In this regard, although more conventional indicators used to discuss power relationships within the (agri-food) supply chain such as concentration and markup (markdown) indices can provide relevant insights also into possible bargaining power, they mostly relate to the concept of market power <sup>(74)</sup>.

**Finally, exceptionally strong external factors as, for instance high inflation due to the consequences of the COVID19 pandemic and complexity of agri-food supply chains, confound the effects of the Directive.** A key argument for the rationale of the Directive – but also key struggle in the evaluation – is the concept of 'pass through' i.e. abuses of

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<sup>(72)</sup> Article 9 of the Directive with a view to ensuring a higher level of protection, explicitly provides for the possibility for MSs **to maintain or introduce stricter rules aimed at combating UTPs than those laid down by the Directive**, provided that these are compatible with the rules on the functioning of the internal market.

<sup>(73)</sup> The 'fear factor' as a challenge is in line, with the EESC evaluation ( e.g. paragraphs 2.7, 2.8) as well as the [Fit4future platform's Opinion](#) (p.6). See also Falkowski, J., C. Ménard, R.J. Sexton, J. Swinnen and S. Vandeveld (Authors), Marcantonio, F. Di and P. Ciaian (Editors) (2017), [Unfair trading practices in the food supply chain: A literature review on methodologies, impacts and regulatory aspects](#), European Commission, Joint Research Centre.

<sup>(74)</sup> See Nes, Kjersti, Liesbeth Colen, and Pavel Ciaian. 2024. '[Market Structure, Power, and the Unfair Trading Practices Directive in the EU Food Sector: A Review of Indicators.](#)' for a discussion on the complexity of capturing and measuring market power as well as considerations of metrics used for market power in relation to bargaining power. For instance, they state '*Although concentration levels do not directly measure bargaining power, one could argue that firms with a larger market share are more difficult for the trading partners to be replaced by an alternative buyer/supplier in case negotiations break down. This may result in a stronger position to negotiate prices or other contractual elements, even though many other, and likely more important, factors will also influence its bargaining position. Thus, in more concentrated sectors, bargaining power vis-a-vis other trading partners could be, but is not necessarily, larger.*'



stronger bargaining power, passed through the agri-food 'netchain' – the web of operators' interactions. For example, from a downstream actor e.g. a wholesaler to the upstream actor e.g. the primary producer. It is particularly challenging and resource intensive to empirically track the magnitude of this 'pass through' and, considering the evaluation, attribute (possible mitigation/extinctions) to the Directive and not to other legislative instruments, voluntary agreements or external cofounders e.g. high inflation due to COVID-19.

**Table 3: Methodological approaches within the evaluation.**

Approach/Analytical method	Evaluation question (s)/ evaluation criterion(a)	Strengths/ limitations in the context of this evaluation
<p><b>Analysis through descriptive statistics</b> involves summarising and describing the basic features of a dataset, typically using measures such as mean, median, etc. to provide an overview of the data's central tendency, dispersion and distribution. By utilising these statistical techniques, analysts can effectively organise and analyse data, thereby facilitating a clearer understanding of the underlying patterns and trends within the dataset.</p> <p>The method in this evaluation is mainly used to analyse the results of the various surveys carried out in the context of this evaluation: the JRC survey, the SME panel carried out by the EC as well as the surveys done in the context of the external support study to public authorities, sector associations, retailers and large buyers. For more details on these surveys see <i>Annex V Stakeholders' consultation - Synopsis report</i>.</p> <p>Surveys had as an overarching objective to collect primary evidence from various stakeholders on the ground to complete secondary evidence, for instance, MSs reports to the EC, literature.</p> <p>Descriptive statistics were also employed when analysing the annual notifications of enforcement activities by EAs submitted in the annual reports of EAs.</p>	<p>Descriptive statistical analysis of survey results has been used in all evaluation criteria. However, the main use has been in relation to the criterion of effectiveness, efficiency and EU added value and related evaluation questions.</p>	<p>Descriptive statistics are a standard, key component of the evaluation to make sense of the evidence collected in the various surveys and to establish relationships between respondents' profiles and their answers as well as answers overall to uncover the structure of replies and their trends.</p> <p>Descriptive statistics alone are not sufficient to establish cause-effect relationships between an intervention (in this case the UTP Directive) and an outcome (e.g. The reduced occurrence for UTPs). In this evaluation descriptive statistics are combined with other quantitative/qualitative methodologies to reinforce observed trends.</p>
<p><b>Cost models</b>, in general, are used to estimate the financial implications of various (business) activities or decisions. They involve creating structured frameworks that incorporate different cost elements, such as fixed and variable costs, to predict expenses and assess economic feasibility, helping organisations make informed decisions.</p>	<p>Mainly used in the efficiency assessment under Q5 to quantify the costs incurred by CAs/EAs and business operators in relation to the implementation of the Directive.</p>	<p>The framework provided by cost models allowed to clearly structure and identify the main types of costs, cost components as well as their characteristics such as recurrent vs one-off costs, direct vs indirect costs. Estimations were strongly dependent on the completeness of underlying data. For instance, in the case of labour component of EAs data were rather</p>

In the context of the EU Better Regulation framework, cost models are used to assess the economic impact of regulatory proposals by estimating the administrative and compliance costs for businesses and stakeholders <sup>(75)</sup>.

The evaluation support study used them as a framework—in particular the EU standard cost model – to estimate the costs induced by the Directive for EAs and business stakeholders.

The main steps involved:

- A theoretical analysis, defining the main typologies of costs and benefits potentially related to the Directive and its enforcement at national level.
- Characterisation of the main costs and benefits that were actually incurred/enjoyed in practice by the different stakeholder categories: Competent EAs. Business operators in the different stages of the supply chains.
- Quantification (to the extent possible by the available evidence) of the main costs (and benefits) that were actually incurred (enjoyed) in practice (quantitative evidence, qualitative judgments by the concerned stakeholders on the perceived importance of the costs and benefits that they incurred (enjoyed)).
- Comparative analysis to assess whether the actual costs are proportionate to the actual benefits.
- Comparative analysis to assess whether the actual costs and benefits have similar or different extent/importance among Member States.

complete, while other cost components could only be collected for selected cases and had to be approximated. Cost data collection for operators was more limited and due to the various situations that can occur <sup>(78)</sup> as well as the more limited quantitative feedback provided by consulted stakeholders, more assumptions, MSs level estimations, and qualitative analysis was employed.

<sup>(75)</sup> For more information see [BR-toolbox](#) #65 to #58.

<sup>(78)</sup> See evaluation support study (p.55-56) for a more detailed discussion.

<p>To estimate costs where actual data could not be retrieved or collected, it also used <i>ad hoc</i> approaches:</p> <ol style="list-style-type: none"> <li>1) When assessing the (potential) benefits of the Directive a quantitative part of this assessment, consisted in estimating the saved costs to operators in the primary stages induced by the 60-day payment term. This payment term was approximated by the financial metric of Days of sales outstanding (DSO) – the average number of days that it takes an operator to collect the payment for a sale, computed by dividing the average accounts receivable during a given period by the total value of sales during the same period – that could be retrieved through balance sheet data of operators. A reduction in DSO was then translated into additional cash-flow for operators which is taken as an approximation of (partial) saved cost i.e. benefit for relevant stakeholders. <sup>(76)</sup></li> <li>2) One of the main cost components for enforcement was identified to be labour. Where data gaps were identified, estimations of labour input in terms of full-time equivalents were made. <sup>(77)</sup></li> </ol>		
<p><b>Supply chain analysis</b> involves examining the flow of goods, information, and finances as they move along the (agri-food) supply chain from supplier to processor to wholesaler to retailer. The method focuses on identifying inefficiencies, assessing risks within the supply chain, generally, to determine how to improve it. The examination was carried out by using secondary data i.e. sector statistics, reports as well as through the collection of primary data through surveys, interviews and workshops and in combination with cases studies (see below).</p>	<p>Used in the assessment of effectiveness under Q1, Q2 and Q4, of efficiency under Q5 and of EU added value under Q8.</p>	<p>The analysis contributed to answering of various evaluation questions mainly by providing context to the analysis i.e. through metrics such as size and workings of selected supply chains, structures, turnovers in value and volume, relationships between various stages and main actors.</p>
<p><b>Multi Criteria Decision analysis</b> is a decision-making framework that evaluates and prioritises multiple, often conflicting criteria to aid in</p>	<p>Contributed to assess EU added value.</p>	<p>The main advantage of this approach consisted in providing a structured and understandable</p>

<sup>(76)</sup> For more details see evaluation support study (p.42) as well as Annex 1 of it.

<sup>(77)</sup> Ibid. Annex 1.

<p>making complex decisions. It involves identifying relevant criteria, assigning weights to reflect their importance, and scoring each decision option against these criteria to derive an overall ranking or decision.</p> <p>The method usually is applied in <i>ex ante</i> settings. However, in the context of the evaluation it was employed from an <i>ex-post perspective</i>.</p> <p>The main steps included:</p> <ul style="list-style-type: none"> <li>• Definition of the two 'options', in this case identified as a 'baseline' i.e. what would have happened without Directive and as the current scenario i.e. what actually happened based on the assessment carried out in the study.</li> <li>• Evaluation criteria were used as decision criteria and sometimes also refined with sub-criteria.</li> <li>• Each criterion was then assigned a score on a scale from 1 to 5, 5 indicating the most positive level. This scoring was done in the final phase of the support study, in light of the findings of each study question and qualitatively motivated. In other words, it represents a translation/synthesis of findings into scores.</li> <li>• Each of the criteria was weighted for its relative importance based on the analysis carried out in the evaluation support study.</li> <li>• The external study team also carried out some local sensitivity analyses used to analyse the robustness of the assumptions in the MCDA. Its primary goal is to understand how changes in the input parameters or weights of the MCDA affect the overall ranking or of alternatives.</li> </ul>		<p>framework for aggregating several criteria and make a judgment upon them; of particular interest and relevance for the evaluation criterion of EU added value.</p> <p>The limitation derives from the fact that by employing the method outside of the commonly used framework i.e. in an <i>ex-post</i> setting poses limits to the alternatives to be considered.</p> <p>Moreover, in the specific case also the assessment matrix (i.e. the dept of criteria (indicators)) used was limited in terms of detail not allowing for an appreciation of the method's full potential.</p>
<p><b>Qualitative research</b> is a method focused on understanding (human) behaviour and the reasons behind it through non-numerical data. It involves collecting insights through methods like interviews, focus groups, and observations, emphasising depth and context to explore complex phenomena and subjective experiences.</p>	<p>The method was used in the entire assessment for the interpretation of elements collected through, interviews, hybrid workshops and case studies.</p>	<p>Complementing descriptive statistics and desk research.</p>

<p><b>Case studies</b> have been used as a qualitative method to explore a specific instance or a small number of instances in depth and within their real-life context with specific agri-food supply chains at MS level. This method involved collecting detailed information through various sources, such as interviews, observations, and desk research.</p> <p>To understand the complexities and unique aspects of the agri-food supply chains, providing insights and informing broader conclusions or recommendations.</p> <p>The selection of case studies carried out by the external study team, has been done based on criteria comprehending geography, including MSs which already had or did not have specific UTP-related legislation; socio-economic importance of the agri-food system, both in absolute terms and within the national economy; diversity of the operational contexts where UTPs arise, mainly deriving from differences in the structure and organisation of the agri-food system and from different combinations of supply chains covered; different occurrence of UTPs and of the processes related to the enforcement of the Directive, with particular regard to the number of investigations opened, of <i>ex officio</i> cases opened, and of investigations resulting in finding an infringement; earlier vs. later transposition of the Directive.</p> <p>The ten case studies focus on specific agri-food supply chains of selected MSs also considering the aspect of feasibility e.g. information availability <sup>(79)</sup>.</p> <p>Case studies carried out in the evaluation support study complement with the ones covered in the evaluation report of the EESC.</p>	<p>Insights from case studies have been used to answer evaluation questions under all evaluation criteria, except coherence.</p>	<p>Case studies have been used to triangulate evidence from other sources with some in-depth analysis that could also consider the national transposition of the Directive, the broader national regulatory environment as well as specific agri-food supply chains that were considered.</p> <p>Although the selection of case studies was carried out with great care to cover a wide range of realities, extrapolations of findings to the EU level have to be carried out with care and cannot be encompassing.</p>

<sup>(79)</sup> See the evaluation support study for a Section 3.6 for a summaries of the then case studies (p.106)



<p><b>Desk research</b> also known as secondary research, involves gathering and analysing information that has already been collected and published by others. This method includes reviewing existing reports, studies, academic papers, online databases, and other sources of available data to gain insights without collecting primary evidence.</p> <p>Through the evaluation support study 139 secondary sources have been covered.</p> <p>In particular, the EESC evaluation, Fit for future platform opinion as well as some national level interim evaluations were included in the evidence base.</p>	<p>Contributed to all evaluation criteria.</p>	<p>Desk research allowed to include analyses and their respective underlying evidence base, into the evidence base e.g. collected data of the evaluation. Desk research also informed overall methodological approaches used with the evaluation.</p> <p>There is yet limited published scientific empirical work available covering the post implementation period from 2022-2024 of the Directive to draw from, for instance, on topics as (evolution(s) in the extent) of the pass-through of UTPs.</p>
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Source: Own elaboration based on the evaluation support study.

## Annex III Evaluation matrix

The table below represents a **schematic overview** of the evaluation questions as well as the success criteria and related indicators used to answer them within the frame of the five evaluation criteria. Where relevant the matrix, in the first column makes reference to other parts of this evaluation and/or the evaluation support study.

**Table 4: Evaluation matrix.**

Remarks on the approach	Judgement criterion	Indicators	Main sources of evidence
<b>Effectiveness: Q1</b> – To what extent have the implementation and enforcement of the Directive been effective?  a) In combating unfair trading practices in the agricultural and food supply chain listed in the Directive?  b) In reducing the occurrence of unfair trading practices in the agricultural and food supply chain listed in the Directive?			
The approach to this Questions consisted in (i) developing an understanding of national implementation and enforcement mechanisms. Moreover, (ii) the identified implementation and enforcement mechanisms were linked to the specific objectives of the Directive (see <i>Figure 3</i> ).	Effectiveness in identifying UTPs	1.1.a Evolution in the number of identified UTPs per year, broken down into `black` and `grey` UTPs	Desk research, annual reports of EAs, EESC evaluation report.  Surveys of: <ul style="list-style-type: none"> <li>• business associations</li> <li>• retailers/large buyers</li> <li>• MS CAs/EAs</li> </ul> Interviews  Case studies  JRC survey  SME panel survey
		1.1.b – Evolution in the frequency of experiencing individual `black` and `grey` UTPs over the last year / the last three years	
	Effectiveness of preventive and corrective measures taken by EAs in terms of combating UTPs and reducing their occurrence.	Indicators 1.1.a and 1.1.b are also relevant for this assessment	
		1.2.a – Perceived effectiveness of all preventive measures (prevalence of qualitative judgments by stakeholders)	
		1.2.b – Perceived effectiveness of all corrective measures (prevalence of qualitative judgments by stakeholders)	

<p>Furthermore, (iii) an analysis of the concrete outcomes of the application of national implementing legislation in terms of combating UTPs and reducing their occurrence was done.</p> <p>The set of proposed criteria and indicators is related to the three main aspects considered under effectiveness of implementation and enforcement of the Directive under Q3 below.</p>		1.2.c – Effectiveness of individual preventive measures (qualitative assessment based on actual outcomes)	Call for evidence
		1.2.d - Effectiveness of individual corrective measures (number of resolved UTP cases on the total number of ascertained UTPs + qualitative assessment based on actual outcomes)	
	Concrete effects of the measures taken on the concerned operators	1.3.a – Effects of preventive measures on offenders (qualitative)	
		1.3.b – Effects of preventive measures on direct and indirect victims of UTPs (qualitative)	
		1.3.c – Effects of corrective measures on offenders (qualitative)	
		1.3.d – Effects of corrective measures on direct and indirect victims of UTPs (qualitative)	
<b>Effectiveness: Q2</b> – To what extent have there been any (if any) major unintended (positive and/or negative) effects?			
Unintended effects are not necessarily negative; a certain unintended effect may be seen as negative by some stakeholders, and as	The effects diverge from the expected ones of the Directive, as defined by its intervention logic	Qualitative description of the main identified unintended effects	Desk research and literature review (to supplement the findings from Q1) Interviews Survey of MS Cas/EAs Case studies JRC survey SME panel survey Call for evidence

<p>positive (or neutral) by other stakeholders.</p> <p>The assessment identified and described those effects that appear to be the main unintended (positive or negative) effects of the Directive</p> <p>It characterised the main identified unintended effects as negative or positive, based on the perceptions of consulted stakeholders, including EU legislators were possible (see recitals of Directive, for example)</p>	<p>The unintended effects are perceived as negative or positive by the consulted stakeholders</p>	<p>Qualitative characterisation of unintended effects as negative or positive.</p> <p>2.2.a - Prevalence of survey replies on the perceived negative or positive nature of the main unintended effects of the Directive</p>	
<p><b>Effectiveness: Q3</b> – To what extent have the implementation and enforcement of the Directive been effective in relation to cooperation among competent enforcement authorities? If applicable, how can the cooperation among competent enforcement authorities be improved?</p>			
<p>The proposed set of judgment criteria and indicators includes:</p> <p>1. A 'context' criterion to assess the diffusion of cooperation initiatives among EAs over time (an increasing number of such initiatives over the years should be plausibly linked with a perceived effectiveness</p>	<p>Diffusion of cooperation initiatives among EAs</p> <p>Contribution of cooperation initiatives to improved effectiveness of national legislation related to the UTP Directive</p>	<p>3.0.a – Evolution in the number of cooperation initiatives over the years</p> <p>3.1.a - Perceived contribution of all cooperation initiatives (prevalence of qualitative judgments by stakeholders)</p> <p>3.1.b – Contribution of individual cooperation initiatives (qualitative assessment)</p>	<p>Desk research</p> <p>Survey of MS CAs</p> <p>Workshop of EAs</p> <p>Interviews</p> <p>Case studies</p> <p>See Q1</p>

of cooperation on UTPs among the authorities, or at least a growing interest towards those initiatives / an increased willingness to test their practical effectiveness).	Shortcomings/limitations of cooperation initiatives / areas for their improvement	3.2.a - Perceived shortcomings of all cooperation initiatives (prevalence of qualitative judgments by stakeholders)	
		3.2.b – Shortcomings/limitations of individual cooperation initiatives + areas for improvement (qualitative assessment)	
		3.2.c – Number of cooperation initiatives affected by serious shortcomings/limitations (based on indicator 3.1.b)	
2. Two criteria focusing on the assessment of cooperation initiatives, including cooperation at EU level through the Enforcement Network.			
Effectiveness: Q4 – To what extent have the implementation and enforcement of the Directive been effective in mitigating the negative impact of unfair trading practices on the living standards of the agricultural community?			
The main negative impacts of UTPs on the operators in the farming stage was characterised quanti-qualitatively.	Nature and severity of the negative impacts of UTPs on operators in the farming stage	For each identified typology of negative impacts:	Desk research Interviews Case studies Survey of business associations
		4.1.a – Quantification of the negative impacts (e.g., additional costs, foregone revenues, etc.) (to the extent allowed by the available evidence)	
		4.1.b – qualitative judgment of the severity of the negative impacts based on triangulated perceptions reported by stakeholders	
	Importance of the mitigation provided by the implementation and enforcement of the Directive	For each identified typology of negative impacts:	
		4.2.a – Quantification of the importance of the mitigation (e.g., in terms of reduced additional costs, foregone revenues, relief provided to incurred damages, etc.) via an <i>ad hoc</i> approach DSO	
The assessment of the effectiveness of the implementation and enforcement of the Directive in potentially mitigating those impacts will also be quanti-qualitative.			

