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Act to Implement Regulation (EU) 2017/2394 of the European Parliament and of the Council on Cooperation between National Authorities Responsible for the Enforcement of Consumer Protection Laws and Repealing Regulation (EC) No. 2006/2004

EU Consumer Protection Implementing Act

EU Consumer Protection Implementing Act of 21 December 2006 (Federal Law Gazette I, p.
3367), as last amended by Article 6 of the Act of 26 November 2020 (Federal Law Gazette I,
p. 2568)

Division 1 General provisions

Section 1 Scope of application

(1) This Act serves to implement Regulation (EU) 2017/2394 of the European Parliament
and of the Council of 12 December 2017 on cooperation between national authorities
responsible for the enforcement of consumer protection laws and repealing Regulation (EC)
No. 2006/2004 (OJ L 345 of 27 December 2017, p. 1), as last amended by Directive (EU)
2019/771 (OJ L 136 of 22 May 2019, p. 28), in the respective applicable version.

(2) The provisions of this Act are without prejudice to the responsibilities and powers under

1. the legislation adopted to transpose or implement the legal acts of the European
Community or of the European Union referred to in the Annex to Regulation (EU)
2017/2394, or
2. the directly applicable legal acts of the European Community or of the European
Union referred to in the Annex to Regulation (EU) 2017/2394, and under the
legislation adopted in accordance with those acts or for their implementation.

(3) Where other legislation provides for corresponding or more extensive rules, the powers
under this Act do not apply.

Section 2 Competent authority

In cases of intra-Union infringements, widespread infringements and widespread
infringements with a Union dimension, responsibility for the implementation of Regulation
(EU) 2017/2394 lies with

1. the Federal Office of Justice in the event of a suspicion of an infringement of
 - a) the legal acts referred to in numbers 1, 3, 4, 6, 7, 9, 11, 14 to 16, 20 to 23, 25 and 26 of the Annex to Regulation (EU) 2017/2394 and the legislation adopted to transpose or implement them,
 - b) other legal acts of the European Community or of the European Union and the legislation adopted to transpose or implement them, insofar as such legal acts have been included within the scope of Regulation (EU) 2017/2394 and the responsibility has been transferred to the Federal Office of Justice by statutory instrument pursuant to section 12 (1),
2. the Federal Financial Supervisory Authority in cases under number 1, where the suspicion of an infringement concerns
 - a) an enterprise that
 - aa) carries out an activity requiring authorisation pursuant to section 8 (1), section 67 (1) or section 236 (4) of the Insurance Supervision Act, and is subject to supervision by the Federal Financial Supervisory Authority or
 - bb) operates a branch office in Germany or conducts business activities by providing cross-border services pursuant to section 61 (1) of the Insurance Supervision Act,
 - b) an enterprise that
 - aa) conducts banking business or provides financial services that require authorisation pursuant to section 32 (1) sentence 1 or (1a) of the Banking Act, or
 - bb) operates a branch office in Germany or conducts banking business or provides financial services by providing cross-border services pursuant to section 53b (1) or (7) of Banking Act,and the suspicion of infringement relates to the respective activity,
- 2a. the Federal Financial Supervisory Authority in the event of a suspicion of an infringement of the legislation adopted to transpose number 24 of the Annex to Regulation (EU) 2017/2394,
3. the Federal Aviation Office in the event of a suspicion of an infringement of the legal acts referred to in numbers 8 and 10 of the Annex to Regulation (EU) 2017/2394 and the legislation adopted to implement them,
4. the competent authority under *Land* law in the cases referred to in number 1, insofar as the suspicion of an infringement concerns an enterprise that
 - a) carries out an activity requiring authorisation pursuant to section 8 (1), section 67 (1) or section 236 (4) of the Insurance Supervision Act, and
 - b) is subject to supervision by the competent *Land* authority,and the suspicion of infringement relates to the activity,
5. the Federal Railway Authority in the event of a suspicion of an infringement of the legal acts referred to in numbers 13, 18 and 19 of the Annex to Regulation (EU) 2017/2394 and the legislation adopted to implement them,

6. the Federal Network Agency in the event of a suspicion of an infringement of the legal acts referred to in numbers 12 and 27 of the Annex to Regulation (EU) 2017/2394 and the legislation adopted to implement them,
7. subject to number 1 (b), the competent authority under *Land* law in all other cases.

