

Rulebook Articles

Administrative sanctions and other measures

PATH:
CHAPTER VII

1. Without prejudice to the supervisory powers of competent authorities and the right of Member States to provide for and impose criminal sanctions, Member States shall ensure that their competent authorities may impose administrative sanctions and other measures applicable to all infringements of the national provisions implementing this Directive, and shall take all measures necessary to ensure that they are implemented. Member States shall ensure that their administrative sanctions and other measures are effective, proportionate and dissuasive.

2. Member States may decide not to lay down rules on administrative sanctions under this Directive for infringements which are subject to criminal sanctions under their national law. In that case, Member States shall communicate to the Commission the relevant criminal law provisions.

3. Competent authorities shall exercise their supervisory powers, including investigatory powers and powers to impose sanctions provided for in this Chapter, in accordance with their national legal frameworks in any of the following ways:

(a) directly;

(b) in collaboration with other authorities;

(c) by application to the competent judicial authorities.

4. Member States shall ensure that where obligations apply to insurance or reinsurance distributors, in the event of a breach of any such obligation, administrative sanctions against, and other measures with regard to, the

members of their management or supervisory body, and any other natural or legal persons who, under national law, are responsible for such breach, can be applied.

5. Member States shall ensure that administrative sanctions and other measures taken in accordance with this Article are subject to a right of appeal.

6. The competent authorities shall be given all investigatory powers that are necessary for the exercise of their functions. In the exercise of their powers to impose administrative sanctions and other measures, the competent authorities shall cooperate closely to ensure that those sanctions and measures produce the desired results and coordinate their action when dealing with cross-border cases, while ensuring that the conditions are met for legitimate data processing in accordance with Directive 95/46/EC and Regulation (EC) No 45/2001.

Where Member States have chosen, in accordance with paragraph 2 of this Article, to lay down criminal sanctions for infringements of the provisions referred to in Article 33, they shall ensure that appropriate measures are in place so that competent authorities have all the necessary powers to:

(a) liaise with judicial authorities within their territory to receive specific information relating to criminal investigations or proceedings commenced for possible infringements under this Directive; and

(b) provide such information to other competent authorities and EIOPA to fulfil their obligation to cooperate with each other and with EIOPA for the purposes of this Directive.