

# Annual report on unfair trading practices in business-to-business relationships in the agricultural and food supply chain 2022





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Under Article 10(1) and (2) of the Directive (EU) 2019/633 of the European Parliament and of the Council of 17 April 2019 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain (hereinafter 'UTP Directive'), the national enforcement authority of the directive publishes an annual report about their activities and sends a report to the European Commission by 15 March of each year on the application and enforcement during the previous year.

## 1. Context

The Belgian legislator chose to transpose the UTP Directive's provisions into Book VI of the Code of Economic Law (articles VI.109/4-VI.109/8), in which specific provisions relating to unfair business-to-business practices and unfair contract terms were already inserted.

The UTP Directive has been transposed into Belgian law by the Law of 28 November 2021 (the 'UTP Law') that was published on 15 December 2021, and entered into force on 25 December 2021.

Agreements concluded before the UTP Law's publication benefitted from a transitional period of 12 months to comply with the new rules, i.e. until 15 December 2022.

The Directorate-General for Economic Inspection of the FPS Economy refers to the previous report on unfair trading practices in business-to-business relationships in the agricultural and food supply chain for more details on the transposition of the Directive into Belgian law.

## 2. Promotion of the UTP Law

In order to familiarise all the stakeholders in the agricultural and food supply chain with the new legislation on unfair trading practices, several measures were taken during the 12-month transitional period to raise awareness and spread knowledge on the UTP Law.

In April 2022, the FPS Economy published its first annual report on unfair trading practices in business-to-business relationships in the agricultural and food supply chain [on its website](#). The report is available in three languages (Dutch, French and English).

On 28 April 2022, the FPS Economy held a general information session on the new UTP legislation in the agricultural and food supply chain. Oliver Sitar, Head of Unit for 'Governance of the agri-food markets' at the European Commission, explained the origin and main objectives of the UTP Directive. Then, the FPS Economy discussed the choices made by the Belgian legislator in the transposition of the UTP Directive. The information session concluded with a round table with different stakeholders, mainly producers' and buyers' representatives.

In May 2022, officers of the Directorate-General for Economic Inspection participated in an online meeting with other national enforcement authorities, organised by the European Commission, to exchange information on the competent authorities and legal procedures in each member state.

At the Libramont Agriculture, Forestry and Agribusiness Fair (29 July to 1 August 2022), the largest open-air agricultural fair in Europe, the FPS Economy distributed a leaflet to raise awareness about the new UTP legislation, primarily targeting farmers and other food suppliers. The leaflet was also published on the [FPS Economy website](#) shortly after the Belgian harvesting season. The theme was also presented during one of the information session at the fair.

Finally, during the last quarter of 2022, the FPS Economy published an informative survey for buyers to assess whether their contracts are fully, partly or not compliant with the new Belgian UTP regulations.

As soon as the Belgian government set up the Ukraine Taskforce on 29 March 2022, following the Russia-Ukraine conflict, concerns were raised by agricultural production and food industry operators about achieving balanced contractual relations among food chain operators. These provided a chance to highlight and endorse the UTP law provisions once again.

### 3. Complaints and investigations

In 2022, the Directorate-General for Economic Inspection received only one complaint concerning unfair trading practices in the agricultural and food supply chain.

It treated two cases concerning unfair trading practices in the agricultural and food supply chain during 2022, one investigation on its own initiative and one investigation based on the single complaint it received.

The first case was an investigation on its own initiative concerning a supermarket in Belgium. The Directorate-General for Economic Inspection reviewed all contracts the supermarket concluded with its suppliers, but only a few of them fell under the scope of the UTP Law due to the transitional period that was in effect until 15 December 2022. The investigation is still ongoing.

The second case was based on a complaint 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 article VI.109/5, 1°, b) of the Code of Economic Law. This article stipulates that the buyer must pay the supplier within 30 days after delivery or after the date on which the payment amount is determined. Since the infringement was not regularised, eventually, an official report was directed to the hay selling company for an infringement of the UTP Law as set out in the Code of Economic Law.

### 4. Insights gained in 2022

The Directorate-General for Economic Inspection is well aware that unfair trading practices occur throughout the food supply chain. However, it seems that suppliers of agricultural and food products are hesitant to file a complaint with the Directorate-General for Economic Inspection because they fear some form of retaliation from the buyer and they do not want to jeopardise their long-lasting and future relationship ('fear factor').

Agreements that were concluded before the UTP Law's publication benefitted from a transitional period until 15 December 2022 to comply with the new rules. As such, in 2023, the Directorate-General for Economic Inspection will prioritise investigations on its own initiative.



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