		4.2.b – qualitative judgment of its importance vis-à-vis the severity of the negative impacts.	
<b>Efficiency: Q5</b> – What are the direct and indirect costs and benefits as they accrue to different stakeholders (in quantitative and qualitative terms) resulting from the Directive?  a) To what extent are overall costs proportionate to the benefits?  b) To what extent/how do these compare/differ between Member States?			
The assessment covers a conceptual dimension as well a concrete one i.e. on the ground.  The conceptual part is based on:  1. The intervention logic of the Directive  2. The analysis of national implementing legislation and enforcement mechanisms		5.0.a – Direct monetary costs incurred by CAs in the transposition of the Directive into national legislation, and in the successive enforcement of such legislation	Desk research Surveys of: <ul style="list-style-type: none"> <li>• business associations</li> <li>• retailers/large buyers</li> <li>• MS Cas/EAs</li> </ul> Interviews Case studies
		5.0.b – Direct monetary costs incurred by operators to comply with the national legislation	
		5.0.c – Indirect and/or non-monetary costs incurred by operators, CAs that are related to national implementation of the UTP Directive	
		5.0.d – Direct (monetary) benefits for operators stemming from prevention of / fight against UTPs	
		5.0.e – Indirect and/or non-monetary benefits for operators, CAs stemming from prevention of / fight against UTPs	
The part about concrete effects is based:  1. on the approach to the quantification and qualitative appraisal of the main costs and benefits accruing to the	Costs are proportionate to benefits (or not)	5.1.a – Wherever costs and benefits accruing to the different stakeholders are quantifiable: cost-benefit ratio	
		5.1.b – Wherever costs and benefits accruing to the different stakeholders are non-quantifiable: qualitative assessment of whether the costs are perceived as proportionate to the benefits by the different stakeholders	



<p>different stakeholders explained in.</p> <p>2. on two quantitative comparative analyses:</p> <p>a. main costs vs. main benefits;</p> <p>b. main costs and benefits in different Member States.</p>	<p>The extent or importance of costs and benefits in different MSs are similar or significantly different</p>	<p>Wherever costs and benefits accruing to the different stakeholders are quantifiable</p> <p>5.2.a – Extent of the main costs in different MSs (mainly based on labour input)</p> <p>5.2.b – Extent of the main benefits in different MSs</p> <hr/> <p>Wherever costs and benefits accruing to the different stakeholders are non-quantifiable</p> <p>5.2.c – Perceived importance of the main costs in different MSs</p> <p>5.2.d – Perceived importance of the main benefits in different MSs</p>	
<p><b>Relevance: Q6</b> – To what extent are the scope, objectives and implementation choices relevant at time of evaluation study for protecting suppliers of agricultural and food products in the supply chain against unfair trading practices also considering continuously evolving needs and circumstances?</p>			
<p>Qualitative assessment, and the consideration of the perceptions of the different stakeholders in this regard. Assessment contains also a reference to continued relevance.</p>	<p>Relevance in addressing the original needs, also considering their evolution over time</p> <hr/> <p>Relevance in addressing new needs</p>	<p>6.1.a - Perceived overall relevance of the scope, objectives and national implementation choices in addressing the original needs (prevalence of qualitative judgments by stakeholders, broken down by stakeholder category)</p> <p>6.1.b – Number and severity of the identified `mismatches` between the original objectives and current needs in terms of protection from UTPs (qualitative assessment)</p> <hr/> <p>6.2.a – Perceived overall relevance of the scope, objectives and national implementation choices in addressing new needs (prevalence of qualitative judgments by stakeholders, broken down by stakeholder category)</p>	<p>Desk research</p> <p>Surveys of:</p> <ul style="list-style-type: none"> <li>• business associations</li> <li>• retailers/large buyers</li> <li>• MS CAs</li> </ul> <p>Workshops with EAs and business stakeholders</p> <p>Interviews</p>

		6.2.b – Number and severity of the identified ‘mismatches’ between the original objectives and new needs in terms of protection from UTPs (qualitative assessment)	Case studies
<b>Coherence: Q7</b> – To what extent is the Directive coherent with interventions that have similar objectives?  a) considering relevant interventions or regulations which directly/indirectly address unfair practices?  b) considering agricultural and food chain related EU initiatives and EU strategies?  c) considering other relevant EU level initiatives and objectives?			
Mainly qualitative assessment of identified relevant legislation and initiatives against the objectives of the UTP Directive to identify the extent of coherence. Done through a textual analysis and through the consideration of the perceptions of the different stakeholders.	Coherence of relevant interventions or regulations which directly/indirectly address unfair practices within the objectives of the Directive.	7.1.a - Identified relevant interventions or regulations  7.1.b – Specific synergies and inconsistencies and/or conflicts identified or perceived (if any) between relevant interventions or regulations and objectives of the Directive	Desk research  Interviews
	Coherence of agricultural and food chain related EU initiatives and EU strategies with the objectives of the Directive	7.2.a – Identified relevant agricultural and food chain related EU initiatives and EU strategies  7.2.b – Specific synergies and inconsistencies and/or conflicts identified or perceived (if any) between agricultural and food chain related EU initiatives and EU strategies against the objectives of the Directive	
	Coherence of other relevant EU level initiatives and objectives against the objectives of the Directive	7.3.a – Identified relevant other EU initiatives and objectives  7.3.b – Specific synergies and inconsistencies and/or conflicts identified or perceived (if any) between other relevant EU level initiatives and objectives against the objectives of the Directive	

<p><b>EU added value: Q8</b> – To what extent have the Directive’s harmonised minimum requirements created EU added value for the targeted stakeholders versus a non-harmonised status quo before the Directive?</p> <p>a) In view of level playing field, in particular in cross border transactions?</p> <p>b) In view, of other dimensions of EU added value?</p>			
<p>The proposed set of criteria is consistent with the quantitative approach to the assessment explained in the column at left.</p> <p>A combination of quantitative and qualitative indicators is used, and the perceptions of stakeholders on the added value deriving from the harmonised minimum requirements established by the Directive are considered and synthesised in a MCDA.</p> <p>The assessment includes:</p> <p>a. A specific focus on benefits in terms of level playing field</p> <p>b. An appraisal of the other dimensions of EU added value</p>	<p>Extent/importance of the EU added value stemming from the harmonised minimum requirements of the Directive</p>	8.1.a – Extent of differential quantifiable* benefits stemming from harmonised minimum requirements	<p>Surveys of:</p> <ul style="list-style-type: none"> <li>• business associations</li> <li>• retailers/large buyers</li> <li>• MS EAs</li> </ul> <p>Interviews</p> <p>Case studies</p> <p>Desk research</p> <p>Findings from Q 1 to 7 summarised in the MCDA</p>
		8.1.b – Perceptions of stakeholders about the presence and importance of the types of differential benefits stemming from harmonised minimum requirements (prevalence of qualitative judgments by stakeholders, broken down by stakeholder category)	

Source: Own elaboration based on the evaluation support study and other main sources of evidence.

## Annex IV Overview of benefits and costs

The Directive's costs and benefits can be summarised as follows:

- (1) **Costs incurred by public authorities in the transposition of the Directive into national law.** These are **one-off costs** as subsequent adjustments to national UTP transposing legislation (e.g. see Germany, Belgium) are not a direct cause of the EU level Directive but consequences of national level decisions on elements going beyond the minimum requirements of the Directive. A strong variation in the magnitude of these cost (ranging from a few thousand euro to beyond EUR 150 000 in some MSs) has been found mainly based on the dedicated survey in the evaluation support study. At EU level, costs are estimated to be in the **order of magnitude of EUR 1.75 million** (EUR 1.4 million for labour plus 25% of overheads such as expenses for premises, telephone, electricity etc.)<sup>(80)</sup>. This amount is **very likely on the lower end** as the estimations mainly consider labour input expressed as the number of full time equivalents (FTE) and do not consider other relevant linked costs (beyond overheads), for instance, related to the core legislative processes e.g. parliamentary debates, cost of (externally contracted) impact assessments (e.g. see Denmark) for which a meaningful EU level estimation was not possible. Taking this into account, the magnitude is broadly in line - rather on the low end - with expectations of the UTP IA 2018 (see 2.2 *Point(s) of comparison*). A clear difference between MSs with and without pre-existing legislation, as expected in the UTP IA 2018, could not be found. This is related to the fact that some MSs with pre-existing legislation decided to go beyond the minimum harmonisation rules.
- (2) **Direct enforcement costs borne by EAs related to information and monitoring, investigations and sanctions complaint handling and possibly litigation.** This is for the most part a **recurring cost** in each year of enforcement. Also here, the labour cost component is likely to be the most significant part of these costs. The variability between MSs is significant due to the different ways of enforcement discussed in 4.1 *To what extent was the intervention successful and why?* i.e. transpositions going beyond the minimum requirements, enforcement strategies in the first years of implementation of the Directive, choice of competent national EA, size of the agricultural sector at MSs level. Based on the input provided by the evaluation support study on FTEs and 25% of overheads<sup>(81)</sup>, the cost for all MSs is estimated to be at **EUR 5.4 million annually**. Further non-labour enforcement costs related to equipment, software, training, and ranged from negligible to EUR 3 million. The majority of these have recurrent components, but also a one-off part. This, paired with the fact that the collected evidence is anecdotal, did not allow for a meaningful inclusion in the EU level estimate. **Hence, the estimated costs represent likely a lower bound.** Furthermore, it was not possible to clearly distinguish between costs attributable only to the minimum requirements of the Directive and those that are incurred because of some provisions that go beyond e.g. additional black practices that are introduced (likely to increase enforcement

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<sup>(80)</sup> See evaluation support study Section 3.2.1.1 (p.48) and Annex 1 for more details on the estimation of labour costs as well as [BR-toolbox](#) #58 (p.531) for the overheads.

<sup>(81)</sup> Ibid.

costs) and transposition elements that would likely decrease these costs, e.g. removal of turnover thresholds. Moreover, estimates are based on the first years of enforcement activities which, as described in 3. *How has the situation evolved over the evaluation period?* and 4.1 *To what extent was the intervention successful and why?*, are in many MSs at their beginnings and likely to increase. It can be assumed that this in the years to come will lead to a multiple of this number as enforcement picks up. Considering these elements, including a foreseeable increase in these costs in line with enforcement activities, also here estimates are broadly in line with the expectations of the UTP IA 2018.

- (3) **Direct costs incurred by business operators to comply with the introduction of the UTP Directive.** Costs incurred by business operators in relation to the introduction of the Directive vary in nature and extent according to a combination of elements: i) due to the **activity performed** by business operators as supplier and/or buyer <sup>(82)</sup>; ii) the already pre-existing national legislation; iii) size of the business operator. Based on collected evidence, direct costs of this type include, among others, checks and modification of existing contracts/contractual clauses, drafting and agreement of new contracts/contractual clauses, creation of internal systems for UTP compliance controls as well as training on UTPs. These costs are for the most part **one-off costs** falling mostly on operators that are predominantly buyers/when buying. One-off compliance costs estimations range from EUR 36 per operator in Germany to 4 300 per operator in Sweden <sup>(83)</sup>. Estimations carried out at national level (see Germany, Sweden, Denmark) cannot be extrapolated at EU level due to the different starting points and transposition choices. However, an assessment made for the German transposing legislation reported a one off-cost of EUR 12.5 million for the German economy as a whole. The evaluation makes a tentative extrapolation of this data for Germany to approximate the costs for businesses at EU level. Taking the German share of EU agricultural output in 2023 of 14% (Source: [Eurostat](#)), and using this to project the EUR 12.5 million estimated for Germany, would translate in about EUR 88 million at EU level. This approximation has to be considered with caution, as the baseline situation was very different in the different MSs.
- (4) **Direct costs incurred by operators to comply with the enforcement of the Directive.** In addition to the three aspects expressed under point 3) above, further elements determine the magnitude of costs stemming for the enforcement of the Directive: i) the approach to the enforcement at national level, with particular regard to the transposing legislation, which presents notable differences across the EU, among others, in terms of scope of the protection, prohibited UTPs, activities implemented by EAs; ii) the involvement in actual UTP cases: the costs for operators vary according to whether they are **(alleged) offenders or (alleged) victims**. The evidence collected in the various consultation activities reports that a non-negligible part of consulted stakeholders is not able to quantify (and monetise) the costs of the Directive of their business operations <sup>(84)</sup>. For suppliers and especially famers, the main intended beneficiaries of the Directive, the costs are

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<sup>(82)</sup> Mainly/exclusively as ‘suppliers’: this situation is more likely in the farming/primary production stage of supply chains i.e. the category of operators the Directive aims to primarily protect; Mainly/exclusively as ‘buyers’: this situation is most likely in retail distribution; Both as suppliers and buyers, a situation which is typical of most processors, traders and wholesalers.

<sup>(83)</sup> See evaluation support study 3.2.1.1 (p.58) for more details.

<sup>(84)</sup> For a discussion see Section 4 as well evaluation support study.

negligible. Other operators, especially retailers report (qualitatively) higher costs to comply which, however, they do not appear to affect business operations substantially. The evaluation makes a tentative approximation of recurring costs for businesses based on the ratio between one-off and recurring costs as estimated for businesses in Denmark. This translates in total recurring costs for businesses of about EUR 1.5 million per year at EU level.

The evaluation support study also estimates **indicative cost for an operator** that stems from being **involved in a UTP litigation case as (alleged) victim or perpetrator** ranging from about EUR 650 to EUR 23 000 for offended parties and from about EUR 50 000 to EUR 560 000. The **indicative cost for a sector association** at national level to **support a member company/farmer in a UTP-related case** before the relevant EA ranges from EUR 450 to EUR 32 000. As these ranges are estimated on limited observations they should be considered with extreme care. These data cannot be translated in total cost, due to the absence of data on the number of litigation cases

- (5) **Indirect and/or non-monetary costs incurred by operators that are related to national implementation of the Directive** could not be monetised. Especially operators predominantly acting as buyers reported more complex procedures in dealing with suppliers and foregone benefits available prior to the implementation of the Directive. The latter, however, cannot directly be considered as a foregone benefit if it resulted from an unfair trading practice e.g. paying suppliers late.
- (6) **Direct benefits for operators stemming from prevention of / fight against UTPs.** A clear majority business associations in the evaluation support study stated that some monetary benefits were experienced by their members because of the implementation of the Directive. This is generally confirmed also by other consultation activities. The most frequently indicated benefits were terms of the supply contracts less prone to ambiguous and unilateral interpretations, reduction of the number of unilateral and retrospective changes to contract terms, more transparent price conditions. The majority of responding business associations reported also that some **non-monetary benefits** were experienced as a result of the implementation of the Directive. The most frequently indicated benefits were improved trust between suppliers and buyers, increase in the number of written supply contracts, strengthened protection for members affected by UTPs in domestic transactions. The absence of any monetary benefits in the case of business associations representing the wholesaling/retailing stages only was indicated, which reveals a negative overall judgment on the monetary benefits for these categories of operators resulting from the implementation of the Directive. Also very limited non-monetary benefits were indicated.
- (7) **Indirect benefits for operators.** Several consulted stakeholders, especially in the farming and/or processing stages, also reported further non-monetary benefits to which the UTP Directive contributed. The Directive helped to shed light on the issue of UTPs and promoted a (policy) discussion on the topic of the fairness of business relationships. They point also to the, albeit still limited effect, of the Directive acting as a deterrent to perpetrating UTPs. The Directive has also contributed to the development of a business culture where the concept of fairness is increasingly seen as a positive value that operators can highlight in their promotional and marketing activities.



Even in the framework of a generally negative perception about the (lack of) benefits stemming from the Directive, some stakeholders at the retailing stage acknowledged that the Directive improved legal certainty about trading practices; this contributed to improved trust between suppliers and buyers.

No significant potential for simplification and savings in terms of reduction administrative burden of operators were highlighted for action at EU level. Suggestions for improvements at EU level were reported. These, however, involve changes to some fundamental aspects of the Directive such as removing turnover thresholds, introducing changes to the list of UTPs and hence affect the policy objectives going beyond a strict cost and benefit remit <sup>(85)</sup>.

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<sup>(85)</sup> See main part of the evaluation report for a discussion.

Table 5. Overview of costs and benefits identified in the evaluation									
		Citizens/Consumers		Businesses: (large) buyers		Businesses: suppliers, including farmers		Public Administrations	
		Quantitative	Comment	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment
Direct Compliance costs: administrative costs									
Creation of internal systems for UTP compliance controls and training	one-off	--	--	--	Costs covered under one-off adjustment costs	--	--	--	--
Direct Compliance costs: adjustment costs									
Checks and modification of existing and/or drafting and agreement of new contracts / contractual clauses	one-off	--	--	~ EUR 88 million	EUR 36 - EUR 4 300 per business; EU approximation extrapolated from data for Germany.	Negligible	Costs covered under cost estimate for buyers; costs assumed to be predominantly borne by buyers	--	--
Increased operating costs	recurring	--	--	~ EUR 1.5 million	EU approximation based on ratio between one-off and recurring costs for Denmark	Negligible	Costs covered under cost estimate for buyers; costs assumed to be predominantly borne by buyers	--	--
UTP litigation case	recurring	--	--	Not quantifiable	EUR 50 000 - EUR 560 000 for an (alleged) perpetrator	Not quantifiable	EUR 650 - EUR 23 000 for an (alleged) victim	--	--
Support in a UTP litigation case	recurring	--	--	--	--	Not quantifiable	EUR 450 – EUR 32 000 borne by the sector association	--	--

Enforcement costs									
Transposition of the Directive into national law	one-off	--	--	--	--	--	--	EUR 1.75 million	Lower bound estimation.
Information and monitoring, investigations and sanctions complaint handling and possibly litigation	recurring	--	--	--	--	--	--	EUR 5.4 million	Lower bound estimation.
Indirect costs									
Increased complexity in commercial procedures and potential foregone benefits	recurring	--	--	<i>Not quantifiable</i>	--	Negligible	--	--	--
Direct benefits									
Prevention of UTPs and strengthened protection against UTPs, including through ex ante measures and remedies	recurring	--	--	--	--	<i>Not quantifiable</i>	EUR 16 000 – EUR 175 000 potential additional cash flow per company due to payment terms	--	--
Increased clarity and transparency in terms of supply contracts and price conditions	recurring	--	--	Negligible	--	<i>Not quantifiable</i>	--	--	--
Enhanced coordination between MSs	recurring	--	--	--	--	<i>Not quantifiable</i>	--	<i>Not quantifiable</i>	--
Indirect benefits									
Improved climate of trust and fairness in business relations	recurring	<i>Negligible</i>	--	<i>Not quantifiable</i>	--	<i>Not quantifiable</i>	--	--	--

## Annex V Stakeholders' consultation - Synopsis report

This Annex provides an overview of the consultation activities carried out in view of the evaluation of the Directive. It expands on the sources of evidence mentioned in *1.1 Purpose and scope of the evaluation* and complements *Annex II Methodology and Analytical models used*.

### Outline of consultation strategy

*Figure 15* depicts the consultation approach in a stylised manner following the overall approach in the call for evidence <sup>(86)</sup>:

Within this overall consultation framework, some activities are carried out directly by the EC (marked with an `\*`), some activities have been executed in a hybrid mode i.e. the EC as an event `host` and the evaluation support study team as facilitators (marked with a `+`) while other consultation activities have been carried out indirectly i.e. through the evaluation support study.

National authorities (EAs and Cas) as well as national and EU-level business associations for the purposes of this evaluation were seen as having a high stake and high influence because they, on the one hand fundamentally shape the way the Directive is transposed and enforced and, on the other hand, represent a plenty of member organisations (businesses) conveying their interests, points of view but as well are able to promote the Directive.

Single operators in the agri-food supply chain were considered having a high stake, as the legislation directly targets them but, as single operators, to have lower influence with respect to business associations.

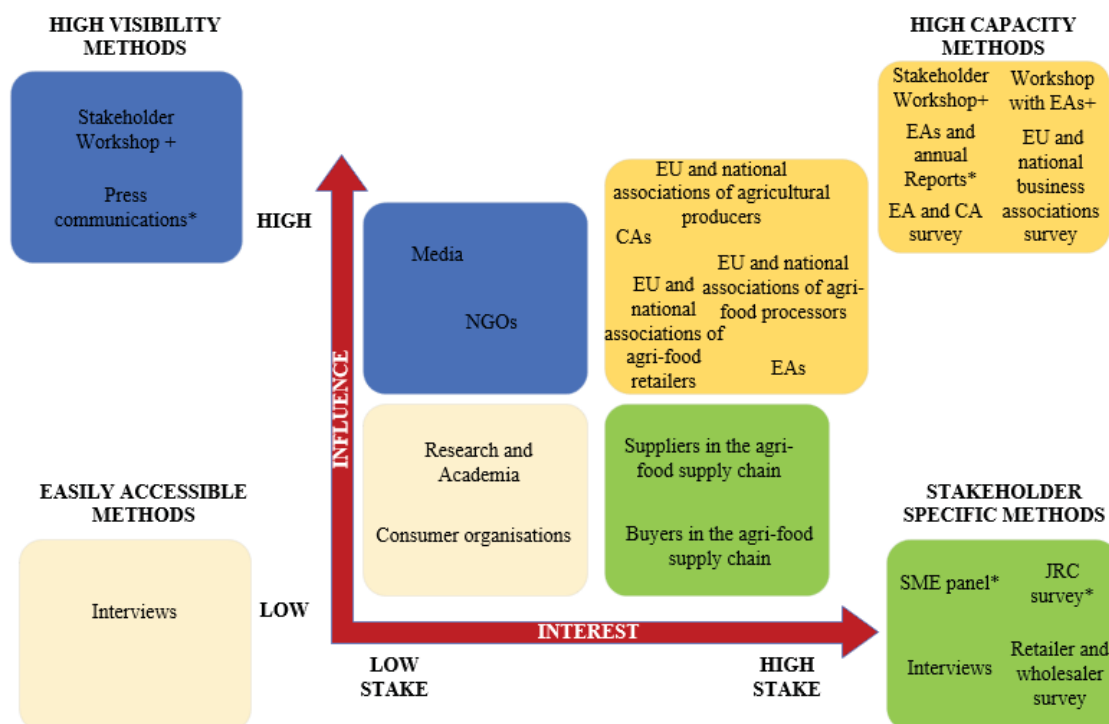
In view of the need for primary evidence collection through consultations, consumer organisations and academia have been classified as low stake and low influence. In this specific business to business legislation, consumers and consumer organisations have only an indirect stake and impacts were expected to be minor. Academia is not affected by the Directive and their work is mainly taken into account through desk research i.e. their scientific output. In any case, both stakeholder types have been considered also in primary evidence collection in the evaluation support study.

NGOs and Media were considered to have a lower level of stake than targeted businesses and their associations but potentially wielding a high level of influence given their organisational structures and outreach capacities.

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<sup>(86)</sup> See [call for evidence Section `B. Better regulation`](#), p.2.

**Figure 15: Stylised consultation approach.**



Source: Own elaboration. Note: the diagram is a schematized and simplified representation. It does not preclude any overlaps e.g. NGOs have been also interviewed in the evaluation support study. Activities are carried out directly by the EC (\*). Activities executed in a hybrid mode i.e. the EC as an event ‘host’ and the external support study team as facilitators (+).

### **A) Consultation activities carried out directly by the Commission**

Besides regular exchanges with various stakeholders in the context of its policy making role, the EC carried out directly three main consultations contributing to this evaluation:

- (1) Call for evidence
- (2) SME panel survey
- (3) JRC annual survey

Although not specifically carried out in view of this evaluation only, it worthwhile to recall the recurrent exchanges with EAs in form of the EA UTP Network as well as the annual Reports submitted to the EC. Not carried out by the EC but by competent EAs, annual activity reports as well as EAs own surveys and consultations are also important outreach activities considered as evidence base of this evaluation.

### **B) Consultation activities carried out in a hybrid mode with indirect involvement of the Commission**

With the indirect contribution of the EC as event ‘host’ and the external support study team as facilitators, the following consultation activities have been carried out:

- (4) Workshop with national, competent EAs

- (5) Thematic workshop with business and non-business stakeholders <sup>(87)</sup>

### C) Consultation activities carried out without direct involvement of the EC

Primary data collection activities carried out through the evaluation support study are described in the external study report. Overall, they can be summarised as follows:

- (6) Targeted survey of CAs
- (7) Targeted survey of retailers and large buyers
- (8) Targeted survey of sector associations
- (9) Horizontal interviews
- (10) Interviews in the context of case studies

The remainder of the section summarises the results of the consultation activities with **particular focus on the ones carried out directly by the EC.**

#### (1) Call for evidence

The feedback period of the call for evidence (CfE) spanned over **six weeks**, from 18 October 2023 until 29 November 2023. It was carried out through the [‘Have Your Say’](#) platform. All qualitative responses and supporting documents (if necessary, translated by using an EC-internal artificial intelligence-powered tool into English) were read and processed by EC staff. Summaries have been made using the help of EC-internal artificial intelligence-powered tools.

**46 contributions** were received. Almost half of them (n=22) were business associations, about 20 % (n=9) were NGOs, 8 (17%) declared to be EU citizens. The remaining feedback was obtained from trade unions (n=4), companies (n=2) and one public authority. In terms of countries, most respondents (n=11) declared Belgium as their country of origin (likely also because it is often the country of registered offices of EU level associations), followed by France (n=9, 20%), and Slovakia n=5 (9%). Other contributions (n=20) came from remaining 11 MSs. One contribution came from outside the EU (Tanzania).