Section 3

Single liaison office

(1) The Federal Ministry of Justice and Consumer Protection is the single liaison office within the meaning of Article 5 (1) of Regulation (EU) 2017/2394.

(2) The single liaison office is to report annually, for the first time by 31 December 2007, to the highest *Land* authorities responsible for consumer protection, comprehensively and in anonymised form, on requests for mutual assistance and exchange of information received and forwarded in connection with this Act. This, in particular, includes actions and judgments brought or rendered in connection with a suspicion of an intra-Union infringement, of a widespread infringement or of a widespread infringement with a Union dimension of Union laws that protect consumers' interests.

(3) The single liaison office is to coordinate the exchange of expertise. In order to enable the single liaison office to coordinate the application of Regulation (EU) 2017/2394 and this Act, the competent authorities are to report to the single liaison office, upon request and as a minimum at the end of each third calendar quarter, on their activities under Regulation (EU) 2017/2394 and under this Act. The Federal Government may issue administrative rules for the further implementation of Regulation (EU) 2017/2394 and this Act.

(4) If different federal authorities are responsible pursuant to section 2, the single liaison office is to determine which of these authorities is responsible and which is to assume a supporting function.

(5) The single liaison office is authorised to confer powers under Article 27 (1) of Regulation (EU) 2017/2394.

Division 2

Enforcement of the laws for the protection of consumers' interests

Section 4 (repealed)

Section 5 (repealed)

Section 6

Supplementary procedural provisions

(1) The provisions of the Administrative Procedure Act apply additionally to the administrative procedures of the federal authorities. The person obliged to provide information may refuse to answer any questions the reply to which would put themselves or one of their relatives specified in section 383 (1) nos. 1 to 3 of the Code of Civil Procedure at risk of criminal prosecution or proceedings under the Act on Regulatory Offences.

(2) In administrative proceedings, the following require a judicial order:

1. searches of business premises and persons and the seizure of information, data media and documents against the will of the person having custody thereof, in accordance with Article 9 (3) (c) of Regulation (EU) 2017/2394 for the purpose of prosecuting infringements under Regulation (EU) 2017/2394, except for in cases of imminent danger,
2. searches of premises that serve as a dwelling.

Jurisdiction lies with the local court in whose district the competent authority is located. A complaint may be lodged against the judicial decision; sections 306 to 310 and 311a of the Code of Criminal Procedure apply accordingly. A written record of the search must be made.

This record must contain information on the authority responsible for the search, the reason for the search, the time and place of the search and its outcome and, if no judicial order was issued, the facts justifying the assumption of imminent danger. Section 98 (2) of the Code of Criminal Procedure applies accordingly.

(3) In the event of recourse to third parties, section 23 (1) and (2) of the Judicial Remuneration and Compensation Act applies accordingly.

(4) The competent authority may oblige the trader to fulfil its commitment under Article 9 (4) (b) and (c) of Regulation (EU) 2017/2394.

(5) Insofar as measures under Article 9 (3) (d) of Regulation (EU) 2017/2394 are required, the competent authority may also avail itself of the assistance of other persons and entities. In doing so, the competent authority must ensure that Article 10 (2) of Regulation (EU) 2017/2394 is complied with by the other persons and entities. Both the competent authority and the other persons and entities are exempt from the obligations of Articles 12 to 14 of Regulation (EU) 2016/679 with regard to the personal data of the persons affected by the investigation measure, as long and insofar as the fulfilment of such obligations would jeopardise the purpose of the investigation measure. Once the limitation expires, the persons affected must be informed in each case in an appropriate manner, although no obligation exists to disclose the time and place of the investigation measure carried out or the identity of the natural persons who carried out the investigation measure. The competent authority may also use the findings obtained through the measures referred to in Article 9 (3) (d) of Regulation (EU) 2017/2394 for purposes other than conducting administrative proceedings pursuant to this Act insofar as this is necessary for the performance of the tasks assigned to it by law.

