



1.8.2016

NATIONAL PARLIAMENT REASONED OPINION ON SUBSIDIARITY

Subject: Reasoned opinion by the Austrian Federal Council on the proposal for a European Parliament and Council regulation on cooperation between national authorities responsible for the enforcement of consumer protection laws (COM(2016)0283 – C8-0194/2016 – 2016/0148(COD))

Under Article 6 of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality, national parliaments may, within eight weeks of the date of transmission of a draft legislative act, send the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why they consider that the draft in question does not comply with the principle of subsidiarity.

The Austrian Federal Council has sent the attached reasoned opinion on the aforementioned proposal for a regulation.

Under Parliament's Rules of Procedure the Committee on Legal Affairs is responsible for matters relating to compliance with the subsidiarity principle.

16/SB-BR/2016

REASONED OPINION

of the Austrian Federal Council's Committee on EU Affairs, pursuant to Article 23g(1) of the Austrian Federal Constitutional Law (B-VG), in conjunction with Article 6 of Protocol No 2 on the application of the principles of subsidiarity and proportionality, of 13 July 2016

COM (2016) 283 final

Proposal for a Regulation of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws

A. Reasoned Opinion

Some parts of the project under consideration in its present form are incompatible with the principle of subsidiarity.

B. Justification

The Committee on EU Affairs of the Federal Council agrees with the Commission that the pursuit of cross-border violations of the EU's consumer protection laws must be made more effective. The regulation currently in force does not meet today's requirements, particularly with regard to the digital economy and the development of cross-border retail trade, so that a review of the regulation is needed. Effective cross-border cooperation among the relevant national authorities is crucial if violations of the rules are to be prevented. In addition, the regulation provides for the problem of violations committed by companies based outside the EU to be resolved by means of international agreements.

The Committee on EU Affairs of the Federal Council wishes to state that it does not question the need for EU-wide regulation of cooperation between the national authorities responsible for implementing consumer protection legislation but has concerns about the implementing acts proposed by the Commission (Articles 10, 11, 12, 15, 20, 27). The wholesale introduction of delegated and implementing acts and the ensuing erosion of competences to the detriment of the Member States is looked on unfavourably by the Federal Council and stands in direct contradiction to the principle of subsidiarity. The Committee also has reservations about the proposal in Article 46, according to which the Commission would oversee the implementation of the national enforcement plans, as this too is incompatible with the principle of subsidiarity.

Moreover, the Committee agreed, after studying the proposal, that the principle of proportionality should feature more prominently in the text of the regulation in the context of the exercise by the authorities responsible of individual minimum powers.

This requires clarification and specification of the question of whether and in which cases

powers relating to compensation and the siphoning off of profits may be invoked.

In the opinion of the Committee, parameters should also be fixed for certain wide-reaching minimum powers which would provide the authorities responsible with objective criteria for the selection and application of sanctions while respecting the national legal framework in each case. Unfettered application of the minimum powers referred to in Article 8, without first making these proportionate to the seriousness of the violation in question and the desired outcome, would go beyond what is required to achieve the aims of the proposal and would therefore be in contradiction to the principle of proportionality.