Several contributions provide feedback with regards to the evaluation of the Directive. Overall, stakeholders call for the evaluation to be thorough and focused on assessing the Directive's real-world impact, particularly in terms of protecting vulnerable actors in the supply chain and ensuring fair competition. They advocate for an evaluation that consider both the Directive's implementation and its broader economic and social impacts. **Producers and farmers** emphasise the importance of evaluating the Directive to see if it has fulfilled its objectives in improving the position of weaker partners, such as primary producers. They suggest that the evaluation should consider the structural imbalances between suppliers and retailers and examine the Directive's effectiveness in addressing

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<sup>(87)</sup> The workshop with the EAs was carried out in the context of an expert group meeting of competent EAs. The external study team organised the session content-wise, facilitated it and harvested the results in view of the evaluation support study. The workshop with business and non-business stakeholders was hosted by the EC- DG AGRI by providing the facilities. The organisation in terms of content and execution of the workshop was carried out by the external study team.



these issues. **Retailers and distributors** highlight that the evaluation should consider the economic context of agri-food markets, which have been unstable since the Directive's implementation. They argue that over-implementation by MSs can create risks to legal certainty and impose unnecessary burdens on companies, suggesting that the evaluation should assess these impacts. **Environmental and social advocacy groups** suggest that the evaluation should focus on the economic situation of farmers and analyse contractual relationships between farmers and other operators in the supply chain. They emphasise the need for the evaluation to consider the effectiveness of the Directive in providing the intended protections to farmers. **National and regional entities** discuss the need for the evaluation to investigate how MS have implemented the Directive and whether it has effectively protected small and medium-sized suppliers. They highlight the importance of examining the Directive's impact and the role of national implementation in its success. **Other stakeholders** express concerns about the Directive's current effectiveness and suggest that the evaluation should address issues like market concentration and the promptness of payments.

**Besides addressing the call for evidence directed to the evaluation i.e. an *ex post* approach, in many cases respondent's feedback went well beyond the contribution to the evaluation strictly speaking and conveyed general positions as well as forward looking considerations e.g. in terms of amendments (or not) to the Directive and improvements in its implementation. These considerations are often contrasting.**

**Producers and farmers** emphasise the necessity for a strengthened UTP Directive. They advocate for extending the Directive's coverage to all operators (suppliers), including those outside the food sector, and stress the importance of fair pricing structures that cover production costs. These groups argue for stricter regulations to shield farmers from late payments and exploitative practices. Sectorial associations within the agricultural sector call for specific attention to the wine sector's unique payment cycles and contractual needs. They call for maintaining industry-specific exceptions and a coherent regulatory framework to safeguard these sectors from unfair practices. **Retailers and distributors** focus on the Directive's impact on market dynamics, particularly concerning large manufacturers' influence. They highlight ongoing issues with unfair practices imposed by powerful market players (acting as suppliers) and recommend more harmonised implementation of the Directive across MSs to prevent legal fragmentation and ensure fair competition. **SME associations** stress the importance of maintaining distinctions based on company size within the Directive to protect SMEs. They suggest implementing turnover thresholds to ensure that SMEs are shielded from the adverse effects of broad implementation. **Organisations representing non-EU suppliers linked to the fair-trade sector** advocate for extending the Directive's protections to non-EU suppliers and improving complaint mechanisms' accessibility. They stress fair treatment for small-scale food producers worldwide, aiming for increased inclusivity and protection in global supply chains. **National and regional entities** mention the Directive's national-level impacts. They emphasise the need for effective enforcement mechanisms, and some propose the establishment of ombudsman offices to handle complaints efficiently. **Environmental and social advocacy groups** propose integrating social and environmental assessments into the Directive. They advocate for policies that emphasise sustainability and consider the broader social impacts of trading practices. **Other stakeholders**, including consumer representatives and specific national associations, express concerns about the Directive's current effectiveness, particularly regarding issues like late payments and market concentration. They call for more robust enforcement and clearer definitions of unfair practices to ensure comprehensive protection across the supply chain.

## (2) SME panel survey

The EC launched a dedicated SME Panel consultation on the evaluation of the UTP Directive on 5 August 2024 for a period of **12 weeks**. The consultation closed on 27 October 2024. The consultation was conducted through the EU Survey portal and submitted to the Enterprise Europe Network members with the support of the European Innovation Council and SMEs Executive Agency (EISMEA). The SME panel survey made it possible for SMEs, **both in their capacity as buyers and suppliers** within the agri-food chain, to share their experience with the UTP Directive. The results of this targeted consultation contributed to the evidence base of what happened in practice in the first years of application. Results were analysed with the help of summary representation visualisation tool in EU survey and a spreadsheet.

The SME Panel survey gathered responses from 81 SMEs, with the highest number of respondents coming from Spain and Poland (n=18), followed by Romania (n=12) and Italy (n=11). The rest of the responses (n=22) came from other 8 EU Member States (MS).

Most respondents represented micro businesses, with 1-9 employees (n=29), followed by small businesses with 10-49 employees (n=25). Additionally, 13 mid-sized businesses with 50-249 employees answered to the consultation, while 6 answered as businesses with 250-499 employees (small midcaps). Lastly, there were 8 single-person businesses or self-employed individuals who took part.

In terms of business' annual turnover just under a quarter (n=19) indicated to fall within the EUR 100 000 – 500 000 range, about a quarter below this (n=20). 51 respondents indicated to be below the EUR 2 million threshold, 9 within EUR 2 - 10 million range, 9 within EUR 10 - 50 million range, 6 above the EUR 50 million mark. 3 did not know and 3 chose not to answer.

Sector-wise, about half of the respondents (n=41) identified themselves as being from the agriculture, forestry and fishing sector, approximately 23% (n=19) identified themselves as manufacturing sector and about 17% (n=14) represented wholesale and retail trade activities. The remaining 7 respondents fell into other sectors.

More specifically, when asked about the stages (one or more) within the agri-food supply chain they operate in, about 60% answered to be involved in production (n=48), 44% in processing (n=36), 46% in trade or wholesale (n=37), 14% in retail (n=11).

Within the agri-food sector, based on turnover, 12 respondents indicated the dairy sector to be the first most important. For 5 businesses the meat sector was the most important one. 19 respondents indicated fruits and vegetables as their main sector of activity while for 21 it was cereals. 21 respondents had another sector as the most important.

In 2023, roughly 44% of respondents (n=36) were only active on their national market, 17% (n=14) export to other EU countries and 31% (n=25) export both to EU and non-EU countries. 3 respondents did not know, 2 did not answer.

In terms of general awareness about the UTP Directive, 53% (n=43) of respondents were aware that the UTP Directive provides for 10 blacklisted practices. This percentage slightly drops to 46% (n=37) when asked about the awareness regarding grey practices. Moreover, 27% (n=22) were aware that protection only applies in transactions with buyers larger than

suppliers, while the majority, 64% (n=52), was not aware of these thresholds in the EU legislation.

When asked about the level of protection (in transactions with clients) for the 10 blacklisted practices, following the introduction of the UTP Directive, roughly half of the respondents expressed a positive/acceptable rating (15 very good, 10 good, 15 acceptable), 12% a negative (7 unsatisfactory, 3 poor). The rest did not know (n=17) or claimed it not to be applicable (n=8) or did not answer (n=6).

A similar picture emerges about the same question with respect to the grey practices: about half of the respondents expressed a positive rating (11 very good, 16 good, 15 acceptable), 10% a negative (6 unsatisfactory, 2 poor). The remaining did not know (n=18) or claimed it not to be applicable (n=9) or did not answer (n=4).

In terms of improving the level of protection (in transactions with clients) following the introduction of the UTP Directive, 30% (n=24) and 21% (n=17) claimed it to be the case for black and grey practices respectively, 30% (n=24) and 31% (n=25) respectively expressed it not to be the case, while the largest chunk of respondents – be it for blacklisted or grey listed – did not know (37% (n=30) and 40% (n=32) respectively) or gave no answer (n=3 and n=7 respectively).

Without differentiating between agricultural sectors, supply chain stages and countries, the three most experienced blacklisted practices since 2022 were:

- paying later than 30 days for perishable agricultural and food products (31% (n=25) experienced it regularly and 25% (n=20) occasionally, while 21% did never experience it (n=17));
- paying later than 60 days for other agri-food products (21% (n=17) experienced it regularly and 41% (n=33) occasionally, while 19% did never experience it (n=15));
- cancelling orders for perishable agri-food products at short-notice (6% (n=5) experienced it regularly and 30% (n=24) occasionally, while 33% did never experience it (n=27)).

The 3 least experienced blacklisted practices are:

- payments not related to a specific transaction (52% (n=42) never experienced it);
- refusing supplier's requests for a written confirmation of a supply agreement by the buyer (46% (n=37) never experienced it);
- transferring the costs of examining customer complaints to the supplier (43% (n=35) never experienced it).

In the same line of reasoning, for grey listed practices, the two most experienced were:

- payment of the supplier for advertising (14% (n=11) regularly, 16% (n=13) occasionally, while 38% did never experience it (n=31));
- payment of the supplier for promotion (12% (n=10) regularly, 21% (n=17) occasionally, while 37% did never experience it (n=30)).

The two least experienced are:

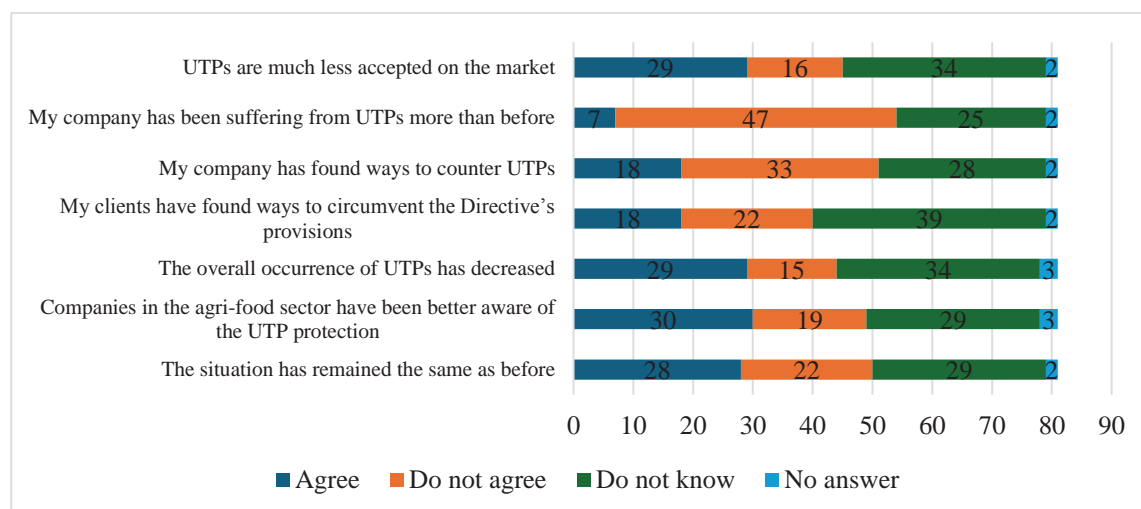
- payment of the supplier for staff of the buyer, fitting out premises (47% (n=38) never experienced it);
- payment of the supplier for stocking, display and listing (43% (n=35) never experienced it).

74% of respondents (n=60) said they did not face other practices that they consider unfair while 17% (n=14) did. The rest (n=7) did not answer the question.

When asked if they heard of other buyers in the agri-food sector who would (since 2022) exercise specific practices, just over half respondents (n=41) indicated that they did so with regards to payments for perishable products later than 30 days or later than 60 days (non-perishables) (44% did not hear, 5% did not answer), about 42% (n=34) stated that they heard about cancellation of an order for perishable products less than 30 days before delivery or at such a short notice that the supplier could not be expected to find an alternative (53% did not, 5% did not answer). 28% (n=23) did hear about changes in contracts or conditions without supplier's consent, 32% (n=26) about refusing agreements to be made in writing and 27% (n=22) heard about threats to stop selling a product whose supplier would report unfair trading practices to the authorities.

Respondents were asked about their agreement or not to a number of statements regarding all 16 UTPs. Results are presented in the below figure.

**Figure 16: Statements regarding 16 UTPs (number of respondents).**



Source: SME panel survey. Own elaborations.

Regarding late payments in relation to the Late Payment Directive (2011/7/EU): about 22% (n=18) of respondents were aware that they can claim interests and compensations of EUR 40 for each request for late payment, about 43% (n=35) stated they were not aware of this, while 26% (n=21) did not know, 6% claimed it not to be applicable (n=5) and 2% did not answer (n=2). Furthermore, about 15% (n=12) stated to ask their clients for the EUR 40 compensation fee when they pay late, 54% (n=44) did not, 20% (n=16) did not know, and the remaining stated it not to be applicable (5%, n=4) or did not answer (6%, n=5).

Always on the topic of late payments, about 46% (n=37) agreed with the statement that their business would benefit from bringing maximum payment terms for non-perishable

goods to 30 days - in line with maximum payment terms with for perishable goods, 20% (n=16) did not agree with this, 16% (n=13) did not know and 16% (n=13) claimed it not to be applicable, while 2% (n=2) did not answer.

The statement 'My business has been negatively affected by the fact that the UTP Directive allows public healthcare entities to pay later than others (i.e. go beyond the 30 days for 60 days provided in the Directive as standard)' brought forward about 20% (n=16) of agreement, 38% (n=31) of disagreement, while 20% (n=16) specified not to know, 17% (n=14) regarded it as not to be applicable and 5% (n=4) did not answer.

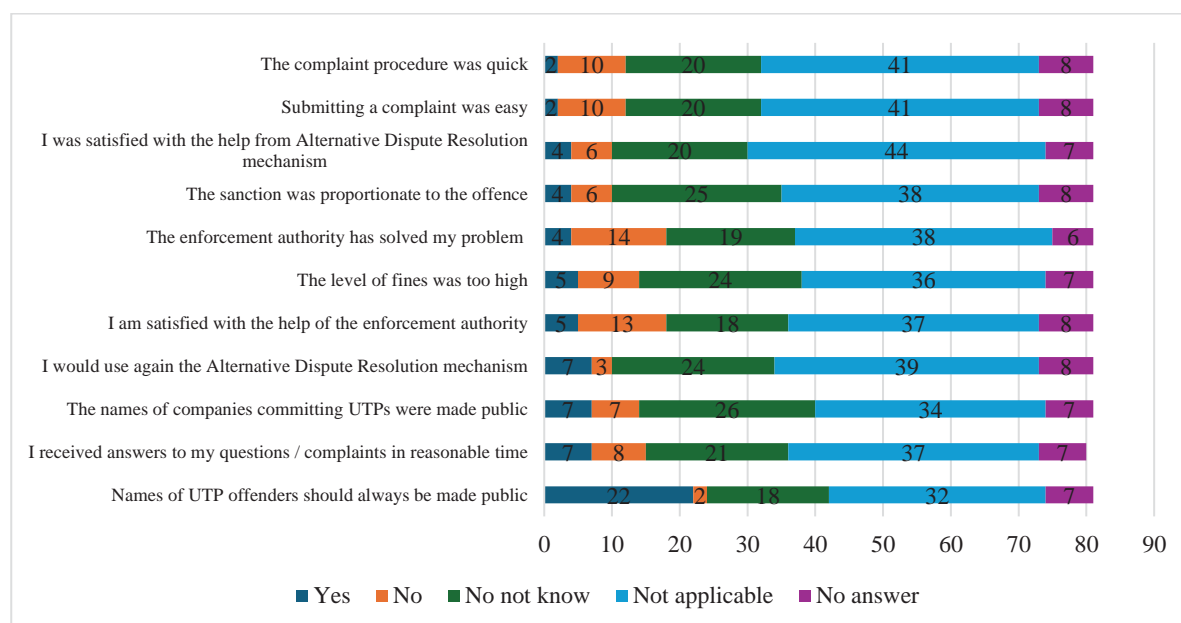
The questionnaire included several questions about the enforcement of the UTP Directive.

About 21% (n=17) respondents replied to know which authority to ask for help or complain to about UTPs in their Member State. Around three-quarters answered no (n=61).

When asked if, when they experienced any of the UTPs, they did contact the UTP EA in their country, 31% (n=25) stated this was not applicable, 5% (n=4) did not answer. Of the remaining 64%, 42 respondents answered negatively (52%), while the remaining asked for information (7%, n=6), went to court (6%, n=5), asked for guidance (4%, n=3), filed a complaint (2%, n=2) or used alternative dispute resolution mechanism (2%, n=2).

The respondents were further presented a series of statements and asked for their agreement/disagreement (n of replies). Results are presented in the below figure.

**Figure 17: Answers related to the enforcement (number of respondents).**



Source: SME panel survey. Own elaborations.

When confronted with their experience with UTPs since the beginning of 2022 and their reasons for not contacting the EA in their country, 14 (17%) did not answer. The remaining 67 questionnaires report 103 answers (multiple reasons where possible). They stated to not know whom to contact (32%, n=26), to not being confident that filing a complaint would solve the problem (19%, n=15), to be able to solve the issue by themselves (17%, n=14) as well as to be afraid the buyer would retaliate if they would file a complaint (15%, n=12). Some respondents also selected that they did not know how to do it (12%, n=10) or that they felt that the UTP was a common practice in the sector (11%, n=9). Some replies



indicated other reasons (10%, n=8) or to be afraid that a submission would not remain confidential (6%, n=5), the feeling that the issue was not important enough (4%, n=3) or to know whom to contact, but the procedure being too complicated (1%, n=1).

No or insignificant direct costs to comply with the law since its introduction in 2021 were incurred by respectively about 42% (n=34) and 6% (n=5) of the respondents. On the contrary, around 14% (n=11) incurred some costs (of which 1 respondent significant costs). 30% (n=24) did not know. 6 respondents (7%) did not answer this question.

When asked about the UTP-related experience in transactions with business partners from other EU countries compared to domestic ones, 28% (n=23) of respondents indicated to not know. For 14 (17%) this was not applicable while 8 (10%) decided not to answer the question. Of the remaining 36 (about 44%), 17 (21%) answered not to have suffered from UTPs in cross-border transactions, 8 (10%) replied that UTPs are the same in cross-border and domestic only transactions, 5 (6%) selected that UTPs are more widespread in domestic-only transactions than in cross-border transactions while 6 (7%) selected the opposite, indicating more widespread UTPs in cross-border transactions.

When asked about the same question, however, with regard to non-EU transactions, the pattern was: as above a large share of respondents (30%, n=24) indicated not to know. For 22 (27%) this was not applicable while 8 (10%) decided not to answer the question. Of the remaining 27 (about 33%), 17 (21%) answered not to have suffered from UTPs in cross-border transactions, 2 (2%) replied that UTPs are the same in cross-border and domestic only transactions, 2 (2%) selected that UTPs are more widespread in domestic-only transactions than in cross-border transactions while 3 (4%) selected the opposite, indicating more widespread UTPs in cross-border transactions.

The survey concluded with a free text question asking, if applicable, to indicate other unfair practices to be added to the 16 listed in the Directive and under which list, grey or black. 5 respondents completed this question. 2 specified it not to be the case, 1 not to know. 1 expressed general concerns about farmers in Romania being disadvantaged vis-a-vis producers outside the EU countries. 1 manufacturer referred to a ban of any form of payment for marketing expenses of wholesales.

### (3) JRC UTP annual survey

Results of the survey are published on the following dashboard: [Unfair Trade Practices](#) where it is possible to explore the results of each wave and compare them among each other in detail by using a set of adaptive filters and views. The collection of responses has been done through the EU survey tool via a public consultation carried out by the EC (JRC and DG AGRI). Participation to the JRC survey is open to all agri-food suppliers on a voluntary basis: **the sample is thus not selected and non-constant**. The average number of respondents is around **640 responses per year**<sup>(88)</sup>, with the first and fourth waves gathering higher level of responses (respectively 789 and 1511 respondents). The summary analysis with selected key insights below was carried out with the help of a spreadsheet.

As shown in Figure 18, the greatest share of respondents across all five waves and increasingly so in the last ones is represented by agricultural producers. Followed by a

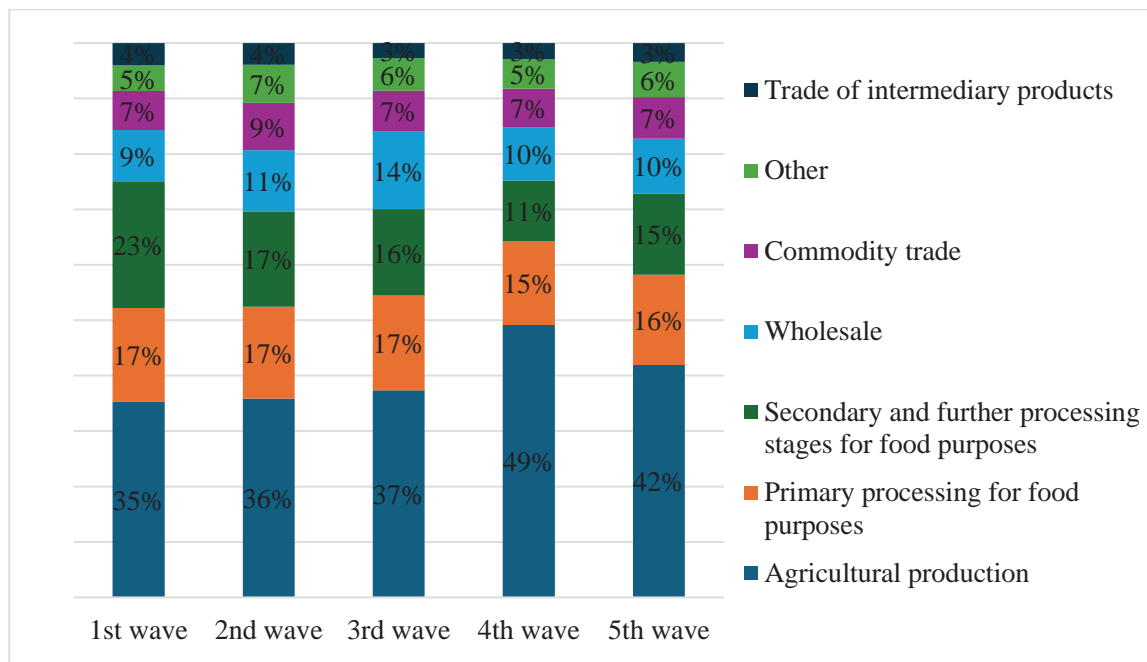
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<sup>(88)</sup> This excludes the 3 315 replies from Hungary alone in the 2020/2021 baseline wave. These data were removed to ensure comparability of data between waves.



constant share of primary food processors around 17%, food processors at other stages and other agri-food traders.

