



28.6.2016

NATIONAL PARLIAMENT REASONED OPINION ON SUBSIDIARITY

Subject: Reasoned opinion by the Riksdag of the Kingdom of Sweden 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 Swedish Parliament 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 compliance with the subsidiarity principle.

The President of the European Parliament
The President of the Council of the European Union
The President of the European Commission

I hereby submit the Riksdag's reasoned opinion as shown in Annex 2 to the attached report and would inform you that the Riksdag has today approved the proposal of the Committee on Civil Affairs for a Riksdag Decision in Report 2015/16:CU26, Assessment in the light of the principle of subsidiarity of the Commission proposal for a new regulation on cooperation in the field of consumer protection.

Stockholm, 22 June 2016

Urban Ahlin
Claes Mårtensson

Reasoned opinion of the Swedish Parliament (Riksdag)

The Riksdag has examined the Commission proposal for a European Parliament and Council regulation on cooperation between national authorities responsible for the enforcement of consumer protection laws (COM(2016)0283) in the light of the application of the subsidiarity principle.

With regard to the proposal which the Riksdag has examined in the light of the subsidiarity principle, the Riksdag agrees with the Commission that measures to deal with cross-border infringements of the EU's consumer protection legislation need to be rendered more effective. It concludes that the current Regulation therefore needs to be replaced with a new one to respond to the challenges of the digital economy and the development of cross-border retail trade in the EU. Effective cross-border cooperation between national authorities is of vital importance in order to prevent traders from infringing the rules. Compliance with the EU's consumer protection legislation is beneficial to both consumers and traders.

Thus the Riksdag does not call into question the need for EU regulation of cooperation between national authorities responsible for the enforcement of consumer protection laws. However, the Riksdag does object to some of the new investigation and enforcement powers proposed by the Commission in Article 8. In the Riksdag's view, the proposed regulation is very detailed and far-reaching. As regards the proposal for making it possible to temporarily suspend or to close down a website (Article 8(2)(g) and (l)), the Riksdag has doubts as to whether such powers can be reconciled with provisions of Sweden's constitutional law. The proposals concerning compensation of consumers and restitution of profits likewise give rise to concern (Article 8(2)(n) and (o)). Under Swedish law, there is for example no general requirement to repay profits that have been improperly obtained. The proposal empowering the authorities to purchase goods and services under a cover identity in order to detect infringements and to obtain evidence (Article 8(2)(f)) also appears rather far-reaching. The Riksdag therefore does not consider there to be any need for such far-reaching regulation of national authorities' powers: rather, decisions on such powers should to a greater extent be left to be taken by Member States at national level. This part of the proposal for a regulation exceeds what is required to achieve its objectives.

The Riksdag also has objections to the proposal in Article 21 concerning common action against infringements with a Union dimension. Here, the Riksdag can observe that the Commission is assigned the power to determine whether the threshold values for the Union dimension are reached, to decide to launch common action and that participation in a common action is compulsory for the competent authorities in the Member States affected by the infringement. The Riksdag takes the view that there are grounds for doubting whether this provision is compatible with the autonomous status assigned to the Swedish authorities by the Constitution.

Here too, the proposal goes beyond what is necessary in order to achieve the objectives.

All things considered, the Riksdag takes the view that a number of the proposals go beyond what is necessary in order to achieve the stated objectives and that they therefore infringe the principle of proportionality. In its present form, the Commission proposal is therefore not in all respects compatible with the subsidiarity principle, either.