Section 7

Commissioning of third parties

(1) If the requirements of Article 7 (1) sentence 2 of Regulation (EU) 2017/2394 are met, the competent authority under section 2 nos. 1, 2 or 2a is, as a rule, in accordance with subsections (2) and (3), to commission a body referred to in section 3 (1) sentence 1 nos. 1 to 3 of the Injunctive Relief Act or in section 8 (3) nos. 2 to 4 of the Act against Unfair Competition (commissioned third party) to bring about the cessation of such infringements, pursuant to section 4e of the Injunctive Relief Act, also in conjunction with section 8 (5) sentence 2 half-sentence 2 of the Act against Unfair Competition. The commissioned third party acts in its own name.

(2) If the competent authority is led to conclude that the proper performance of the tasks is no longer ensured, the commission is to be revoked without compensation.

(3) The competent authority may, with due regard to subsection (2), conclude framework agreements on a general commission pursuant to subsection (1), and may designate a contractual partner within the meaning of Article 3 no. 8 of Regulation (EU) 2017/2394 (designated third party). The framework agreement must be approved by the highest federal authority responsible for the competent authority. The framework agreement must be published in the Federal Gazette.

(4) The *Land* governments are authorised to issue, by statutory instrument, provisions for their authorities corresponding to subsections (1) to (3). The *Land* governments are entitled to transfer the authorisation under sentence 1 in whole or in part to other *Land* authorities by statutory instrument.

Section 8

External communication

The power to communicate with the European Commission and with the authorities of other Member States of the European Union involved in the implementation of Regulation (EU) 2017/2394 is conferred on the single liaison office.

Division 3
Provisions on regulatory fines, enforcement, allocation of costs and reimbursement of costs

Section 9
Provisions on regulatory fines

- (1) Whoever intentionally or negligently contravenes an enforceable order under Article 9 (3) (a), (b) or (c) or Article 9 (4) (a), (e) or (g) of Regulation (EU) 2017/2394 will be deemed to have committed a regulatory offence.
- (2) This regulatory offence may be punished with a regulatory fine of up to 10,000 euros.
- (3) (repealed)

Section 10
Enforcement

The competent authority may enforce its orders in accordance with the rules applicable to the enforcement of administrative measures. With regard to decisions under Article 9 (4) (a), (e) and (g) of Regulation (EU) 2017/2394, the amount of the penalty payment must not exceed 250,000 euros in any individual case.

Section 11
Allocation of costs and reimbursement of costs; authorisation to issue statutory instruments

- (1) Insofar as the costs incurred by the competent authority under section 2 no. 2 are not covered by fees and expenses, by separate reimbursement under sentence 2, or by other revenue, they are to be allocated, in accordance with subsection (2), to the enterprises and credit or financial services institutions covered by section 2 no. 2 (a) and (b). The costs incurred by the competent authority as a result of an inspection or examination carried out pursuant to Article 9 (3) (c) of Regulation (EU) 2017/2394 are to be reimbursed separately to the authority by the parties concerned and are to be paid in advance to the authority upon request. The costs under sentence 2 also include the costs charged to the competent authority by the Deutsche Bundesbank and other authorities acting on behalf of the competent authority as part of such measures, as well as the costs for the deployment of its own employees. Section 15 (2) of the Act Establishing the Federal Financial Supervisory Authority applies accordingly to these costs.
- (2) The costs to be allocated pursuant to subsection (1) sentence 1 are to be included in the allocation of costs that is to be determined in accordance with section 16 of the Act Establishing the Federal Supervisory Authority in conjunction with the statutory instrument issued on the basis of section 16 (2) sentence 1, also in conjunction with sentence 4, of the Act Establishing the Federal Supervisory Authority. In this context, enterprises pursuant to section 2 no. 2 (a) are to fall within the supervisory area of the insurance sector, and credit or financial services institutions pursuant to section 2 no. 2 (b) are to fall within the supervisory area of the banking and financial services sector.
- (3) The Federal Ministry of Justice and Consumer Protection, the Federal Ministry of Finance, the Federal Ministry for Economic Affairs and Energy and the Federal Ministry of Transport and Digital Infrastructure are each authorised to transfer, by way of statutory instrument not requiring the approval of the Bundesrat, the authorisation to issue a statutory instrument pursuant to section 22 (4) sentence 1 of the Act on Fees and Expenses for Federal Services to the authority referred to in section 2 nos. 1, 2, 2a, 3, 5 or 6 belonging to their respective remit, to the extent that that authority provides individually attributable public services pursuant to or on the basis of this Act.