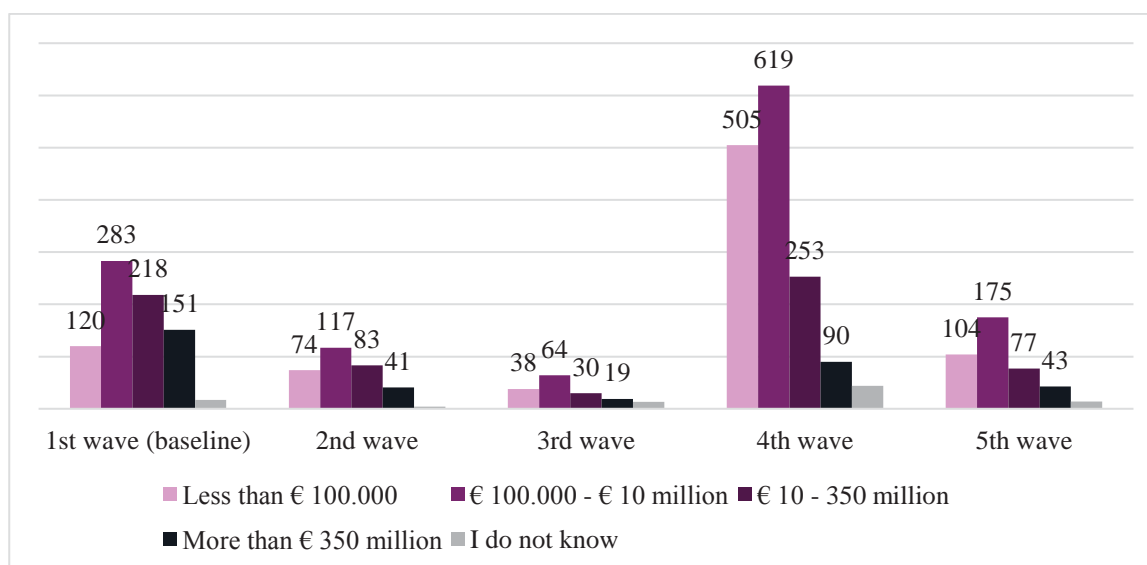
**Figure 18: Split of respondents according to the stage in the agri-food supply chain (as percentage of respondents).**



Source: JRC UTP survey; Number of respondents per wave: 789, 319, 164, 1511, 434. Due to the vast number of replies from Hungary (3 315) in the first wave (baseline) the numbers above do not reflect these. Full results are available online: [Food Chain - UTP - survey results](#)

Figure 19 shows that over the 5 waves most responses have been coming from respondents within the EUR 100 000 to 10 million turnover bracket, followed, except for the second wave by the group of smaller suppliers in terms of turnover.

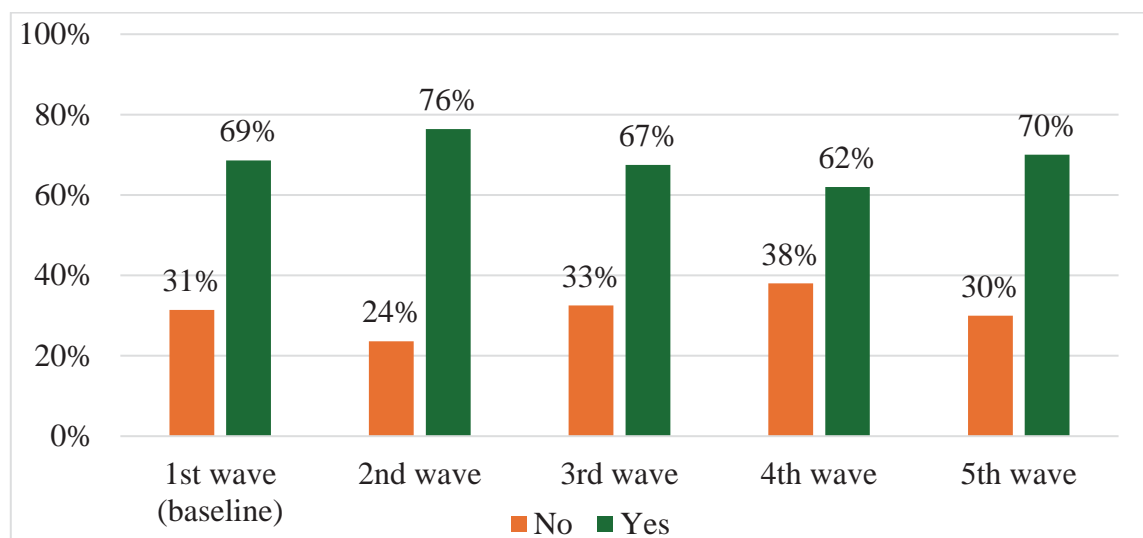
**Figure 19: Annual turnover of the respondents (number of respondents)**



Source: JRC UTP survey.

Awareness of the Directive fluctuates around between 62% and 76% of respondents, with no clear trend across the different waves.

**Figure 20: Awareness of the UTP Directive (as percentage of respondents).**

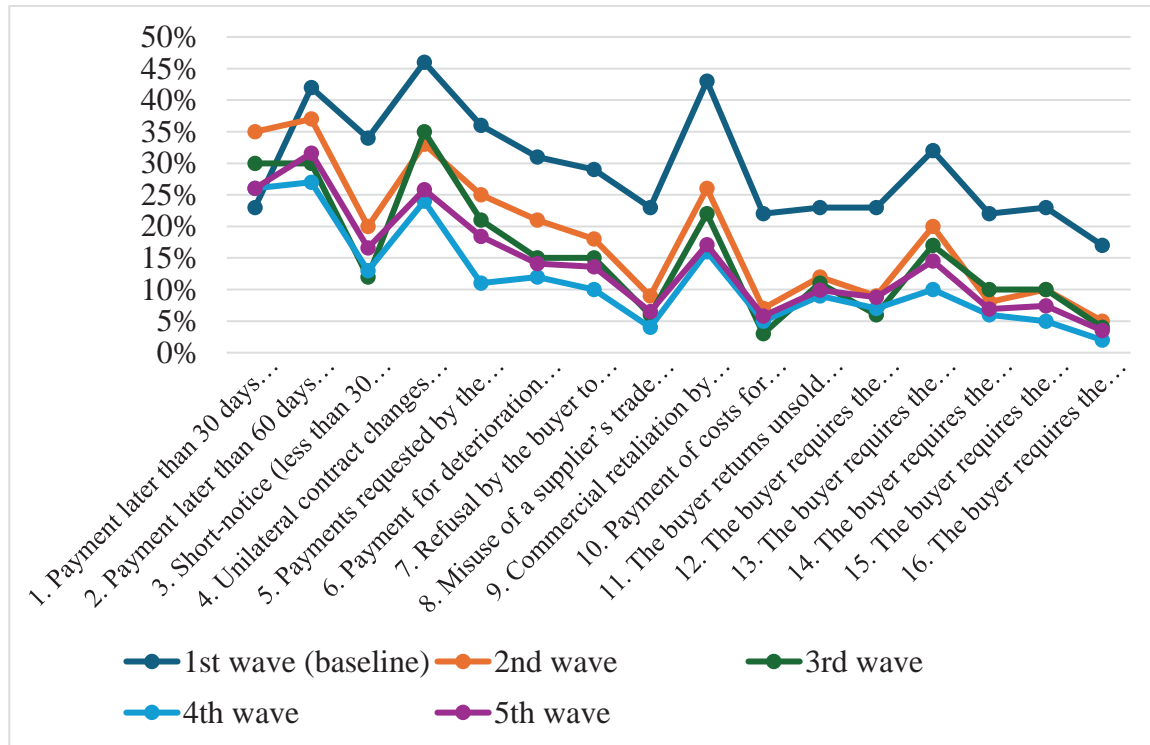


Source: JRC UTP survey. Question: `Are you aware that the European Parliament and the Council adopted on 17 April 2019 the Directive (EU) 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain?`

When asked about the experience with UTPs over the previous years, payments exceeding the 60-day and 30-day period rank consistently among the highest reported UTPs. Except for the 30-day term in the baseline wave where 23% of respondents indicated to have experienced this UTP, and an increase in the 5<sup>th</sup> wave for the 60-day term UTP, there is an overall decrease in the rates of which these two UTPs are experienced.

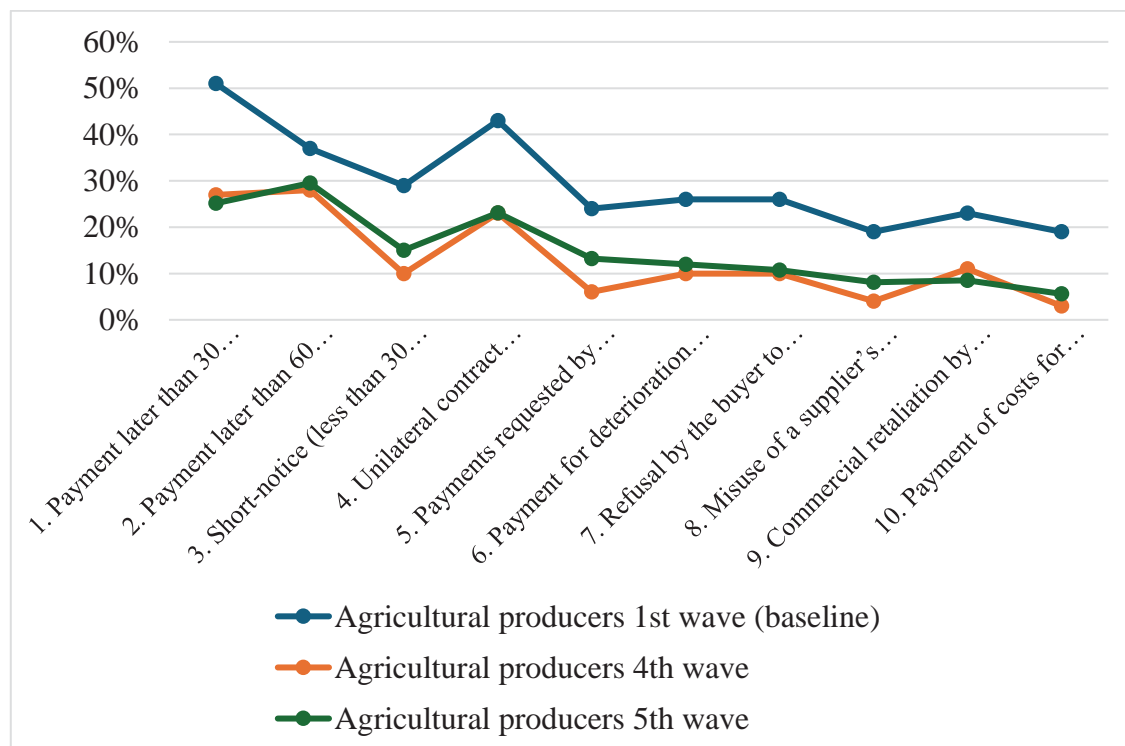
This declining trend appears for all 16 UTPs when compared to the baseline wave. When considering wave 2 to wave 4, overall, the occurrence of UTPs diminished with each wave, while the fifth wave reports a halt to this declining trend and, in some cases, a reversal. UTPs related to the misuse of trade secrets and costs examining consumer complaints reduced markedly in relative and absolute terms over the years when compared to the baseline wave according to the respondents. The difference between the baseline and the last 2 waves broadly covering a post implementation period is depicted in *figure 22*.

**Figure 21: Evolution of experienced UTPs (percentage of respondents).**



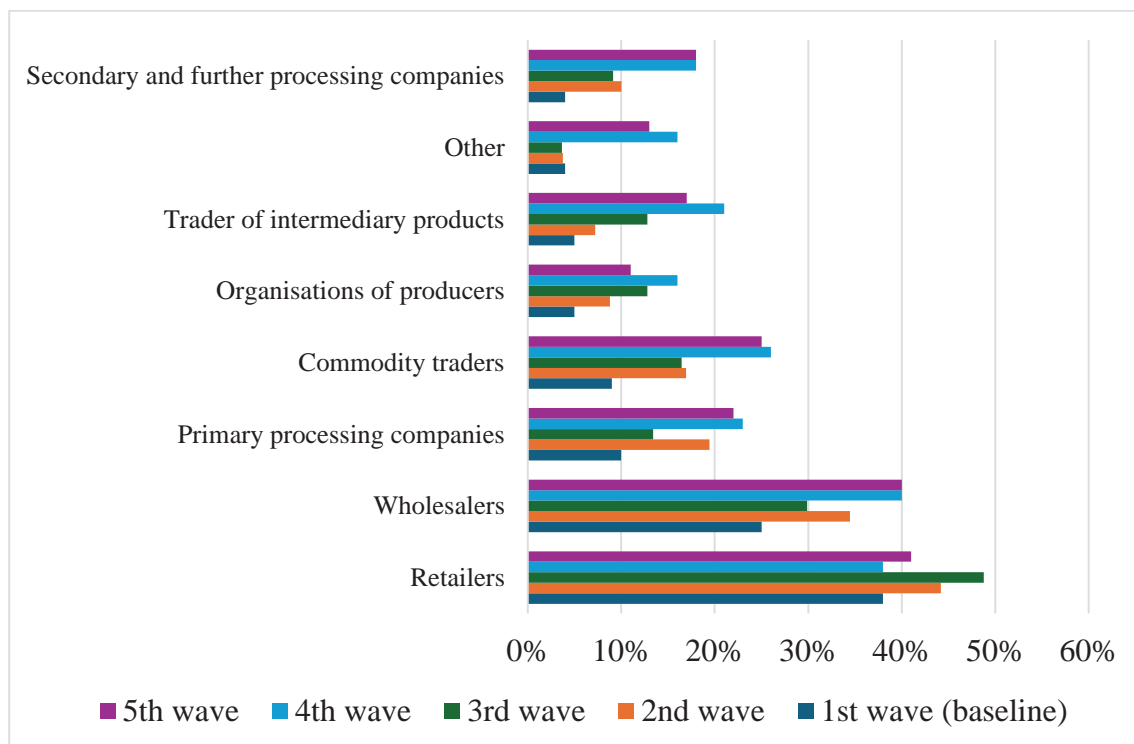
Source: JRC UTP survey. Due to readability the full name of UTPs is not displayed here. For the full name of UTPs please see Section 1. Question: Have you experienced any of the following practices during the last three years with one of your buyers? Note: the 'last 3 years' refers to full calendar years, e.g. the period 2017-19 etc.

**Figure 22: Experience of black UTPs by agricultural producers when comparing baseline and last waves (percentage of respondents).**



Source: JRC UTP survey.

**Figure 23: Evolution of UTP perpetrators' stage in the agri-food supply chain according to respondents (percentage of respondents).**



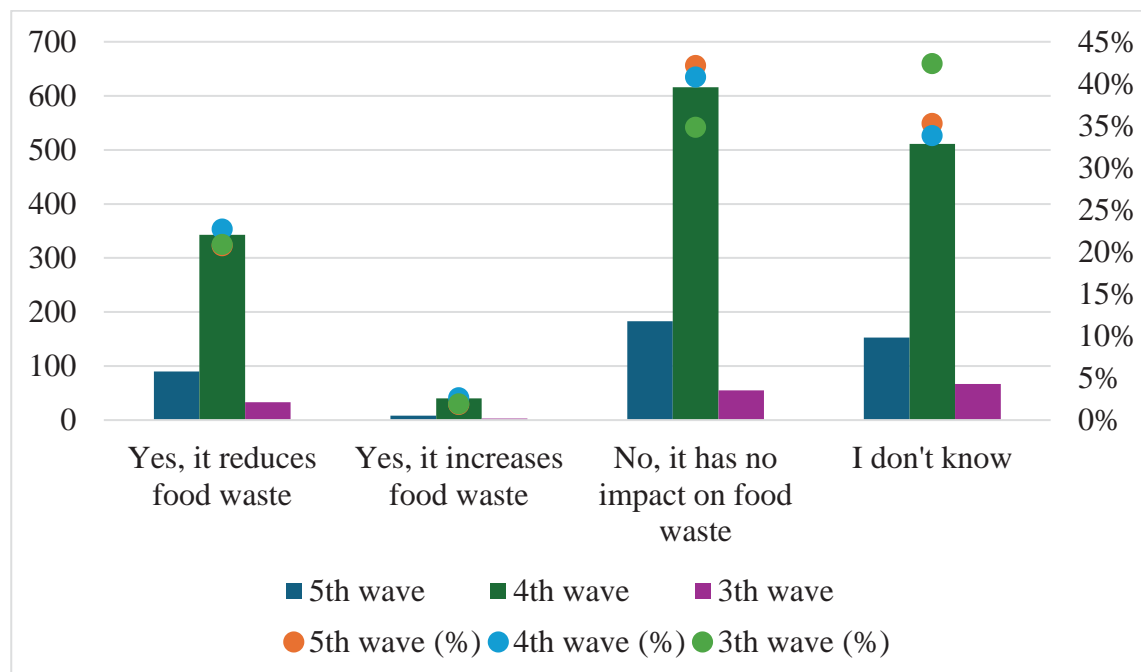
Source: JRC UTP survey.

**Table 6 - Reasons not to raise the issue of UTPs with the EAs – JRC survey, 5<sup>th</sup> wave.**

Reasons not to raise the issue	Answers
Fear of some form of retaliation from the buyer	29 %
It is a common practice in the sector	19 %
I thought the Public Enforcement Authority/ies were not able to handle it	19 %
I could address the issue myself	13 %
I did not feel the issue was important enough	5 %
I do not know	5 %
An association to whom I belong (producer organization or cooperative) did it for me	5 %
Other reasons	4 %

Source: JRC survey, 5<sup>th</sup> wave.

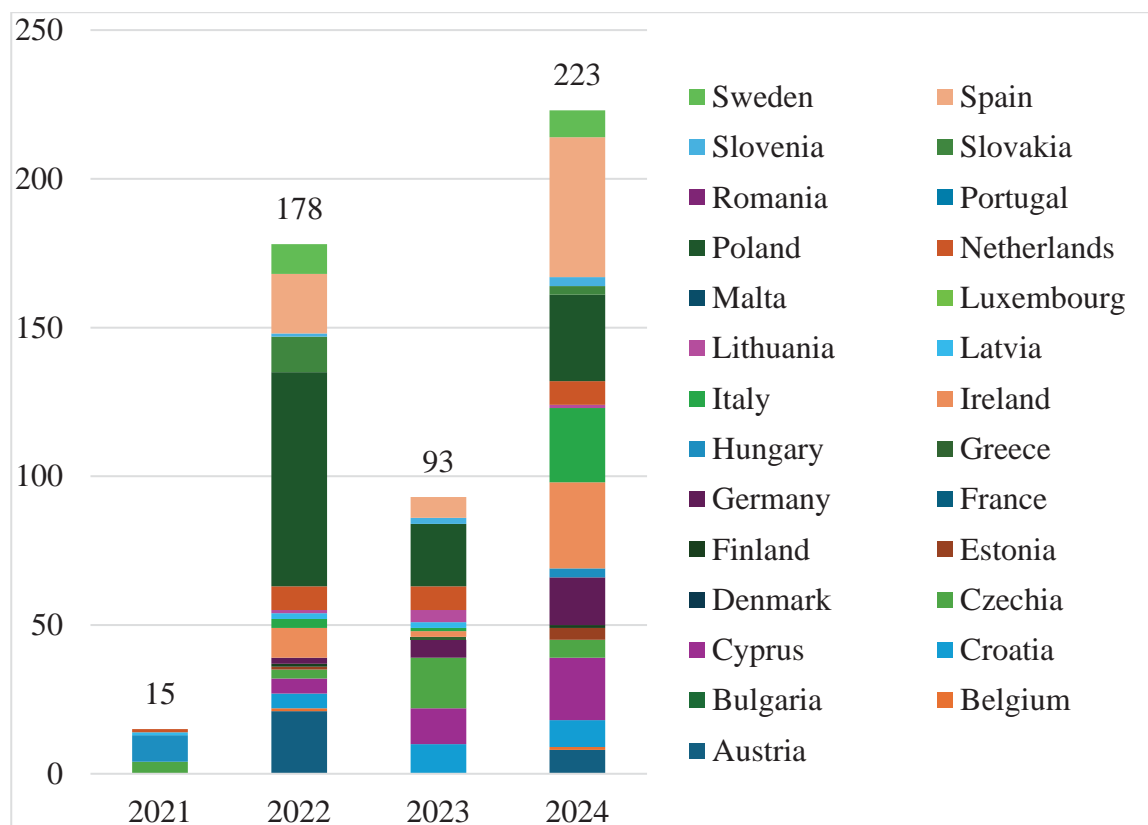
**Figure 24: Food waste reduction of the Directive (number of respondents (left axis), percentage (right axis)).**



Source: JRC UTP survey. Note that in the first waves this question was not asked.

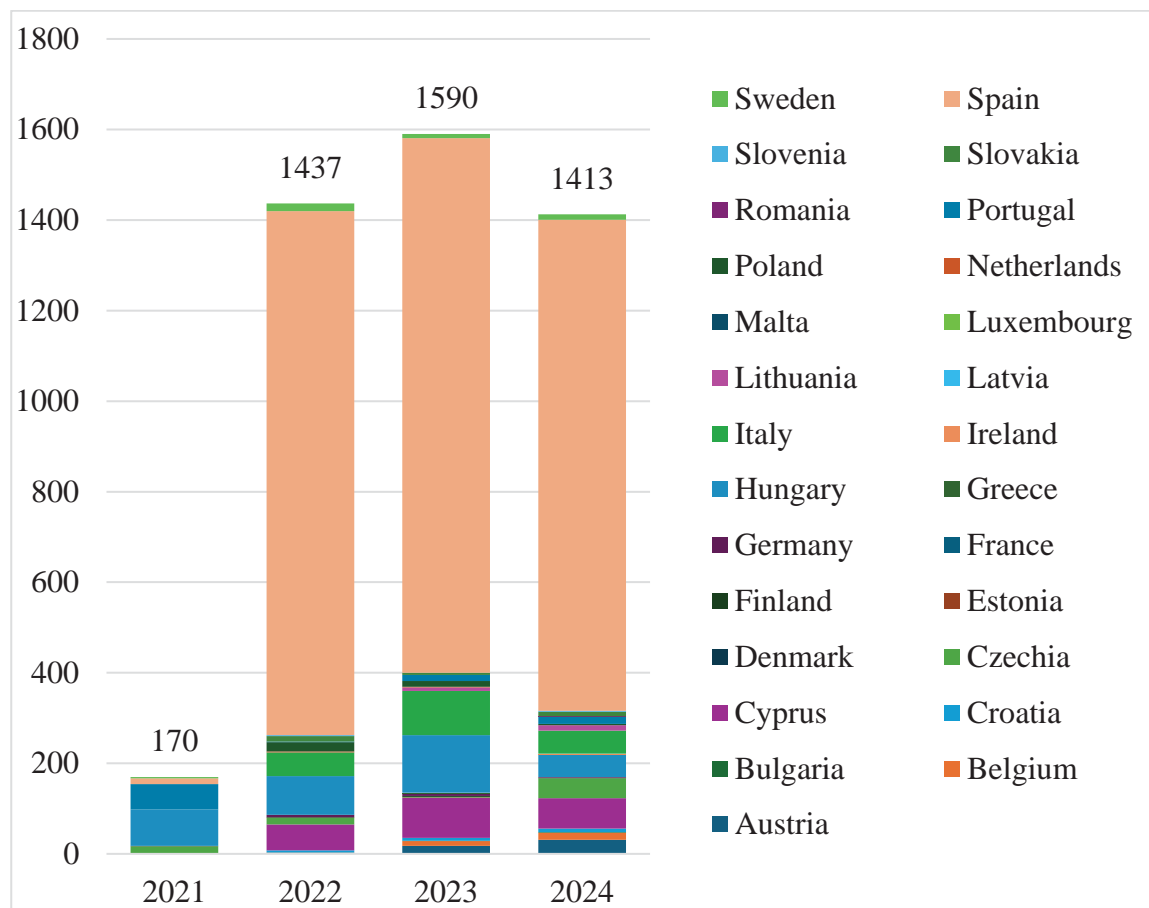
### Insights from MS annual reports:

**Figure 25: Number of complaints received during the reporting period – MS reports for 2021, 2022, 2023 and 2024.**



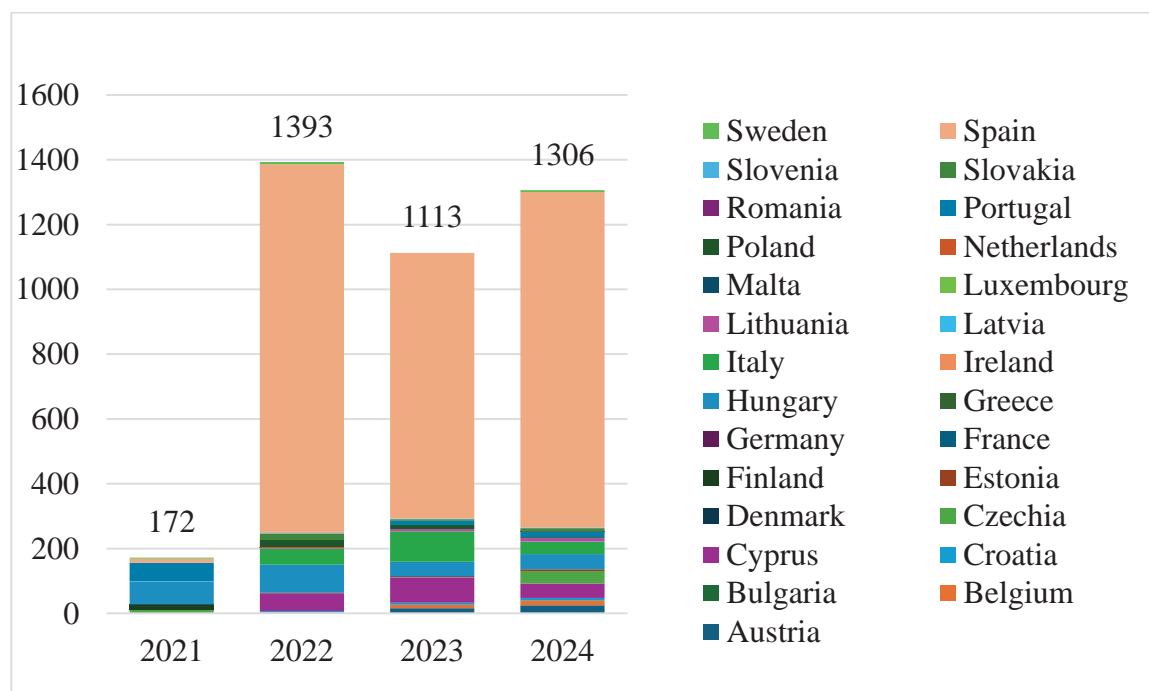
Source: Annual reports by MSs as notified to the EC.

**Figure 26: Number of investigations opened during the reporting period – MS reports for 2021,2022,2023 and 2024.**



Source: Annual reports by MSs as notified to the EC.

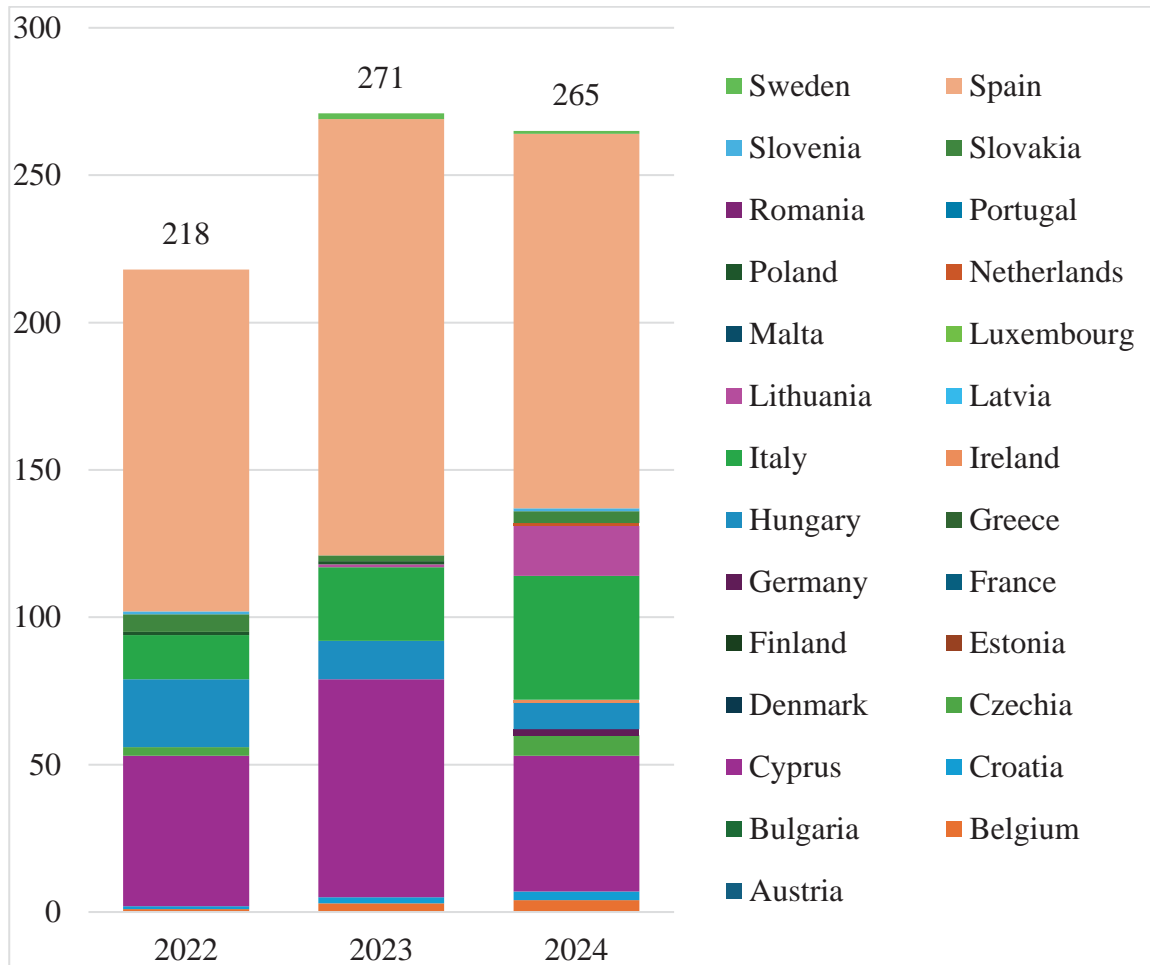
**Figure 27: Number of ex officio cases opened during the reporting period – MS reports for 2021, 2022, 2023 and 2024.**



Source: Annual Reports by MSs as notified to the EC.

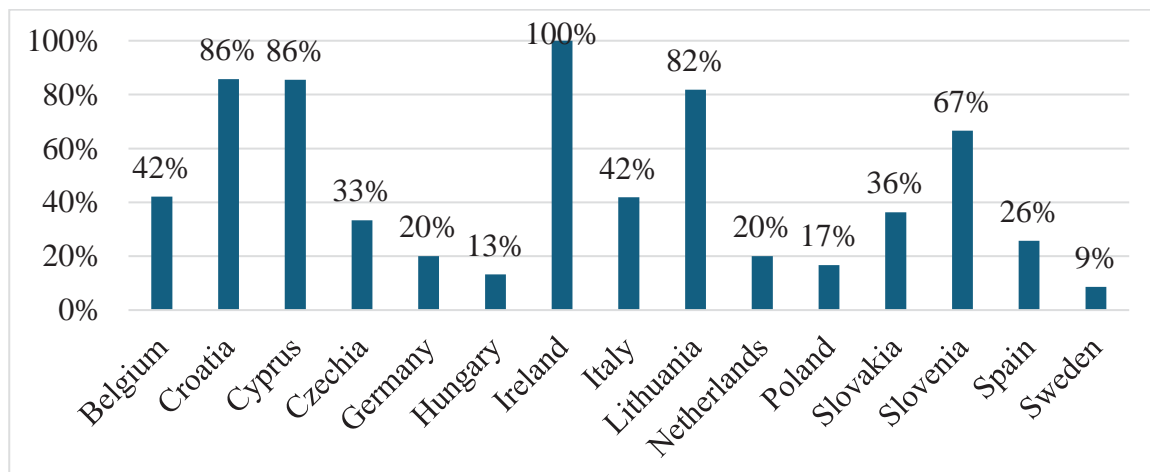


**Figure 28: Number of investigations resulting in finding an infringement – MS reports for 2021, 2022, 2023 and 2024.**



Source: Annual Reports by MSs as notified to the EC.

**Figure 29: Total number of infringements found on total number of closed investigations (% ratio) 2021-24.**



Source: Annual Reports by MSs as notified to the EC.

## **B) Consultation activities carried out with indirect involvement of the EC**

### **(4) Workshop with national, competent EAs**

The hybrid format, half-day workshop was carried out at EC premises in Brussels in June 2024. 52 participants attended, representing the large majority of the competent EAs.

The workshop discussion covered four main agenda points related to the enforcement of the Directive. The first topic informed about the survey of national competent authorities and EAs, where participants raised questions about the survey process. The study team provided clarifications and emphasised the importance of collecting data.

The second agenda point focused on the enforcement of the UTP Directive in cross-border transactions, with participants highlighting the lack of rules on case allocation and legal basis for exchanging information. Two EAs shared experiences of difficulties in enforcing penalties outside their own MSs, while two EAs mentioned a successful cross-border enforcement using Request for Information (RFI) mechanisms.

The third agenda point explored the experience of EAs in enforcing the Directive in transactions between operators based in the same MS. Participants discussed challenges in interpreting definitions and concepts and the importance of protecting witnesses and suppliers.

The final point addressed the coherence of the Directive with other interventions that have similar objectives. Participants did not point to any particular legislation with the exception of one example mentioning an internal debate at time of transposition of the Directive about what constitutes commercial confidentiality in relation to competition law and the CMO, which ultimately did not pose any issue.

Overall, the discussion highlighted the need for clearer guidelines, protocols, and procedures for handling cross-border cases and enforcing the UTP Directive, as well as the importance of cooperation and information sharing among EAs.

### **(5) Thematic workshop with business and non-business stakeholders**

The hybrid format, whole-day workshop was carried out at EC premises in Brussels in July 2024. 26 organisations across all stages of the agri-food supply chain attended.

The workshop discussion covered six topics related to the Directive. The first topic addressed the effectiveness of the Directive in reducing UTPs, with mixed views from participants. Some reported a decrease in UTPs, while others (among other farmers' organisations) noted that the number of UTPs has not decreased significantly.

The second topic discussed the challenges arising from different transposition choices at MS level, with some participants, mainly representing the retail and distribution stage, highlighting the need for greater harmonisation.

The third topic focused on the survey of business associations, where participants reported questions about completing the survey questionnaire, including uncertainty about the applicability of questions to specific contexts.

The fourth topic addressed the enforcement of the Directive in cross-border transactions, with participants discussing the challenges and potential solutions, including cooperation and transparency.

The fifth topic explored new needs in addressing UTPs, with participants identifying areas for improvement, e.g. including the introduction of logistic penalties and measures to prevent value destruction.

The final topic discussed the coherence of the Directive with other interventions, with participants highlighting potential conflicts as well as synergies with other regulations and initiatives, including the Late Payments Directive and the EU agri-food chain Observatory.

Overall, the workshop discussion highlighted the complexity and often diverging positions of various stakeholders of the issues surrounding UTPs and the need for harmonisation, cooperation, and clarification among all stakeholders in the agri-food supply chain to ensure the effective implementation and enforcement of the Directive.

### C) Consultation activities carried out without direct involvement of the EC

The external study team carried out extensive primary data collection, encompassing targeted survey of CAs, targeted survey of retailers and large buyers, targeted survey of sector associations, horizontal interviews and interviews in the context of case studies. The insights from these collection activities can be found in the support study. An overview is provided by *Figure 30*.

**Figure 30: Overview of the data collection activities in the evaluation support study.**

Data collection tool	Key metrics	Key source for the evaluation criteria				
		Criterion 1 Effectiveness	Criterion 2 Efficiency	Criterion 3 Relevance	Criterion 4 Coherence	Criterion 5 EU added value
<b>Advanced desk research</b> - Legislation and related documents - Datasets and websites - Literature - Reports and position papers	27 sources 11 sources 33 sources 20 sources	✓	✓		✓	
<b>Horizontal interviews</b> - EC services - EAs - Business stakeholders - Other stakeholders	<b>48 interviews</b> 7 interviews 3 interviews 28 interviews 10 interviews	✓	✓	✓	✓	✓
<b>Survey of CAs</b>	24 replies from 20 MSs	✓	✓		✓	✓
<b>Survey of sector associations</b>	127 replies (16 from EU-level associations)	✓	✓	✓		✓
<b>Survey of retailers/large buyers</b>	73 replies	✓	✓			
<b>Workshop of EAs</b>	52 participants	✓		✓	✓	✓
<b>Workshop of business stakeholders</b>	26 organisations attending	✓		✓		
<b>Case studies</b>	87 interviews in total	✓	✓	✓		✓

Source: Evaluation support study, p.12.

## Annex VI Summary of EAs enforcement activities

This Annex presents elements of the enforcement activities carried out by EAs **based on the publicly available, own activity reports**, as of July 2025. The [EC webpage dedicated to UTPs](#) displays EA contact details and strives to collect links to activity reports as they become publicly available.

Some EAs carry out other duties apart from the enforcement of the UTP Directive, for instance, when the competent UTP EA is also responsible for other policy areas like competition policy e.g. in Czechia, Romania. In these cases, UTP-related enforcement activities are often part of wider reporting. Moreover, in some cases, enforcement relates to national provisions that go beyond the minimum requirements of the UTP Directive; or relate to national legislation with a wider scope containing as a part thereof the UTP transposition. These factors make enforcement activities exclusively related to the UTP Directive not always clear cut. The information present in the reports varies greatly, spanning from summary remarks, to full-fledged, dedicated reports displaying number of cases and investigations, descriptions of closed cases as well as more contextual enforcement-related information. For a group of MSs, no annual activity reporting could be publicly retrieved (Greece, Hungary, Malta) <sup>(89)</sup>.

### Austria <sup>(90)</sup>

In 2022, the Austrian EA, [Bundeswettbewerbsbehörde](#) (BWB) - Federal Competition Authority- did not receive any complaints explicitly referencing potential breaches of the Austrian UTP transposing law, the *Fairness in Trade Practices Act* ([FWBG](#)). However, the EA did initiate an investigation into a possible case of UTPs, following an anonymous tip-off regarding a letter sent by a food retail company to its suppliers. The letter requested the suppliers to adjust their production planning and quantities to ensure full product availability. The investigation ultimately found no evidence of a breach of the FWBG.

The BWB also conducted a review of its cross-sector guidelines for entrepreneurial fair conduct, known as the *Fairness Catalogue*, which was first published in 2018. The updated catalogue took into account the new legal framework introduced by the FWBG and included examples and practical guidance for businesses. Furthermore, the BWB started a sector enquiry into the food sector, organised presentations on the UTP topic and participated in a meeting of the UTP Enforcement Network to exchange experiences and best practices with other EAs.

In 2023, the BWB received several complaints regarding potential breaches of the FWBG. One case involved a food retail company that demanded payments from its suppliers for a

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<sup>(89)</sup> The translation and summary of the activity reports has been in part carried out with the aid of EC-internal artificial intelligence-powered tools.

<sup>(90)</sup> [https://www.bwb.gv.at/fileadmin/user\\_upload/Bericht\\_gemaess\\_5h\\_Absatz\\_3\\_FWBG\\_fuer\\_den\\_Zeitraum\\_vom\\_1.1.2022\\_bis\\_zum\\_31.12.2022\\_Barrierefrei.pdf](https://www.bwb.gv.at/fileadmin/user_upload/Bericht_gemaess_5h_Absatz_3_FWBG_fuer_den_Zeitraum_vom_1.1.2022_bis_zum_31.12.2022_Barrierefrei.pdf),

[https://www.bwb.gv.at/fileadmin/user\\_upload/Downloads/PDFs/Jahresbericht\\_FWBG\\_2023\\_26-1\\_Barrierefrei.pdf](https://www.bwb.gv.at/fileadmin/user_upload/Downloads/PDFs/Jahresbericht_FWBG_2023_26-1_Barrierefrei.pdf),

[https://www.bwb.gv.at/fileadmin/user\\_upload/BWB\\_Jahresbericht\\_FWBG\\_2024\\_mit\\_CI.pdf](https://www.bwb.gv.at/fileadmin/user_upload/BWB_Jahresbericht_FWBG_2024_mit_CI.pdf)

transformation process, which were not related to the sale of agricultural and food products. The BWB initiated an investigation and subsequently filed applications for the imposition of a fine with the Austrian Cartel Court. Another case, flagged by the [\*Fairness Büro\*](#), a dedicated independent and impartial body to handle complaints regarding UTPs in the agri-food sector, concerned a buyer on the wholesale level who allegedly made late payments to two fruit farmers. The BWB's investigation confirmed the allegations, and the EA reported the intention to file an application for a fine with the Austrian Cartel Court.

The BWB also terminated its sector inquiry into the food industry, which aimed to investigate the prevalence of UTPs in the sector. The inquiry found that approximately 40% of the suppliers supplying food retailers surveyed had experienced UTPs, with the most common black UTPs being payment delays (18%), unilateral changes to supply agreements (14%), and demands for payments not related to the sale of products (13%). The BWB concluded that UTPs are non-irrelevant phenomenon in the Austrian food sector and that the EA needs to focus on enforcing the FWBG more effectively. The first investigation following the sector inquiry started in 2023.

Exchanges with other EA, for instance through a dedicated exchange with Croatian, Romanian Slovenian and Czech EAs) as well as at EU level continued. Also the collaboration with the *Fairness Büro* continued well.

In 2024, the BWB received several complaints regarding potential breaches of the FWBG, including a case where a food retail company demanded a bonus from its suppliers to finance its digital sales channels. The BWB initiated an investigation and found evidence of a breach of the FWBG. The BWB also received complaints regarding unilateral changes to supply agreements and late payments. The BWB investigated these cases and reports the intention to file applications for fines with the Austrian Cartel Court if necessary.

The BWB also in 2024 participated in meetings of the UTP Enforcement Network. The EA also continued cooperation with the *Fairness Büro* and received information about potential breaches of the FWBG (Case C-311/24, pending).

Notable developments in 2024 include the establishment of a dedicated FWBG Unit within the BWB, which is responsible for enforcing the FWBG (3 collaborators, 1.5 FTEs). The EA also noted that the number of complaints regarding UTPs is increasing, and that the BWB needs to focus on enforcing the FWBG more effectively despite the challenges which are also linked to the relatively novel legal instrument complementing competition law. The Austrian Cartel Court was considering several cases related to the FWBG, including the case regarding the food retail company that demanded payments from its suppliers for a transformation process. The Austrian Cartel Court referred questions to the European Court of Justice regarding the interpretation of the UTP Directive and the FWBG.

### **Fairness Office**

In [2022](#) the Fairness Büro, was established as an independent and impartial body to handle complaints regarding UTPs in the agri-food sector. The Office's main tasks include providing general advisory services, analysing complaints, and mediating between parties. In 2022, no cases were forwarded to the Federal Competition Authority, as the complainants were reportedly afraid of revealing their identities and losing their business relationships. Full capacity of the Office was expected to be reached mid- 2023.

In [2023](#), the Fairness Office handled two cases, which were forwarded to the Federal Competition Authority, resulting in applications for fines being filed with the Austrian Cartel Court. The reports highlight the challenges faced by the Office in handling cases, including the fear of retaliation and the complexity of the cases, which often require several months to resolve. The Office's efforts to support complainants and promote fair trading practices are also reported, with the aim of maintaining business relationships under fair conditions.

In 2024, the [activity report](#) of the Office mentions that it continued to handle cases and provide support to complainants. The Office's activities included cooperating with other stakeholders, such as the European Commission, to improve the enforcement of the UTP Directive.

### **Belgium <sup>(91)</sup>**

The reports provide detailed insights into the activities carried out by the [Directorate-General for Economic Inspection](#), the competent national EA in Belgium.

In 2021, the Belgian legislator transposed the UTP Directive into [national law](#), which entered into force on 25 December 2021. The report explains some key elements of the national law including the ones which went beyond the minimum requirements. No complaints or investigations were reported in 2021, as the law had just been introduced and a transitional period of 12 months was provided for existing agreements to comply with the new rules.

In 2022, the Directorate-General for Economic Inspection received one complaint concerning UTPs. The complaint was from a farmer who sold hay to a hay selling company but never received payment for it. An official warning was directed to the hay selling company for an infringement of the law, and eventually, an official report was directed to the company for an infringement of the UTP Law. The EA also carried out one investigation on its own initiative, concerning a supermarket in Belgium, which was still ongoing at the end of 2022. In addition to these enforcement activities, the EA also engaged in outreach activities, holding a general information session on the new UTP legislation, and participating in an online meeting with other EAs.