Division 4
Adaptation to changes in Community law

Section 12
Authorisation to issue statutory instruments

(1) Insofar as further legal acts of the European Union have been included within the scope of Regulation (EU) 2017/2394, the Federal Ministry of Justice and Consumer Protection is authorised to transfer, in agreement with the Federal Ministry of Finance, responsibility for the implementation of Regulation (EU) 2017/2394 to the Federal Office of Justice by way of statutory instrument not requiring the approval of the Bundesrat. In the event of a statutory instrument issued in accordance with sentence 1, section 2 nos. 2 and 4 remains unaffected.

(2) The Federal Ministry of Justice and Consumer Protection is further authorised, by way of statutory instrument not requiring the approval of the Bundesrat,

1. to amend references in this Act to the provisions of Regulation (EU) 2017/2394, insofar as this is necessary to adapt the references to amendments to those provisions,
2. to delete provisions of this Act or to adapt their wording to a remaining scope of application, insofar as they have become inapplicable as a result of the adoption of corresponding provisions in regulations of the European Community or of the European Union.

Division 5

Judicial relief for particular administrative measures

Section 13

Admissibility, jurisdiction

- (1) In the case of a decision taken by the competent authority pursuant to
1. Article 9 (4) (a), insofar as an order for removal or an injunction is concerned, Article 9 (4) (e) or Article 9 (7) of Regulation (EU) 2017/2394, or
 2. section 10 or 11, where a decision under these provisions is materially connected to a decision pursuant to number 1,

a complaint is admissible. In all other respects, the provisions on legal remedies for administrative measures remain unaffected.

(2) The competent authority is to attach to a decision within the meaning of subsection (1) sentence 1 instructions on available legal remedies, in accordance with section 37 (6) of the Administrative Procedure Act. Section 58 of the Code of Administrative Court Procedure applies accordingly.

(3) The complaint is admissible only if the applicant claims that their rights have been infringed by the decision under subsection (1) sentence 1, or by the refusal or omission to issue such a decision; the complaint may also be based on new facts and evidence.

(4) The complaint is to be decided on solely by the Regional Court which has jurisdiction for the seat of the competent authority. Section 36 of the Code of Civil Procedure applies accordingly.

Section 14

Suspensive effect, order for immediate enforcement

- (1) The complaint has suspensive effect.
- (2) The competent authority may order the immediate enforcement of the decision insofar as this is necessary in the public interest.
- (3) An order under subsection (2) may be made even before the complaint is lodged. Reasons must be stated for making the order.
- (4) Upon application, the court hearing the complaint may restore the suspensive effect in full or in part, insofar as
1. the conditions for making an order under subsection (2) were not satisfied or are no longer satisfied,
 2. serious doubts exist as to the lawfulness of the contested decision, or

3. for the party concerned, enforcement would result in unjust hardship not justified by overriding public interests.

(5) An application pursuant to subsection (4) is admissible even before the complaint is lodged. The facts upon which the application is based must be substantiated by the applicant. If the decision of the competent authority has already been enforced, the court hearing the complaint may also order that the enforcement measures be lifted. The order to restore suspensive effect and the order for suspensive effect may be made contingent upon the provision of a security or upon other conditions. They may also be time limited.

(6) Decisions under subsection (4) may be amended or revoked at any time. Each party may request that such a decision be amended or revoked due to changed circumstances or circumstances not asserted in the original proceedings through no fault of their own.

(7) The court hearing the complaint is to give its decision on an application pursuant to subsection (4) or (6) by way of an order. The order may be handed down without an oral hearing.

(8) Section 80b (1) of the Code of Administrative Court Procedure applies accordingly to the end of the suspensive effect of the complaint.