In 2023, the Directorate-General for Economic Inspection did not receive any formal complaints about UTPs. However, the EA decided to focus on own-initiative investigations, given the limited number of complaints and the transitional period until 15 December 2022 to bring existing agreements into compliance. Ten new own-initiative investigations were started, nine of which were in the meat sector and one in the sugar beet sector. The investigations were conducted in different stages of the agri-food supply chain,

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<sup>(91)</sup> <https://economie.fgov.be/en/themes/enterprises/business-protection/unfair-practices/unfair-trade-practices>



ranging from retailers to producers, and checked for the presence of prohibited practices, such as non-compliance with the 30-day payment period and unilateral contract amendments. Six cases were closed without infringements, and four investigations were still ongoing at the end of 2023. The case initiated in 2022 on its own initiative in the retail sector was closed in 2023 with no further action following an exchange with the UTP EA of the MS where the suppliers concerned were located. The EA also participated in several (European level) meetings, including the UTP Roundtable and the UTP Enforcement Network, to exchange information and best practices with other EAs.

In 2024, the EA received one formal complaint about UTP, which was filed by a producer organisation. The complaint did not fall within the EA's competence, but the complainant was provided with information and guidance. The EA intensified its *ex officio* investigations at various stages of the agri-food supply chain, opening 16 new cases, including one case that involved several contracts between a buyer and its suppliers. Seven cases were closed without infringements, and nine cases were still ongoing at the end of 2024. One case resulted in two official reports, involving a retailer that demanded payments or free products from suppliers for the opening of new grocery stores, which was found to be an infringement of the law.

The EA also engaged in outreach activities, including attending an online information webinar of the [Irish Agri-food Regulator](#) and participating in several meetings organised by the EC where discussions on the evaluation of the UTP Directive and the strengthening of the position of farmers in the food chain were also touched upon. The EA met with various stakeholders from the meat sector to address common and specific problems in the sector and answered questions from entrepreneurs, stakeholders, and foreign organisations regarding the enforcement of UTP legislation in Belgium.

Notably, in 2024, the Belgian legislator adopted a [Royal Decree](#), which expanded both the grey list and the blacklist regarding UTP, following up on the federal *Task Force Agro* established in the wake of farmers' 2024 protests. The EA agreed to provide a dedicated referent to the agri-food supply chain. This referent is a neutral contact person for the agri-food supply chain who, among other things, acts as a confidential, anonymous and informal contact point for companies, federations and recognised industry organisations. The EA will continue to prioritise investigations on its own initiative in 2025, focusing on the practices already mentioned in the existing UTP law, as well as the new UTPs mentioned in the Royal Decree.

The Belgian EA also carried out an [evaluation of the national UTP law](#) completed in November 2024. The evaluation report aims to assess the implementation and effectiveness of the UTP law, which was enacted in Belgium on November 28, 2021.

The evaluation involves consultations with various stakeholders, including agricultural organisations (*Boerenbond* and *Fédération Wallonne de l'Agriculture*), food industry organisations (*Fevia* and *BABM*), and distribution sector representatives (*Comeos*, *Eurocommerce*, *Carrefour*, and *Lambrechts*).

The Belgian UTP law applies to suppliers in the agricultural and food supply chain with an annual turnover not exceeding EUR 350 million. Suppliers and industry organisations argue for the removal of this threshold, citing potential cascading effects and unbalanced protections. Conversely, buyers favour maintaining the threshold to prevent large suppliers from gaining undue advantages. The law covers UTPs by buyers and is applicable to transactions where either the buyer or supplier is based in Belgium. Suppliers are divided on whether protections should be reciprocal, also covering UTPs by suppliers against buyers. Buyers generally support reciprocity in protections.

The Belgian UTP law distinguishes between blacklisted grey listed practices. The report notes proposals for additional practices to be added to these lists, reflecting diverse views from stakeholders: suppliers express issues with payment delays and unilateral contract modifications by buyers. They propose stricter measures against certain unfair practices, such as excessive promotions and abuse of market position. Buyers emphasise the need for reciprocal protections and criticise the lack of flexibility, particularly concerning payment terms and the sharing of risks in product deterioration.

The Belgian Directorate-General for Economic Inspection oversees compliance, using both preventive and punitive measures. The report highlights a lack of formal complaints, attributed to the 'fear factor' among suppliers and the absence of written contracts. Suppliers and buyers appear to view mediation as a preferred conflict resolution method, given the slow and costly nature of legal proceedings. There is a call for more awareness on the UTP law among suppliers.

The report concludes that the UTP law marks progress toward fairer trading practices in the agri-food supply chain. However, it notes challenges such as the need for greater awareness, improved contractual practices, and possibly expanding protections to include certain practices.

The evaluation raises points as maintaining the current turnover threshold while considering publishing lists of protected enterprises. It also recommends exploring the introduction of sector-specific standard contract clauses and strengthening interprofessional agreements to enhance compliance and reduce the fear of reprisals. The report underscores the importance of balancing supplier protection with market competitiveness and consumer interests, while acknowledging that the UTP law's implementation is still in its early stages.

## Bulgaria <sup>(92)</sup>

The reports provide an overview of the activities carried out by the Bulgarian EA, the [Commission on Protection of Competition](#) (CPC) marginally covering also elements related to the enforcement of the UTP Directive and its [national transposition law](#).

The 2023 report notes that the CPC has received several complaints regarding UTPs. The CPC has also carried out investigations into alleged breaches of the UTP Directive's national transposition law, including investigations into the behaviour of enterprises active in the markets for distribution of ice cream products. In 2023 the EA also specifically

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<sup>(92)</sup> <https://www.cpc.bg/en/publications>

<https://www.cpc.bg/media/about-kzk/annual-reports/annual-reports-EN/Extract%20from%20the%20Annual%20report%20of%20the%20CPC%20for%202023%20-%20Report%20for%20the%20Unfair%20trading%20practices.pdf>

reported on an *ex officio* ongoing investigation on contractual clauses used by a retailer possibly constituting breaches of the national UTP law.

The report also highlights the outreach activities undertaken by the CPC to raise awareness about the UTP Directive and its national transposition law. These activities have included participation in working groups and meetings with representatives of the European Commission, as well as the organisation of workshops and seminars to inform stakeholders about the UTP Directive and its implementation. In addition to these activities, the report notes that the CPC has also been involved in international cooperation and networking with other EA to share best practices and experiences also in enforcing the UTP Directive.

In 2024, the CPC identified several priority areas for enforcement, including the food sector. The EA noted that the food sector is of particular importance, given its social significance and the increased public interest in the sector. The CPC received several complaints regarding UTPs in the food sector, including allegations of misleading advertising and unfair contract terms.

The CPC handled several cases related to UTPs, including investigations into the behaviour of large retail chains and their treatment of SMEs in the food sector. The EA also received complaints regarding the use of unfair contract terms, including allegations that large retailers are imposing unfair prices and payment terms on their suppliers. The CPC has also engaged in outreach activities to raise awareness about UTPs and the importance of fair competition more in general. The EA also acknowledged the importance of cooperation with other national authorities and international organisations to ensure effective enforcement of the UTP Directive.

### Cyprus <sup>(93)</sup>

The 2023 report provides an overview of the activities carried out by the [Department of Agriculture](#), the competent Cypriot EA, in relation to the enforcement of the Directive and its national transposition law, specifically the Laws of 2021 and 2023 (N.200(I)/2021 and N.32(I)/2023).

In 2023, the EA received a total of 14 complaints. It conducted 89 checks at various stages of the agri-food supply chain. These checks were carried out across the country. The checks focused on wholesale markets, retail points of sale, such as supermarkets and fruit shops, businesses involved in the marketing of agricultural products, producers' organisations, wineries, restaurants, and hotels.

The investigations conducted in 2023 centred on payment schedules, the use of reusable plastic packaging or transport containers by unauthorised parties, and the issuance of invoices. Out of the 89 checks, 82 were completed, and an additional 2 checks that had commenced in 2022 were also finalised in 2023.

The results of the checks revealed that in 74 cases, breaches of the laws were identified. The majority of these infringements, 58 in total, related to the unauthorised possession or use of packaging or transport containers. Furthermore, 22 infringements concerned

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<sup>(93)</sup>[https://www.moa.gov.cy/moa/da/da.nsf/All/B6D9FDDF76C1EA9CC2258ACF00488BC6/\\$file/9731218.pdf?OpenElement](https://www.moa.gov.cy/moa/da/da.nsf/All/B6D9FDDF76C1EA9CC2258ACF00488BC6/$file/9731218.pdf?OpenElement)

payments, where buyers failed to pay suppliers within the stipulated 30 or 60 days for perishable and non-perishable agricultural products and food, respectively. There were also 9 instances of non-issuance of invoices and 1 case of failure to provide requested information. As a consequence of these findings, 42 administrative fines were imposed, amounting to a total of EUR 10 450.

In addition to these enforcement activities, the EA also undertook outreach efforts, although the report does not provide detailed information on these. However, it does mention that as part of the process to improve the application of the laws, the scales of administrative fines to be imposed in case of breaches were determined and [published](#) on the Department of Agriculture's website.

## **Czechia <sup>(94)</sup>**

The [Office for the Protection of Competition](#) has been actively engaged in enforcing the UTP Directive and its national transposition law, specifically the [Significant Market Power Act](#) (SMPA).

In 2021 the Office together with the Ministry of Agriculture prepared the transposition of the UTP Directive into the Significant Market Power Act, the already present national legislation closest in content to the Directive. It carried out enforcement activities under the existing SMPA.

In 2022, the report mentions the amendment of the SMPA by the Amendment Act No. 359/2022 Coll. to transpose the UTP Directive taking effect from the 1 January 2023. The report further explains the main differences and novelties *vis-à-vis* previous national legislation, comprehending among other things, the increase in the number of entities that are subject to statutory regulation, changes in the concept of significant market power and the concept of UTPs. The Office also did sector inquiries in view of future enforcement work on lower levels (i.e. upstream) of the agri-food supply chain, the widespread use of oral contracts (the amended act introduced the obligation of written contracts with a transition period in 2023). The Office also investigated the factors that led to the sharp increase in retail food prices over the two years before and the level of profitability of the various links in the agri-food supply chain. 14 complaints were received and 11 *ex officio* investigations started.

In 2023, the SMPA Act amendments transposing the UTP Directive came fully into force. 11 acts of abuse of significant market power accompanied by a general clause of sorts have become 22 types of absolutely prohibited UTPs, which have been supplemented by 3 additional practices permitted under certain conditions. In the first half of 2023, the Office's supervisory activities focused on methodological guidance for market operators. In addition, the Office had provided interpretative opinions and methodologies on the new legislation in the previous year in response to individual requests (61 requests). In the first year of the amendment's fully entering into force, the Office deliberately chose the strategy of proactive education and provision of expert background to address the occurrence of illegal conduct and, in particular, to minimize the costs of companies related to the need to obtain expert legal analyses from third parties and to orient themselves in the relatively complex legal novelties. In the second half of the year, the staff of the Market Power

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<sup>(94)</sup> <https://uohs.gov.cz/en/significant-market-power/news-significant-market-power.html>

Methodology and Supervision of Market Power Department launched an area-wide audit of compliance with the SMPA, focusing on all food sectors, involving 21 sector inquiries. 2 *ex officio* cases and 1 administrative proceeding were launched. Exchanges with the UTP Enforcement Network happened.

In 2024, the Office received a total of six complaints related to UTPs and investigated 38 cases from its own initiative. Additionally, the Office received 17 questions regarding the interpretation of the SMPA. The Office also completed 21 sector inquiries, which resulted in the initiation of 14 administrative proceedings, with 10 of these proceedings being concluded at the lower levels (upstream) of the agri-food supply chain. 488 buyers were contacted by the Office and 4 058 contracts and other agreements reviewed.

The Office imposed fines in seven cases, with a total amount of CZK 4 280 000, and accepted commitments in three cases. The most frequent infringements of the Significant Market Power Act were the failure to comply with the 30-day deadline for payment of the purchase price for agricultural or food products, and content deficiencies in contractual documentation.

In terms of resources and workforce, the Office has a dedicated team for the enforcement of the UTP Directive and its national transposition law. The Office's staff are actively involved in discussing proposals and working groups related to the enforcement of the UTP Directive. The Office also cooperates with other EAs, as well as, via a Memorandum of Cooperation between the competition authorities of the European Union, with authorities in Ukraine and Moldova, to strengthen regional cooperation and exchange information on competition issues also in relation to UTP-related enforcement experience. The Office has also been involved in international cooperation, including the UTP Enforcement Network.

The Office is actively involved in discussing the proposal for a new regulation on cross-border enforcement against unfair trading practices in working groups together with other MSs.

## Germany <sup>(95)</sup>

The competent German EA, [Bundesanstalt für Landwirtschaft und Ernährung \(BLE\)](#), has been actively engaged in enforcing the UTP Directive and its national transposition law [Agrarorganisationen- und Lieferketten-Gesetz \(AgrarOLkG\)](#) in Germany since 2021.

In 2021, the BLE commenced its activities as the EA, with a focus on establishing itself as a trusted and reliable partner for companies in the agri-food supply chain in relation to UTPs. The EA received several concrete hints on UTPs from operators across different agri-food sectors and supply chain stages, which it pursued. Although no formal complaints were filed, the BLE initiated one investigation. The EA also engaged in outreach activities, including bilateral discussions with market operators and associations, to raise awareness about the UTP Directive and the AgrarOLkG. The BLE as an Authority had overall approximately 1 600 employees, with a specific department, Referat 516, dedicated to handling UTP cases.

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<sup>(95)</sup>[https://www.ble.de/DE/Themen/Marktorganisation/UTP/Veroeffentlichungen/UTP\\_Veroeffentlichungen\\_Jahresberichte.html?nn=18445750](https://www.ble.de/DE/Themen/Marktorganisation/UTP/Veroeffentlichungen/UTP_Veroeffentlichungen_Jahresberichte.html?nn=18445750)

In 2022, the BLE continued its enforcement activities, with a focus on supporting companies in adapting to the new law. The BLE did not conclusively find any violation of the UTP prohibitions in any of its previous proceedings.

The BLE received two complaints and initiated five investigations, including cases related to the pricing practices of a dairy company, *Arla Foods*, and the use of reusable packaging containers (RPCs) by a retailer as well as two cases related to 'soja credits' (then merged into a single case) involving retailers *ALDI Nord* and *ALDI Süd*. All cases were concluded finding no infringement or after parties' commitments to change behaviour. The BLE also engaged in outreach activities, including the development of an anonymous whistleblower system, to encourage reporting of UTPs. The EA reported that many companies, particularly SMEs, were not aware of their rights and obligations under the AgrarOLkG, highlighting the need for continued outreach and education. The report also mentions cases in which the UTP Directive helped suppliers in the negotiations with buyers as well as challenges in the implementation of the law linked to, among others, the turnover thresholds and scope of products covered.

In 2023, the BLE reported an increase in complaints and hints on potential UTPs, with 11 complaints filed and five investigations initiated. The EA handled cases related to pricing practices of an agricultural producer cooperative, the return of unsold fruits and vegetables by retailers, and the distribution fees charged by a retailer, *Kaufland*. The BLE also engaged in outreach activities, including the development of guidance materials and the participation in industry events, to raise awareness about the UTP Directive and the AgrarOLkG. The EA noted that the [anonymous whistleblower system](#), established in 2022, was well-received and had contributed to an increase in reports of potential UTPs.

In 2024, the BLE reported a decrease in complaints, with five complaints filed, and two investigations initiated. It handled cases related to the pricing practices of a retailer, including the use of 'assortment' fees, and the payment terms for perishable food products. The BLE also engaged in outreach activities, including the development of guidance materials and the participation in industry events, to raise awareness about the UTP Directive and the AgrarOLkG. The authority noted that the anonymous whistleblower system continued to be an important tool. The BLE also reported, as in previous years, on its continued participation in the Network of EAs, which aimed to facilitate cooperation and information-sharing on UTP enforcement.



In 2023 Germany published an [evaluation report of the German Transposition law of the UTP Directive](#). The evaluation report's on the German implementation of the Directive through the Agrarorganisationen-und-Lieferketten-Gesetz (AgrarOLkG) primary objective was to evaluate the impact of the AgrarOLkG on supplier-buyer relationships and the prevalence of UTPs, particularly focusing on sections §§ 11 to 23 of the AgrarOLkG. It also considered the potential prohibition of purchasing food and agricultural products below production costs.

The evaluation was conducted as a self-evaluation by the *Bundesministerium für Ernährung und Landwirtschaft* (BMEL), with assistance from the *Statistisches Bundesamt* (StBA) to mitigate potential confirmation bias. Methodologically, the evaluation involved stakeholder surveys and interviews, engaging suppliers, buyers, associations, and the German EA the BLE to gather both qualitative and quantitative insights. Various stakeholders, including economic associations and the BLE, were consulted to obtain diverse perspectives and experiences. The *Thünen-Institut für Betriebswirtschaft* also participated in examining the feasibility of banning purchases below production costs.

Primary data was collected through surveys (379 suppliers and 83 buyers completed participation) and interviews with market participants, focusing on the effects of the AgrarOLkG on contracts and the prevalence of unfair practices. Feedback from associations and stakeholders provided additional qualitative data. Secondary data included BLE's annual reports and enforcement data, encompassing complaints and investigations related to UTPs, as well as insights from other national and international studies on unfair trading practices for contextual and comparative analysis.

Stakeholder positions varied, with many suppliers and associations reporting continued exposure to unfair practices, such as contract penalties and unilateral changes, despite the legislation. Associations like *Deutscher Raiffeisenverband*, *Deutscher Bauernverband*, and *Zentralverband des Deutschen Handwerks* supported maintaining strict prohibitions, whereas the *Handelsverband Deutschland* advocated for more flexible measures, arguing that broad prohibitions endangered traditional business models.

The evaluation found that the AgrarOLkG has contributed to a reduction in the frequency of unfair practices, yet many suppliers continue to face these issues, indicating that the legislation's impact is not fully realised and further improvements may be necessary. Businesses faced a one-time compliance cost of approximately EUR 12.5 million, with ongoing compliance costs also identified, although specific figures were not detailed. Recommendations from the evaluation included expanding the scope of the law to include more suppliers, clarifying legal provisions to reduce interpretation burdens, and exploring additional protective measures for suppliers.

Overall, the evaluation highlights the challenges in fully implementing and enforcing UTP prohibitions, with mixed feedback from stakeholders on the current national regulatory framework's adequacy and impact. It underscores the need for continued regulatory evolution and stakeholder engagement to effectively address UTPs in the food supply chain.

## Denmark <sup>(96)</sup>

The [Danish Competition and Consumer Authority](#) (DCCA) has been appointed as the independent EA for the UTP Directive and its national transposition law, the [Danish UTP Act](#).

From the reports emerges that in 2021, the Danish UTP Act entered into force on 1 July, and the DCCA began its enforcement activities. The DCCA received one complaint in 2021, but it was subsequently withdrawn, resulting in no decisions being adopted.

In 2022, the DCCA continued its enforcement activities, focusing on informing and providing guidance to companies about the rules in the new Danish UTP Act. The EA published guidelines on its website, providing companies with an overview of the rules and examples of UTPs. The DCCA also participated in several events to present the new

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<sup>(96)</sup> <https://en.kfst.dk/utp>

legislation and engaged in dialogue with market operators about the challenges companies faced in relation to the new legislation.

In 2023, the DCCA carried out its second monitoring of the effects of the Danish UTP Act, sending out a survey to industry and trade organisations representing the different stages of the agri-food supply chain. The feedback from market operators was limited, with companies expressing concerns regarding a few areas, generally related to the prohibition provisions in the Directive. The DCCA also participated in discussions with other EAs about the transposition and enforcement of the provisions.

The DCCA's organised an annual meeting with stakeholders to discuss experiences with the Danish UTP Act, which was held in June 2023. The EA planned to conduct a third and final monitoring survey round in spring 2024 to track developments and evaluate the Danish UTP Act. The DCCA's cooperation with other EAs and the European Commission was also an essential aspect of its enforcement activities, aiming to achieve a consistent approach to the interpretation of the rules on UTPs throughout the EU.

In November 2024 the [evaluation of the Danish UTP Act](#) was completed. The evaluation report is based on annual monitoring rounds conducted in 2022, 2023, and 2024 including a combination of annual questionnaires sent to relevant businesses, meetings and ongoing dialogue with industry organisations, as well as analysis of relevant data and statistics, including online prices through web scraping. The survey targeted both suppliers and buyers of agri-food products (45 to 57 completed questionnaires each year).

Findings indicate that only a few businesses frequently encountered UTPs, with a general trend of decreasing frequency over the monitored years. Key issues included long payment terms, unilateral contract changes by buyers, and demands for payments unrelated to the sale of agricultural products.

According to the evaluation, the regulation had minimal impact on Danish suppliers' competitiveness against foreign buyers and no significant influence on the choice of smaller suppliers. The act did not lead to changes in consumer prices. Most businesses did not adjust their prices due to the act or the general UTP rules. The act's payment terms affected the use of credit facilitation, with some businesses reporting adverse impacts due to shorter payment deadlines, which made credit facilitation less attractive.

The findings suggest that the Danish UTP act has largely met its objectives of protecting suppliers from UTPs without causing significant adverse effects. There was a general adaptation among businesses, and issues were often resolved through dialogue rather than formal complaints.

The evaluation report does not explicitly state recommendations for legislative changes. However, it highlights ongoing dialogue and adaptation within the industry as positive outcomes. It also mentions that there were no calls for changes in the act from businesses or industry organisations.

## Spain <sup>(97)</sup>

The EA, [Agencia de Información y Control Alimentarios](#) (AICA), has been actively engaged in enforcing the UTP Directive and its national transposition law, specifically [Law 12/2013](#). As annual activity reports before 2021 depict, the Agency already had enforcement experience in this realm before the introduction of the UTP Directive.

In 2021, AICA carried out 1 204 inspections of its own initiative, controlling 1 846 commercial relationships between operators in the agri-food supply chain. The authority also received 76 complaints, of which 37 were investigated. The complaints were distributed across various sectors, with the majority coming from the fruit and vegetable

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<sup>(97)</sup> <https://www.aica.gob.es/en/informes-de-la-actividad-de-aica-en/>

sector. AICA also initiated investigations into possible breaches of the UTP law in different sectors, including the destruction of value in the agri-food supply chain.

The report highlights that 54% of the penalties imposed in 2021 corresponded to breaches of payment terms, with the majority of these cases involving retailers. The total number of penalties imposed in 2021 was 580, with the fruit and vegetable sector being the most affected, accounting for 311 penalties. The report also notes that the total number of penalties imposed since the creation of AICA is 3 054, with the fruit and vegetable sector accounting for 49% of these penalties.

In 2022, AICA, participated in three meetings with the Commission and other MS to discuss new cases, share best practices, and exchange information on the application of the Directive. Furthermore, AICA, cooperated with the Commission and other MSs through a website managed by the Commission, where information was exchanged, and consultations were held on the application of the Directive.

A notable event in December 2022 was the creation and launch of the Register of Food Contracts. The register is a digital platform where buyers must record food contracts and their modifications with primary producers and their associations. The registration of food contracts became mandatory from 30 June 2023.

In 2022, AICA carried out various controls and inspections, including 852 actions related to the unilateral modification of contract terms for agricultural and food products. The EA also received complaints and communications about potential breaches of Law 12/2013, which were examined and either admitted as complaints or included as indications in control programmes.

In 2023, AICA, continued to enforce the UTP Directive and its national transposition laws. The authority participated in six meetings with the Commission and other Member States to discuss new cases, share best practices, and exchange information on the application of the Directive. AICA also cooperated with the Commission and other Member States through the website managed by the Commission.

In 2023 the operationalisation of the Register of Food Contracts took place, which allowed buyers to register food contracts and their modifications with primary producers and their associations. The register's purpose is to provide AICA, and other Autonomous Authorities contributing to the UTP enforcement and Regional level, with the necessary information to verify compliance with the obligation to register food contracts and other requirements.

In 2024, AICA maintained enforcement activities as well as encounters to exchange experiences with the French, Italian, and other EAs, as well as with other organisations. The authority also responded to questionnaires from the EC and participated in working groups to discuss the application of the Directive.

### Regional Authorities in Spain

In 2022, the Regional EAs conducted a total of 604 inspections, with the majority being carried out in the *Castilla y León* region (286 inspections). The authorities also reported a total of 125 infringements, with the most common being the failure to include essential terms in contracts (19%) and the non-compliance with payment deadlines (63%). The authorities received a total of 4 complaints. The report also highlights the sectors that were most inspected, including the fruit and vegetable sector, the wine sector, and the dairy sector.

In 2023, the Regional EAs conducted a total of 725 inspections, with the majority again being carried out in the *Castilla y León* region (324 inspections). The authorities reported a total of 167 infringements, with the most common being the failure to formalise contracts in writing (27%) and the non-compliance with payment deadlines (45%).

In 2024, the Regional EAs conducted a total of 609 inspections, with the majority being carried out in the *Castilla y León* region (170 inspections). The authorities reported a total of 399 infringements, with the most common being the failure to formalise contracts in writing (24%) and the non-compliance with payment deadlines (52%). The authorities received a total of 25 complaints. The report also highlights the sectors that were most inspected, including the fruit and vegetable sector, the wine sector, and the dairy sector.

### **Finland <sup>(98)</sup>**

The reports provide an account of the activities carried out by the [Elintarvikemarkkinavaltuutettu](#) (Food Market Ombudsman) in Finland, related to the enforcement of the UTP Directive and its national transposition law the [Food Market Act](#).

In 2022, the Food Market Ombudsman received 50 requests for guidance and 2 complaints, which were handled in accordance with the national transposition laws. The EA also conducted investigations into 1 case and issued 2 guidelines and 2 recommendations to promote fair trading practices. Additionally, the Food Market Ombudsman participated in international cooperation with other MSs and the European Commission, and engaged in outreach activities, including seminars and meetings with stakeholders. The Ombudsman had a workforce of 7.36 FTEs and a budget of EUR 614 807.

In 2023, the Food Market Ombudsman received 39 requests for guidance and 2 complaints and conducted investigations into 2 cases. The EA issued 2 guidelines, but no recommendations. The Food Market Ombudsman continued to participate in international cooperation and engaged in outreach activities, including seminars and meetings with stakeholders. The authority also conducted sectorial [surveys](#) on UTPs. The workforce consisted of 5.7 FTEs, and the budget was EUR 550 000.

In 2024, the Food Market Ombudsman received 18 requests for guidance and 1 complaint and conducted investigations into 1 case. The authority issued 1 guideline, but no recommendations. The Ombudsman continued to participate in international cooperation and engaged in outreach activities, including seminars and meetings with stakeholders. The EA also conducted surveys (beverages sector, fruit and berry sector, meat sector) and gathered data on the functioning of the food market. The workforce consisted of 4 FTEs and the budget was EUR 463 000.

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<sup>(98)</sup><https://www.ruokavirasto.fi/elintarvikemarkkinat/elintarvikemarkkinavaltuutettu/toiminta/toiminnansuunnittelu/>

The Food Market Ombudsman participated in the preparation of a project to reform the Food Market Act. It cooperated with other authorities, such as the Finnish Competition and Consumer Authority. The reports also mention the EA's efforts to raise awareness about UTPs and to promote fair trading practices among stakeholders.

## France <sup>(99)</sup>

Within its overall yearly activity reporting, the French EA, the [Directorate General for Competition Policy, Consumer Affairs and Fraud Control](#) (DGCCRF), provides only very concise references to the agri-food UTP-related enforcement activity. In France the reported so-called *pratiques restrictives de la concurrence*, are not specific only to the agri-food sector. In most of the reporting the data are not specific to the agri-food sector.

In 2022, the report provides an overview of all activities carried out by the DGCCRF.

According to the report, the DGCCRF received several complaints and carried out investigations into alleged unfair trading practices, including cases related to the non-respect of contractual obligations, late payments, and unfair commercial practices.

The report mentions Decree No. 2022-1701 of 29 December 2022 that authorises the DGCCRF to publish the names of companies subject to administrative injunctions ordering a professional to cease a practice that contravenes regulations, both in terms of combating restrictive competition practices and consumer protection.

In 2022, the DGCCRF inspected 1 219 establishments (**no specific data on the agri-food sector are mentioned**) as part of its investigations into compliance with payment deadlines, including 30 public companies and 178 companies that had benefited from a state-guaranteed loan (PGE). These inspections confirmed the findings of previous years: the main causes of late payments are shortcomings in accounting organisation and a poor understanding of the principle of joint responsibility of buyer and seller.

Following these inspections, violations were found in 33 % of the inspected operators. The consequences consisted of warnings in 38% of cases, injunctions in 3% of cases (reported as being educational and corrective measures), and administrative fines in 59% of cases.

In 2022, administrative penalty proceedings totalled approximately EUR 33 million in fines, including approximately EUR 19 million in fines notified to the companies involved (204 decisions) and approximately EUR 14 million in pre-notified fines (87 pre-fines where procedures not yet completed).

The report also highlights the action by the French Competition Authority (*Autorité de la concurrence*) ordering four major retail chains to comply with the [EGalim 2 law](#) and to cease their abusive logistics penalties against their suppliers.

In 2023, according to the report, the DGCCRF was actively engaged in countering unfair trading practices. Although it is **not** made explicit in which sector (beyond/including the agri-food sector) these were carried out, the EA conducted 19 national investigations into unfair trading practices, resulting in 4 460 controlled operators, 4 990 visits, and issued

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<sup>(99)</sup> <https://www.economie.gouv.fr/dgccrf/comprendre-la-dgccrf/publications-et-kits-de-communication/bilans-dactivite>



710 warnings, including 80 warnings related to payment delays. Additionally, 231 administrative injunctions were issued, including 12 injunctions related to payment delays.

The report also highlights the adoption of the so called [\*Loi Descrozaille of 30 March 2023\*](#), which aims to strengthen the balance in relations between suppliers and distributors.

In 2024, according to the report, the DGCCRF has continued to be actively engaged in enforcing against unfair trading practices. The EA carried out several investigations into alleged unfair trading practices, including cases related to late payments, unfair contract terms, and retaliation against suppliers.

Besides the activities across various economic sectors aimed at ensuring balanced relations between operators (14 national inquiries, over 4 000 controls out of which 737 related to delayed payments, 723 notifications out of which 70 related to late payments, 254 injunctions out of which 10 for delayed payments and 270 fines out of which 217 for late payments amounting to approximately EUR 36 million), the DGCCRF carried out 186 investigations into the dairy, beef, pork, poultry and egg sectors to verify to verify compliance with the mandatory written contract between the producer and their first buyer. Several proceedings are ongoing.

Moreover, after an investigation under the lead of the DGCCRF, highlighting unfair contract terms and practices by the group of hypermarket group to the detriment of its franchisees, and attempted mediation attempt, the Franchisee Association took the group to court at the end of 2023. The Minister reportedly joined this action to request, in particular, the nullity of the disputed clauses, the cessation of abusive practices and a fine of EUR 200 million.

The report also mentioned DGCCRF's outreach activities aimed at raising awareness among operators, for instance, by publishing a guideline related to late payments.

As for the year 2022 and 2023 also in 2024 the EA indicated collaboration on enforcement with several national bodies, including ministries, national authorities and national agencies as well as the EC. The reports indicate an overall staff of approximately 3 000 for all actions under its remit.

Besides the DGCCRF annual activity reports, unfair trading practices are also reported on in the annual activity reports of the [\*Commission d'examen des pratiques commerciales\*](#). The reports <sup>(100)</sup> cover studies carried out on mapping judicial decisions on transparency and restrictive competition practices in France. These court decisions were handed down following actions brought by operators, independently of the DGCCRF's interventions.

## **Croatia <sup>(101)</sup>**

The reports provide an overview of the activities carried out by the [\*Croatian Competition Agency\*](#) (CCA) in relation to the enforcement of the UTP Directive and its national transposition, specifically the 2017 [\*Act on the Prohibition of Unfair Trading Practices in the Business-to-Business Food Supply Chain \(UTPs Act\)\*](#) and its 2021 amendment to transpose the UTP Directive.

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<sup>(100)</sup> <https://www.economie.gouv.fr/cepc/publications/rapports>

<sup>(101)</sup> <https://www.aztn.hr/en/about-us/annual-reports/>



In 2021, the CCA received a total of 40 initiatives or complaints for the initiation of *ex-officio* administrative proceedings, with 22 cases being initiated *ex officio* on the basis of received initiatives or complaints, including 13 cases in the area of competition and nine cases in the area of unfair trading practices. The CCA also handled ten anonymous complaints, with seven being in the area of UTPs. The agency conducted investigations into all relevant facts and circumstances, and the duration of the proceedings depended on the volume and complexity of information and documentation, as well as the activity of the party concerned and their cooperation with the CCA.

In 2022, the CCA resolved 79 cases, including ten administrative cases and 69 non-administrative cases, under the UTPs Act. The agency imposed fines in five decisions and terminated proceedings in four cases. The CCA also received a large number of queries from natural and legal persons that were not directly connected with concrete administrative cases but were responded to by the CCA in non-administrative cases. The agency had 56 employees at the end of 2022, with seven new workers being employed during the year.

In 2023, the CCA resolved 50 cases under the UTPs Act, including seven administrative cases and 43 non-administrative cases. The agency imposed fines totalling EUR 81,500 for infringements of the UTPs Act, with EUR 42,491 being paid into the State Budget. The CCA also received 14 reasoned submissions, with four being anonymous, and resolved 13 reasoned submissions, including ten received in 2023 and three from previous periods. The agency had 53 employees at the end of 2023, with two recruitment processes being carried out during the year.

The CCA also had a Division for the Prohibition of Unfair Trading Practices, which was responsible for handling cases related to unfair trading practices.

The CCA engaged in outreach activities, including publishing decisions, opinions, and annual reports on its website, as well as participating in conferences, trainings, and workshops. The agency also published a monthly e-bulletin, *AZTNinfo*, which contained updates on its decisions and activities. The CCA's representatives participated in meetings of national EAs under the UTP Directive and discussed relevant issues, including cross-border collaboration.

## **Ireland <sup>(102)</sup>**

In 2021, the EA was established on an interim basis within the [Department of Agriculture, Food and the Marine](#) to enforce the Unfair Trading Practices Regulations 2021. The EAs role was to enforce the Regulations, provide guidance and advice to stakeholders, and promote awareness of the Regulations. The EA conducted outreach activities, including meetings with stakeholders, media advertisements, and attendance at a foodservice trade show, to promote awareness of the Regulations and the role of the EA. The EA also established a dedicated website, containing useful resource materials, including a summary leaflet, a more detailed information brochure, and a Frequently Asked Questions (FAQ) document. No complaints were received in 2021, and no investigations were opened. The approach to enforcement was focused on developing a culture of compliance with the

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<sup>(102)</sup> <https://www.agrifoodregulator.ie/corporate/publications/> Reports before 2021 are not publicly retrievable anymore.

Regulations, and it worked closely with the largest entities in the agri-food supply chain to ensure their compliance.

In 2022, the EA continued its targeted engagement with the largest food retailers and food wholesalers in Ireland, with a view to bringing about beneficial change for all operators, particularly primary producers, along with other small, medium, and mid-range sized suppliers of agricultural and food products. The EA requested these businesses to submit implementation reports, which outlined the measures they had taken to ensure compliance with the Regulations. The EA also engaged with the largest direct buyers from primary producers, providing guidance and advice on the Regulations. A secure online complaints submission form was created, allowing suppliers to submit confidential complaints. The EA received ten complaints in 2022, six of which were found not to be within the scope of the Regulations. One complaint was withdrawn, and the other three complaints remained under examination at the end of the year. No investigations were opened in 2022.

The Authority also conducted outreach activities, including a survey of suppliers of agricultural and food products, which aimed to establish baseline awareness and knowledge of the protections available to suppliers under the Regulations. The survey found that 50% of primary producers and business-to-business suppliers claimed to have heard of the Regulations, but only 14% of primary producers and 20% of business-to-business suppliers were aware of the legal protection against specific UTPs. It also conducted two extensive communication campaigns across multiple media platforms to raise awareness and to address key issues raised in the surveys. The campaigns resulted in a significant increase in traffic to the Authority's website, with over 35 000 visits recorded. Additionally, the Authority hosted a breakfast seminar, which was attended by over 330 people, to raise awareness of the Regulations and to provide guidance to stakeholders.

The Authority's workforce consisted of a Principal Officer, two other full-time equivalent staff members, and an Agricultural Inspector, who commenced working with the Authority in late 2022. The Authority's staff completed specialist training in 2022 to enable them to effectively undertake their roles. The report mentions that the Authority appointed a specialist financial consultancy body, following a public procurement tender process, to assist in the examination of complex financial matters related to complaints.

The transition to a new independent authority, *An Rialálaí Agraibhia* (the Agri-Food Regulator), was expected to occur once the relevant legislation would be enacted. The EA had been working closely with the Department of Agriculture, Food and the Marine to ensure a smooth transition of its functions to the new Regulator also providing advice and input to inform the preparation of the draft Agricultural and Food Supply Chain Bill establishing the new Regulator.

In 2023, the [Agri-Food Regulator](#) was [established](#) as an independent Office, and it took over the responsibilities of the EA. The Agri-Food Regulator's functions include promoting fairness and transparency in the agri-food supply chain, enforcing unfair trading law, and providing guidance and advice to stakeholders on the UTP Regulations. The Regulator comprises a Board of eight members, including a chairperson, and has a staff of 17, with a budget of EUR 2 590 000 allocated for 2024.

In the period from its establishment on 13 December 2023 to the end of the year, the Agri-Food Regulator prioritised correspondence with stakeholders, alerting them to the establishment of the Regulator and its main functions. The Regulator also provided an overview of the revised Unfair Trading Regulations and outlined the main differences vis-à-vis previous Regulations in place. No complaints regarding the Unfair Trading

Regulations were received by the Agri-Food Regulator during this period, and no investigations were opened. However, one open investigation transferred from the interim Unfair Trading Practices Enforcement Authority to the Agri-Food Regulator upon its establishment.

In 2024, the Agri-Food Regulator commissioned its first (globally the third) [annual survey of primary](#) producers' awareness and understanding of the regulations. In 2025 the Agri-Food Regulator conducted [a supplier survey](#) to gather feedback from suppliers of agri-food products on their experience of trading with specific buyers in the retail and wholesale sectors.

## Italy <sup>(103)</sup>

The reports provide a detailed overview of the activities carried out by the Italian EA, [ICQRF](#) (*Ispettorato Centrale della Tutela della Qualità e della Repressione Frodi dei Prodotti Agroalimentari*) on the enforcement of the UTP Directive and its national transposition law.

In 2022, the ICQRF commenced its activities as EA, following the transposition of the UTP Directive into national law. The EA established a dedicated structure for the enforcement of the UTP Directive, including a webpage with a complaint form and a system for monitoring economic trends in the agricultural and food sectors in collaboration with [ISMEA](#) *Istituto di servizi per il mercato agricolo alimentare*. The ICQRF received a number of complaints (n=3) of operators of the fruit and vegetable sector (primary production): one was not related to UTPs, on the other two, investigations into alleged UTPs were carried out (related to payment terms, and contractual obligations). Based on internal assessments and also through territorial offices **139** *ex officio* inspections and controls on 76 operators were carried out (mostly in the fruits and vegetables sector (n=33), milk (n=49) and meat (n=37). **15** administrative fines were imposed. The most serious infringements identified concerned the lack of written contracts, late payments, and the return of unsold goods without payment to the supplier. The ICQRF also conducted outreach activities, including the dissemination of information on the UTP Directive and its national transposition laws, as well as the organisation of training events for stakeholders. The EA participated at the UTP Enforcement Network and at meetings with other EAs.

In 2023, the ICQRF continued to enforce the UTP Directive and its national transposition as in the previous year, which was considered a transition year.

The EA received six complaints, four of which were investigated and led to the verification of the contractual conditions and documentation related to the commercial agreements between the parties involved. The EA also carried out investigations on its own initiative, focusing on specific sectors such as the dairy (172 *ex officio* investigations) and fruit and vegetable sectors (n=163). In total **488** *ex officio* inspections on 315 operators resulting in **87** fines were carried imposed. The most occurring UTP related to payment terms (n=40), unilateral change of contractual agreements (n=19) and incompleteness of written contracts (n=16).

The ICQRF participated in the UTP Enforcement Network and collaborated with other EAs, including the French authority, to address cross-border cases of UTPs. It continued

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<sup>(103)</sup> <https://www.masaf.gov.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/7817>

outreach activities with stakeholders and exchanged with the EC on necessary changes of the Italian transposition law of 2021 which was amended on payment terms in 2023 (Decreto-Legge 13 giugno 2023 n 136). The Authority also carried out an analysis on international purchase agreements related to retail alliances in the sector and *liaised* with the French EA on this regard.

In 2024, the ICQRF carried out a total of **809** inspections and investigations (of which n=441 in milk sector, n=285 in fruit and vegetables sector) also through Territorial offices. The activities, as in the previous years, were programmed also based on the cooperation with ISMEA. The EA verified 325 operators. The ICQRF imposed a total of **569** administrative fines in 2024. The fines were imposed on buyers found to have engaged in unfair trading practices, including the modification of contractual conditions (n=236) and the non-respect of payment terms (n=164).

The ICQRF received a total of 25 complaints in 2024 (of which n=11 were not deemed as acceptable), which were submitted by private individuals, associations of producers, and consortia. The complaints related to alleged UTPs in various agricultural and food sectors, including the dairy, fruit and vegetable, and meat sectors. The ICQRF carried out investigations into the complaints received, which included on-site inspections and verification of contracts and documentation. The EA found that some contracts lacked essential elements, such as the price or payment terms, and that some buyers had unilaterally modified the contractual conditions. The ICQRF also carried out a notification to the Polish EA for a buyer based in Poland (based on four complaints from four Italian suppliers, fruit and vegetables sector).

The ICQRF continued outreach activities in 2024, including the dissemination of information on the UTP Directive and its national transposition laws. The EA also organised training events for stakeholders, including producers, buyers, and associations.

In 2024, the ICQRF participated in the UTP Enforcement Network. The EA also collaborated with other EAs, including the French EA, to address cross-border cases of UTPs.

## **Lithuania <sup>(104)</sup>**

Reports contain information on the enforcement activities of the Lithuanian EA the Agency of Agriculture related to the UTP Directive and its national transposition law the [NPPD](#).

In 2022 the EA reports a total of 82 consultations made. The own initiative cases amounted to 3. One complaint was received. Two cases (both related to late payments in the raw milk and potatoes sectors) were closed with no imposition of any fine.

In 2023 the EA received 4 complaints and opened 6 own initiative investigations. One investigation was closed relating to a case of a buyer allegedly unilaterally modifying the terms of the contract for the purchase/sale of raw milk. No fines were imposed.

In 2024 the EA reports one complaint received and 11 opened own initiative investigations. 17 investigations with infringements were closed the vast majority thereof relating to late payments. A total of approximately EUR 10 400 of fines was imposed.

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<sup>(104)</sup> <https://zua.lrv.lt/lt/veiklos-sritys/nesazininga-prekyba/>

The webpage also contains a [list](#) of foreseen and carried out checks on operators according to which for 2025 73 checks are planned (54 for 2024). The webpage also collects [Decisions taken](#) regarding penalties and the description of the cases as well as operative information and guidance.

## **Luxembourg <sup>(105)</sup>**

The reports provide an overview of the activities carried out by the [Autorité de la concurrence](#), the EA in Luxembourg. They also cover some elements in relation to the enforcement of the UTP Directive and its national transposition law.

In 2022, the Conseil de la concurrence, which later became the Autorité de la concurrence, did not receive any complaints related to UTPs in the agri-food supply chain. This is reportedly likely due to the fact that the law transposing the UTP Directive had only recently entered into force, and stakeholders may not have been fully aware of their rights and obligations under the new legislation. Nevertheless, the EA took steps to raise awareness about UTPs among stakeholders, including farmers and small operators. For instance, the EA collaborated with the editorial team of news outlet *guichet.lu* to disseminate information on the protection offered to operators in the agri-food supply chain, and to set up an online service for receiving complaints.

In 2023, the *Autorité de la concurrence* continued its efforts to raise awareness about UTPs among stakeholders. The EA published a comprehensive information page on its website, specifically dedicated to operators in the agri-food supply chain, providing information on the protection offered by the law and the procedures for filing complaints. Additionally, the EA collaborated with the Ministry of Agriculture, Food, and Viticulture to inform members of the agricultural sector about the protection offered by the law. The authority also collaborated with the *Chambre d'agriculture* to translate its information brochure into German and disseminate it among its members.

In 2024, the EA did not receive any formal complaints concerning UTPs. However, the EA strengthened its outreach activities. The EA also participated in a joint meeting with EAs to discuss the implementation of the Directive and share best practices. Furthermore, the EA attended meetings of the EU Agri-Food Chain Observatory, which took place on 17 July and 15 October 2024, to discuss issues related to the agricultural and food supply chain.

Regarding cases handled, the reports do not provide detailed information on specific cases related to UTPs. However, it is mentioned that the *Autorité de la concurrence* has a dedicated team for handling complaints and investigations related to UTPs.

## **Latvia**

The EA, [Competition Council](#) (CC), has been engaged in enforcing the UTP Directive and its national transposition law, specifically the [Prohibition of Unfair Trading Practices Law](#), since its entry into force in November 2021 transposing the UTP Directive.