(9) In urgent cases, the presiding judge may decide.

Section 15

Time limit and form

(1) The complaint must be submitted in writing to the competent authority within a time limit of one month. The time period begins to run upon service of the decision of the authority. It will be deemed sufficient if the complaint is received by the court hearing the complaint within the time limit.

(2) The complaint must state the applicant, the respondent and the subject-matter of the request made in the complaint. The contested decision is, as a rule, to be attached in the original or as a copy.

(3) Reasons must be stated for the complaint. The time limit for submitting the grounds for the complaint is one month; this period begins to run upon lodging of the complaint and may, upon application, be extended by the presiding judge of the court hearing the complaint.

(4) The statement of grounds for the complaint must contain

1. a statement of the extent to which the decision is being contested and its amendment or revocation is being sought,
2. details of the facts and evidence on which the complaint is based.

(5) The notice of complaint and the statement of grounds for the complaint must be signed by a lawyer admitted to practice before a German court or by an academic lawyer at a German higher education institution, as defined in the Framework Act for Higher Education, who is qualified to hold judicial office.

Section 16

Parties to the complaint proceedings

The parties to the proceedings before the court hearing the complaint are

1. the applicant,
2. the competent authority,
3. persons and associations of persons whose interests are significantly affected by the decision and who, upon their application, have been admitted to the proceedings by the court hearing the complaint; the interests of consumer advice centres and other consumer associations supported by public funding will also be considered to be affected significantly in cases where the decision affects a large number of consumers and thereby significantly affects the interests of consumers as a whole.

Section 17

Obligation to be represented by a lawyer

In proceedings before the court hearing the complaint, the parties must be represented by a lawyer admitted to practice before a German court or by an academic lawyer at a German higher education institution as defined in the Framework Act for Higher Education, who is qualified to hold judicial office and has been authorised for the purpose. The competent authority may also be represented by civil servants or employees qualified to hold judicial office as well as law-degree holders (*Diplomjuristen*) in the higher service.

Section 18

Oral hearing

- (1) The court hearing the complaint decides on the complaint on the basis of an oral hearing; with the consent of the parties, a decision may be reached without an oral hearing.
- (2) If the parties, despite having been notified in good time, fail to appear at the hearing or are not duly represented, the case may nevertheless be heard and decided.

Section 19

Principle of investigation

- (1) The court hearing the complaint investigates the facts of the case ex officio; the parties are to be consulted in this process. The court is not bound by the parties' submissions or by their applications to take evidence.
- (2) Public authorities are obliged to present official documents or files, to transmit electronic documents and to furnish information.
- (3) The presiding judge is to endeavour to ensure that formal errors are remedied, unclear applications are clarified, relevant applications are filed, insufficient factual information is supplemented, and all declarations that are essential for ascertaining and assessing the facts of the case are submitted.
- (4) The court hearing the complaint may direct the parties to, within a time limit to be set, provide statements on points requiring clarification, indicate the evidence and submit official documents and other evidence in their possession. If the time limit is not observed, the case may be decided as it stands, without taking into account the documents not provided.

Section 20

Decision on the complaint

- (1) The court hearing the complaint gives its decision by way of an order and in accordance with its free conviction based upon the overall result of the proceedings. The order may be based only upon facts and evidence on which the parties had an opportunity to comment. The court hearing the complaint may deviate from this insofar as interested parties admitted to the proceedings were not granted access to the case files for important reasons, in particular to protect business or trade secrets, and the content of the files was not part of the submissions for these reasons. This does not apply to those interested parties admitted to the proceedings who are involved in the legal relationship in dispute in such a way that the decision can only be rendered uniformly also in relation to them.
- (2) Section 113 (1), (3) to (5) and section 114 of the Code of Administrative Court Procedure apply accordingly to the decision on the complaint.
- (3) The order is to contain a statement of reasons and is to be served on the parties together with instructions on appellate remedy.

Section 21

Inspection of files

- (1) The parties referred to in section 16 nos. 1 and 2 may inspect the files of the court hearing the complaint and may, at their own expense, have the court registry issue them with duplicates, excerpts, and copies. Section 299 (3) of the Code of Civil Procedure applies accordingly.

(2) Inspection of preparatory files, supplementary files, expert opinions, and other information is permitted only with the consent of the bodies to which the files belong or which have obtained the respective statement. The competent authority is to refuse to allow inspection of its documents, if this is necessary for important reasons, in particular to protect business or trade secrets. If inspection is refused or is inadmissible, the decision may be based on such documents only insofar as their content formed part of the submissions. An order for the disclosure of facts or evidence, the confidentiality of which is required for important reasons, in particular to protect business or trade secrets, may be made by the court hearing the complaint after hearing the party affected by such disclosure, to the extent that such facts or evidence are of significance for the decision, that there is no other way to ascertain the facts and that, after weighing up all the circumstances of the particular case, the importance of the matter outweighs the affected party's interest in maintaining confidentiality. The order is to contain a statement of reasons. In proceedings pursuant to sentence 4, the party concerned need not be represented by a lawyer.

(3) After hearing those with a right of disposal over the files, the court hearing the complaint is, as a rule, to grant the parties referred to in section 16 no. 3 inspection of the files to the same extent.

Section 22

Application of provisions of the Courts Constitution Act and the Code of Civil Procedure

In proceedings before the court hearing the complaint, the following provisions apply in addition accordingly, unless otherwise provided:

1. the provisions of sections 169 to 197 of the Courts Constitution Act concerning publicity and court officers, the language of the court, deliberations and voting;
2. the provisions of the Code of Civil Procedure, in particular on the disqualification and recusal of a judge, on attorneys of record and counsel, on service ex officio, on summonses, hearings and periods, on orders that a party appear in person, on the consolidation of several proceedings, on the taking of evidence by hearing witnesses, on evidence through experts and on other types of evidentiary proceedings, and on restitution of the status quo ante against the failure to observe a time limit.

The provisions of Seventeenth Title of the Courts Constitution Act apply accordingly.

Section 23

Interim orders

(1) On application, the court hearing the complaint may, even before a complaint has been filed, issue an interim order in respect of the subject-matter of the dispute if there is a risk that a change of the status quo might frustrate the realisation of a right enjoyed by the applicant, or might make its realisation significantly more difficult. Interim orders are also permissible to provide for a temporary status concerning a legal relationship that is in dispute if providing for this status is deemed necessary in order to avert significant disadvantages, to prevent imminent violence, or for other reasons, above all in the case of legal relationships of a long-term nature.

(2) Competence for issuing interim orders lies with the court hearing the complaint. Section 14 (6), (7) and (9) applies accordingly.

(3) Sections 920, 921, 923, 926, 928 to 932, 938, 939, 941 and 945 of the Code of Civil Procedure apply accordingly to the issuance of interim orders.

(4) Subsections (1) to (3) do not apply for cases under section 14.

Section 24

Complaints on points of law

(1) A complaint on points of law may lie to the Federal Court of Justice against orders of the Regional Courts issued in the main proceedings if the Regional Court has admitted the complaint on points of law.

(2) A complaint on points of law is to be allowed if

1. a decision must be taken on a legal matter of fundamental importance, or
2. the development of the law or ensuring the consistency of court rulings requires a decision by the Federal Court of Justice.

(3) A ruling on the admission or non-admission of the complaint is to be made in the decision of the Regional Court. Reasons must be stated for non-admission.

(4) Admission to lodge a complaint on points of law against decisions of the court hearing the complaint is not required if one of the following defects in the proceedings exists and is complained of:

1. the composition of the court of decision was not compliant with the relevant provisions,
2. a judge was involved in the decision who, by law, was prohibited from holding judicial office or who had been effectively recused for fear of bias,
3. a party was denied the right to an effective and fair legal hearing,
4. a party to the proceedings had not been represented in accordance with the stipulations of the law, unless the party had expressly or tacitly agreed to the conduct of the proceedings,
5. the decision has been given based on a hearing for oral argument in which the rules regarding the admission of the public to the proceedings were violated, or
6. the decision does not set out the reasons for the judgment.

Section 25

Complaints against denial of leave to appeal

(1) The non-admission of a complaint on points of law may be contested independently by a complaint against denial of leave to appeal.