In 2022, the CC provided more than 30 consultations on the application of the law to promote operators' understanding and implementation of fair-trade principles in practice.

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<sup>(105)</sup> <https://concurrence.public.lu/fr/publications.html>



The most frequently asked questions concerned the application and interpretation of the law. Additionally, 12 opinions were issued. The CC also developed guidelines on the application of the Prohibition of Unfair Trading Practices Law for all operators in the agri-food supply chain. A self-assessment tool for food and drink suppliers was prepared to help them check whether buyers are implementing fair trade practices.

The CC assessed 18 submissions for possible breaches of the law in 2022, with the most frequent requests being for an assessment of the market operator's conduct and clarification on whether the conduct was compatible with the law. The CC implemented a preventive measure and invited a market participant to cease its current practice, warning that the conduct did not comply with the principles of fair practice. A market inquiry was carried out to assess the sanctions stipulated in retailers' contracts and imposed on their suppliers, revealing that in most cases, there is a cap on penalties for any breach of contract. However, the CC noted that the upper limit of contractual penalty for any breach of contract cannot be considered fair and reasonable, despite formally complying with the provisions of the law.

In 2023, the CC assessed 16 submissions for possible breaches of the law, with submissions seeking clarification on the conduct of the buyer and its compliance with the Prohibition of Unfair Trading Practices Law. The CC implemented two preventive procedures, giving notice to a total of 29 legal entities, and invited traders to review the terms of their cooperation with suppliers. The CC carried out 14 information and education activities, including press conferences, seminars, expert articles, and other activities, to raise awareness among operators about the principles of fair trade and how to implement them in practice. The CC provided 36 consultations to market participants on the application of the Prohibition of Unfair Trading Practices Law, with the most frequently asked questions concerning the application and interpretation of the law.

The CC prepared a self-assessment tool for buyers to assess fair trading practices and justify the imposition of penalties. A market inquiry was conducted to investigate non-compliance with the Prohibition of Unfair Trading Practices Law, monitoring four sectors/stages, including the cooperation between agri-food producers and suppliers and retailers, the cooperation between traders and suppliers during and after marketing promotions, dairy prices, and the prices of cereals and bakery products. The CC found that more than half of the players in the retail chain had experienced unfair trading practices, including unfair and unjustified sanctions imposed by retailers for breach of contract.

In 2024, the CC assessed 13 submissions on possible breaches of the law, including requests for explanations on the conduct of goods procurement organisers and their compliance with the Prohibition of Unfair Trading Practices Law. The CC conducted 29 information and education activities to raise awareness among traders and suppliers about the principles of fair trade and how to implement them in practice. The CC delivered 31 consultations related to the application of the Prohibition of Unfair Trading Practices Law, answering questions on the application of the law, including payment deadlines, lease agreements, and aspects of conducting negotiations with buyers.

The CC prepared four international requests for information related to the practice of applying the Prohibition of Unfair Trading Practices Law and provided other EU member states with explanations on the application of the law. A market inquiry was conducted to investigate breaches of the Prohibition of Unfair Trading Practices Law, including the prices of eggs, fish, and meat products, the competitive situation in the retail of everyday consumer goods, and follow-up surveillance actions on retailer sanctions for a breach of contract against suppliers.



The CC has established a separate Unfair Trading Practices Prevention Unit to actively educate market players about the Prohibition of Unfair Trading Practices Law and prevent UTPs. The EA has undergone structural changes to strengthen its capacity, including the creation of an additional post to monitor UTPs. The CC has also improved its internal processes, developed individual competences of staff, and strengthened its IT capacity.

### Netherlands <sup>(106)</sup>

The [Netherlands Authority for Consumers and Markets](#) (ACM) is responsible for enforcing the UTP Directive and its national [transposition law](#). The annual reports do not provide detailed information on the specific activities carried out by the ACM in relation to the enforcement of the UTP Directive.

On the webpage results of a [survey of 2023](#) can be found. This survey commissioned by ACM aimed to assess the awareness and knowledge of the Agriculture UTP Act among buyers of food products. It follows up on a [2022 survey](#) carried out among food producers.

### Poland <sup>(107)</sup>

The reports provide a comprehensive overview of the activities carried out by the [Polish Office of Competition and Consumer Protection](#) (UOKiK) and also cover the enforcement activities related to the UTP Directive and its national transposition law on contractual advantage.

In 2021, the UOKiK received 52 complaints regarding UTPs and initiated 3 proceedings against companies, including *Cefetra Polska*, *PolishAgri*, and *Kaufland Polska Markety*. The authority also conducted 5 explanatory proceedings and issued 8 so-called 'soft' interventions, which are non-binding recommendations to companies. Notably, the UOKiK imposed fines totalling PLN 200 million (approximately EUR 44 million) on two companies, *Eurocash* and *Kaufland Polska Markety*, for engaging in unfair trading practices. The authority also published a report on its investigation into the practice of granting discounts by retail chains, which provided guidance to companies on how to comply with the law.

In 2022, the UOKiK received 72 complaints and initiated 4 proceedings against companies, including *Auchan Polska*, *SCA PR Polska*, *SM Mlekpól*, and *Agri Plus*. The authority also conducted 17 explanatory proceedings and issued 14 'soft' interventions. The UOKiK imposed fines totalling PLN 70.9 million (approximately EUR 15.6 million) on three companies, *Cefetra Polska*, *PolishAgri*, and *Agri Plus*, for engaging in unfair trading practices. Furthermore, the authority published a report on its investigation into the practice of charging fees by retail chains for various services, such as marketing and logistics, which highlighted the need for greater transparency in these practices.

In 2023, the UOKiK received 42 complaints and initiated 2 proceedings against companies, including *Carrefour Polska* and *Okręgowa Spółdzielnia Mleczarska w Kole*. The authority also conducted 11 explanatory proceedings and issued 18 'soft' interventions. The UOKiK

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<sup>(106)</sup> <https://www.acm.nl/en/about-acm/our-organization/annual-reports>

<sup>(107)</sup> <https://uokik.gov.pl/bip/raporty-przewaga-kontraktowa> dedicated reports. For UOKiK's general annual activity reports also covering the UTP related enforcement activities: <https://uokik.gov.pl/en/reports>.

imposed a fine of PLN 87.2 million (approximately EUR 19.3 million) on Auchan Polska for engaging in UTPs, specifically for charging suppliers for logistics services without providing them with any benefits. Additionally, the authority found agreements with several operators to change their trading practices.

The UOKiK instituted proceedings concerning practices involving an unfair use of contractual advantage, which may be preceded by a preliminary investigation to establish whether there has been a violation of the law. In 2024, the EA initiated three new proceedings and received 29 notifications from operators. Additionally, two inspected operators were subject to investigation, and one decision was made with an accepted commitment from the operator. The EA also issued 31 soft calls to undertakings and provided two reasoned opinions on judicial cases.

Notable cases handled by the EA included the unfair discounts of a retail chain, where the court upheld the decision of UOKiK, confirming that retail chains should pay suppliers the agreed price for their products. Another case involved the milk market, where the UOKiK obliged a dairy cooperative to change practices unfavourable to milk suppliers, allowing them to terminate contracts with notice and removing provisions that obliged suppliers to return premiums if they changed their milk purchaser.

In terms of resources and workforce, the Report does not provide specific details on the allocation of resources for the enforcement of the UTP Directive. However, it does mention that the authority has a budget of PLN 174.5 million and a workforce of 656 employees. The report indicates that the UOKiK has a dedicated team responsible for monitoring and enforcing the law, and that the EA cooperates with other institutions, such as the Polish Agricultural Market Agency, to gather information and conduct investigations.

## **Portugal <sup>(108)</sup>**

The Portuguese annual report provides limited information on enforcement activities of the UTP Directive and its national transposition law ([Decreto-Lei n.º 76/2021 de 27 de Agosto](#)) carried out by the Portuguese EA *Autoridade de Segurança Alimentar e Económica* ([ASAE](#)) and published by the Ministry of Agriculture.

It provides summary tables reporting key figures among which, the number of cases opened during the reporting period (2021=56, 2022=1, 2023=13), number of complaints received during the reporting period (2021=0, 2022=0, 2023=11).

## **Romania <sup>(109)</sup>**

The EA, [Consiliul Concurenței](#), reports on elements of its enforcement activity related to UTPs the Romanian national transposition law, Legea nr. 81/2022.

In 2023, according to the annual activity report, the EA received approximately 30 requests for information and clarification on the application of the national transposition law from the business environment and legal specialists. To address these requests, the authority

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<sup>(108)</sup> [https://www.gpp.pt/images/Producao\\_e\\_Mercados/OrgProducao\\_CadeiaAlimentar/PARCA/Relatorio\\_Anual\\_sobre\\_as\\_Praticas\\_Comerciais\\_Desleais\\_2021-23.pdf](https://www.gpp.pt/images/Producao_e_Mercados/OrgProducao_CadeiaAlimentar/PARCA/Relatorio_Anual_sobre_as_Praticas_Comerciais_Desleais_2021-23.pdf)

<sup>(109)</sup> <https://www.consiliulconcurentei.ro/documente-oficiale/rapoarte/rapoarte-anuale/>

prepared a synthesis of the main aspects and unclear points raised and published a guide on its website.

The EA also carried out investigations into UTPs in the agri-food supply chain. Although the report does not provide specific details on the number of investigations carried out, it mentions that the authority has the obligation to transmit annual information to the Ministry of Agriculture and Rural Development regarding the status of files/investigations into unfair trading practices.

The EA has a dedicated structure for dealing with UTPs and that it cooperates with other authorities to ensure the effective enforcement of the national transposition law.

According to the report in 2024, the EA carried out a thorough investigation into possible unfair trading practices, which was finalised through the mediation of a conflict between *PROFI ROM FOOD SRL*, a major retailer in Romania, and *Prăvălia D'Art SRL*, a Romanian producer of desserts. The investigation examined aspects such as delayed payments, unilateral contract modifications, and discrepancies in procedures at the buyer's warehouses. The mediation procedure, assisted by an authorised mediator, resulted in an amicable agreement between the parties, creating an important precedent in the application of the new legislation on unfair trading practices.

The EA received complaints and conducted investigations into various cases, including one previously mentioned which was closed without the imposition of penalties due to the amicable agreement reached through mediation.

## Sweden <sup>(110)</sup>

The report provides a comprehensive overview of the activities carried out by the [Swedish Competition Authority](#), the EA responsible for enforcing the UTP Directive and its national transposition law, specifically the [Law on Prohibition of Unfair Trading Practices \(LOH\)](#).

Regarding the enforcement of the UTP Directive, the Authority has closed nine investigations in 2022, which mainly concerned the prohibitions against late cancellations and late payments. Seven cases were closed due to changes in behaviour, and two cases were closed without action.

The Authority conducted several investigations and outreach activities to enforce the UTP Directive. For instance, the Authority carried out a follow-up of the first year of the new law prohibiting unfair trading practices in the purchase of agricultural and food products. The report also mentions that the Authority participated in international networks and organisations.

In 2023, the Authority closed twelve investigations related to UTPs, with two cases resulting in the imposition of penalties for the first time. Three cases were closed due to changes in behaviour, and seven cases were closed without action. The investigations primarily concerned late payments and late cancellations but also covered a broader range of prohibitions.

The Authority received a limited number of complaints and tip-offs regarding UTPs, which is one of the reasons why all relevant indications of infringements were investigated, rather

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<sup>(110)</sup> <https://www.konkurrensverket.se/otillborliga-handelsmetoder/>

than being subject to a prioritisation policy. Since the legislation came into force, the Authority has initiated 29 investigations, with 3 in 2021, 17 in 2022, and 9 in 2023.

The report highlights several cases handled by the Authority, including an investigation into a dairy company's practices, which was closed without action due to a lack of evidence. Another case involved a retail chain, which was investigated for allegedly imposing UTPs on its suppliers, but the investigation was closed after the company changed its behaviour.

The Authority also conducted outreach activities to raise awareness about the LOH and the UTP Directive, including publishing reports and guidelines. The Authority collaborated with other national authorities and international organisations, such as the UTP Enforcement Network to share experiences and best practices in enforcing the UTP Directive.

In 2024, the Authority received a total of 12 new indications of suspected infringements of LOH, bringing the total number of ongoing investigations to 40 since the law came into force in 2021. The Authority closed eight cases in 2024 that involved extensive investigative measures. One of these cases resulted in a decision imposing penalties, four were closed taking into account behavioural changes, two were closed with a reasoned decision, and one was closed without any further action.

The Authority also conducted outreach activities to raise awareness about LOH and its enforcement. In 2024, the Authority organised two meetings on unfair trading practices, where representatives from primary production, the food industry, and retail trade participated. The Authority also participated in external events to raise awareness about UTPs. In 2024, the Authority organised a webinar to mark the three-year anniversary of LOH's entry into force, where it presented its work on UTPs and provided information on the [ongoing evaluation](#) of LOH.

In 2024, the Authority conducted a [survey](#) to investigate the occurrence of UTPs in the agri-food supply chain. The survey was the third of its kind, and the results will be used to assess the impact of LOH on the food supply chain. The Authority also published a [report on the impact of LOH on local food trade](#), which found that the law has had a positive effect on the trade.

In 2024, the Authority participated in the UTP Enforcement Network. The Authority also cooperated with other national authorities, such as the Danish Competition Authority. The EA also publishes [decisions regarding closed \(alleged\) UTP cases](#).

## Slovenia <sup>(111)</sup>

The reports provide an account of the activities carried out by the Slovenian EA, [\*Javna EA Republike Slovenije za varstvo konkurence\*](#) (the EA), in relation to the enforcement of the UTP Directive in the agri-food supply chain and its national transposition law, [Agriculture Act](#) (ZKme-1).

The EA is responsible for supervising unfair trading practices in the agri-food supply chain, and it has the power to impose fines on traders who engage in such practices. In 2022, the EA received one complaint regarding potential unfair trading practices, but after conducting an inspection, it did not initiate a proceeding against the trader.

The EA also conducted an investigation into the wheat supply chain, where it found that some traders were not complying with the requirements of the ZKme-1 law, including the obligation to conclude contracts in writing and to include certain essential clauses. The investigation revealed that out of 61 contractual relationships examined, only three contracts were concluded in writing and included all the necessary clauses, while in nine cases, no written contracts were concluded, and the business was conducted through purchase blocks and orders.

Furthermore, the EA found that some traders were charging suppliers for services that were not explicitly agreed upon. The EA also identified cases where traders were not respecting the payment deadlines.

In 2022, the EA issued one decision imposing a fine on a trader for engaging in unfair trading practices, specifically for not concluding contracts in writing and for not including the necessary clauses.

The EA also carried out outreach activities to raise awareness about unfair trading practices and the rights of suppliers in the agri-food supply chain. It participated in a professional programme organised by the [Agricultural and Forestry Institute Maribor](#), where it presented its competences and the protection offered to agricultural producers under the law.

In addition, the EA cooperates with the European Commission. The Agency also submits an annual report to the European Commission on the enforcement of the UTP Directive in Slovenia.

The EA also cooperates with the Ministry of Agriculture, Forestry, and Food and the Ombudsman for the agri-food supply chain ([Varuh](#)).

In terms of cases handled, the 2023 report notes that the authority issued one decision on an infringement. Additionally, two complaints were received regarding potential unfair trading practices, but no investigation was initiated. The report provides a table outlining

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<sup>(111)</sup> [https://www.varstvo-konkurence.si/fileadmin/varstvo-konkurence.si/pageuploads/letna\\_porocila/Letno\\_porocilo\\_2024.pdf](https://www.varstvo-konkurence.si/fileadmin/varstvo-konkurence.si/pageuploads/letna_porocila/Letno_porocilo_2024.pdf)  
[https://www.varstvo-konkurence.si/fileadmin/varstvo-konkurence.si/pageuploads/letna\\_porocila/Letno\\_porocilo\\_2023.pdf](https://www.varstvo-konkurence.si/fileadmin/varstvo-konkurence.si/pageuploads/letna_porocila/Letno_porocilo_2023.pdf)  
[https://www.varstvo-konkurence.si/fileadmin/varstvo-konkurence.si/pageuploads/letna\\_porocila/Letno\\_porocilo\\_2022.pdf](https://www.varstvo-konkurence.si/fileadmin/varstvo-konkurence.si/pageuploads/letna_porocila/Letno_porocilo_2022.pdf)

the number of complaints received, investigations opened, and investigations closed in 2023.

The EA also conducted an investigation into a case involving a food processing company that failed to conclude contracts in writing, as required by law. The company was fined EUR 15,854.43, and the responsible person was fined EUR 15,000. The report notes that the company and the responsible person have appealed the decision, and the court has yet to rule on the matter.

The report also discusses the authority's outreach activities, including its participation in the UTP Enforcement Network, a working group established by the European Commission to facilitate cooperation and information sharing among national authorities responsible for enforcing the UTP Directive. The authority attended working group meetings and submitted its annual report to the European Commission.

Furthermore, the EA participated in the ECN Food Subgroup, a subgroup of the European Competition Network (ECN), which focuses on competition issues in the food sector. The EA attended two subgroup meetings in 2023.

In addition to its participation in European networks, the authority also continued to collaborate with the Slovenian Ministry of Agriculture, Forestry, and Food. The authority worked with the ministry to prepare amendments to the national transposition law and participated in regular working meetings.

The authority also organised a forum on competitive law in the agri-food sector, which was attended by representatives from the food industry and other stakeholders. The forum focused on price increases in the food sector over the past two years.

The report also notes that the EA conducted a survey on price ratios in the market for selected food products. The survey aimed to identify potential indicators of unfair trading practices and assess the level of transparency in the market.

The EA also analysed the contractual relationships between trading companies and suppliers. The analysis revealed that the contractual relationships were often poorly regulated, with many contracts lacking essential clauses. The EA identified potential signs of unfair trading practices, including the improper return of unsold perishable products, non-compliance with payment deadlines, and the imposition of disproportionate or unfair contractual penalties.

The report concludes by noting that the EA will continue to monitor the market and take enforcement action where necessary. The authority also adopted guidelines for determining and imposing administrative penalties for administrative offences. The guidelines provide a general methodology for determining administrative penalties and take into account the severity of the offence, the duration of the infringement, and the need for deterrence.

The report highlights that in 2024, the EA received three complaints regarding unfair trading practices, two of which were anonymous, and one was submitted by the Ombudsman for the agri-food supply chain. The EA also issued one decision based on a settlement application and one decision to initiate proceedings.

In terms of investigations, the EA conducted an investigation into the company *LIDL SLOVENIJA* d.o.o. k.d. for alleged breaches of articles 61.f and 61.g of ZKme-1. The investigation found that *LIDL SLOVENIJA* had likely exploited at least one supplier of agricultural and food products, despite having significant market power. The company had



continued to do business with the supplier without a written contract, as required by article 61.g of ZKme-1, when the value of the contracts between *LIDL SLOVENIJA* and the supplier exceeded EUR 15 000 in 2023.

The EA also conducted an investigation into the company *SPAR SLOVENIJA* d.o.o. for alleged breaches of articles 61.f and 61.g of ZKme-1. The investigation found that *SPAR SLOVENIJA* had likely exploited at least three suppliers of agricultural and food products. The company had continued to do business with the suppliers without written contracts, as required by article 61.g of ZKme-1, when the value of the contracts between *SPAR SLOVENIJA* and the suppliers exceeded EUR 15 000 in 2023. The company cooperated with the EA during the investigation, and as a result, the EA accepted a settlement application and issued a decision imposing an administrative fine.

The report also mentions that the EA received four court decisions regarding unfair trading practices in 2024 <sup>[1]</sup>. In two cases, the court overturned the EA's decisions, citing that the descriptions of the offences did not clearly indicate that the legal representatives of the companies were directly responsible for the alleged breaches. The EA appealed these decisions, arguing that they deviated from existing court practice. In two other cases, the court upheld the EA's decisions, and the companies were fined for UTPs.

In addition to these investigations, the EA conducted a sectoral inquiry into marketing activities in the agri-food supply chain. The inquiry found that suppliers of meat and meat products, as well as wine, often paid for marketing services, while suppliers of fruit and vegetables, and fish, did not. The inquiry also found that some contracts included payments for super rebates and discounts, which could be considered as payments for services not provided or not clearly agreed upon in writing.

The EA also engaged in outreach activities, including participation in meetings with the European Commission's UTP Enforcement Network and the European Competition Network (ECN). The EA also collaborated with the Ministry of Agriculture, Forestry, and Food (MKGP) and the *Varuh*, and participated in a forum on competition law in the agri-food sector.

## **Slovakia <sup>(112)</sup>**

The reports provide a detailed overview of the activities carried out by the in EA Slovakia, [The Ministry of Agriculture and Rural Development](#), specifically related to the enforcement of the UTP Directive and its national transposition law (Act No 219/2021 amending Act No 91/2019).

2021 was a transition year in which the Directive was transposed into national legislation amending the existing Act. The EA received one complaint related to UTPs. However, also due to the ongoing COVID-19 pandemic and the resulting state of emergency, no new investigations were initiated, and the EA focused on completing the ongoing cases from 2020. A total of nine investigations were completed in 2021, with five of them resulting in the identification of UTPs. The 2021 report presents the cases and summarises the results of the controls.

In 2022, the EA did not receive any complaints related to UTPs. The EA initiated 20 new investigations/inspections, all of which were completed within the same year. The

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<sup>(112)</sup> <https://www.mpsr.sk/potravinarstvo-a-obchod/utps-agri-food/47-111-1500>

investigations focused on aspects relating to the payment terms and conditions for the supply of agricultural and food products. A total of 12 investigations resulted in the identification of UTPs, with the most common infringement being the non-payment of the purchase price within the stipulated timeframe. The report also mentions the transition period for bringing in line contracts with the Act and the focus of investigations of those provisions i.e. UTPs non related to this.

In 2023, the EA received two complaints related to UTPs. The EA initiated five new investigations/inspections, all of which were completed within the same year. The investigations focused on the enforcement of various articles of the Act mostly related to late payments and investigations for imposing unfair conditions regarding the return and exchange of products. A total of 12 investigations were completed in 2023, with eight of them resulting in the identification of UTPs. Also here the report provides summary overview of the 12 completed inspections. According to the report the EA also published 7 decisions imposing administrative fines.

In 2024, the EA received three complaints related to UTPs. The EA initiated 10 new investigations, eight of which were completed within the same year and 2 continued in 2025. The investigations focused on the enforcement of various articles of the UTP Directive mainly related to late payments and sales of products to consumers at prices lower than the purchase price. A total of nine investigations were completed in 2024, with three of them resulting in the identification of UTPs.

The reports mention that the EA has been working to raise awareness UTPs and the importance of fair-trade practices in the agri-food supply chain.