(2) The Federal Court of Justice decides on the complaint against the denial of leave to appeal by way of an order, which must state the reasons. The order may be handed down without an oral hearing.

(3) The complaint against the denial of leave to appeal must be submitted in writing to the Regional Court within a time limit of one month. The time period begins to run upon service of the decision to be contested.

(4) For complaints against the denial of leave to appeal, section 14 (1), section 15 (2), (3), (4) no. 1 and (5), sections 16, 17, 21 and 22 no. 2 of this Act, and sections 192 to 197 of the Courts Constitution Act on deliberations and voting apply accordingly.

(5) If the complaint on points of law is not admitted, the decision of the Regional Court becomes final and binding upon service of the order of the Federal Court of Justice. If the complaint on points of law is admitted, the time limit for filing a complaint begins to run upon service of the order of the Federal Court of Justice.

Section 26

Persons entitled to file a complaint, form and time limits

(1) The complaint on points of law is open to the parties to the complaint proceedings.

(2) The complaint on points of law may be founded only on the allegation that the decision is based on a violation of the law; sections 546 and 547 of the Code of Civil Procedure apply accordingly.

(3) The complaint on points of law must be submitted in writing to the Regional Court within a time limit of one month. The time period begins to run upon service of the contested decision.

(4) The Federal Court of Justice is bound by facts established in the contested decision unless admissible and reasoned grounds for a complaint on points of law are submitted in relation to these facts.

(5) In all other respects, section 14 (1), section 15 (2), (3), (4) no. 1 and (5), sections 16 to 18 and sections 20 to 22 apply accordingly for complaints on points of law.

Section 27

Cost bearing and assessment of costs

In complaint proceedings and proceedings on complaints on points of law, the court may order that the costs that were necessary to appropriately deal with the matter are to be reimbursed in full or in part by one of the parties, if this is equitable. If a party has caused costs through an unfounded appeal or through gross negligence, the costs are to be imposed on that party. In other respects, the provisions of the Code of Civil Procedure concerning the procedure for the assessment of costs and compulsory enforcement based on orders assessing the costs apply accordingly.

Section 28

Redress for a violation of the right to an effective and fair legal hearing

(1) Upon an objection having been filed by a party adversely affected by a court decision, the proceedings are to be continued if:

1. no appellate remedy or any other legal remedy is available against the decision, and
2. the court has violated the entitlement of this party to be given an effective and fair legal hearing and this has significantly affected the decision.

No objection may be filed against any decision preceding the final decision.

(2) The objection is to be filed within two weeks upon the party having become aware of the violation of the right to be given an effective and fair legal hearing; the time at which the party so becomes aware is to be substantiated. Following the expiry of one year from the issuance of the challenged decision, an objection may no longer be filed. Decisions communicated by simple letter are deemed to have been issued following the third day on which they were sent by regular mail. The objection is to be lodged in writing with the court whose decision is being challenged, or made orally to be entered into the records by a clerk in the court's registry. The objection must designate the specific decision being challenged and must demonstrate that the prerequisites set out in subsection (1) sentence 1 no. 2 are fulfilled.

(3) To the extent necessary, the other parties are to be given the opportunity to state their position.

(4) If the objection is not an available remedy or has not been filed in the statutory form and within the statutory time limit, it is to be rejected as inadmissible. Should the objection be without justification, the court is to dismiss it. The decision is to be handed down by an incontestable order. The grounds on which the order is based are to be briefly summarised.

(5) Wherever the objection is justified, the court is to grant the redress sought by continuing the proceedings to the extent mandated as a result of the objection. The status of the proceedings as given prior to the close of the hearing is to be reinstated. In proceedings conducted in writing, the close of the hearing is to be replaced by the date by which the written pleadings may be submitted. Section 343 of the Code of Civil Procedure applies for the pronouncement by the court.

(6) Section 149 (1) sentence 2 of the Code of Administrative Court Procedure applies accordingly.

Section 29

Evaluation

The Federal Ministry of Justice and Consumer Protection is to report to the German Bundestag on the application of the Act by federal authorities by 31 January 2025.