



EUROPEAN PARLIAMENT

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Committee on the Internal Market and Consumer Protection

13.12.2011

NOTICE TO MEMBERS

(IMCO/CM/06/2011)

Subject: Opinion on the proposal for a regulation of the European Parliament and of the Council concerning customs enforcement of intellectual property rights (COM(2011)0285)

Having regard to the Treaty of Lisbon, in particular Articles 5 and 12 TEU and Protocols No 1 and 2 annexed to the Treaty;

Having regard to the republished Romanian Constitution, in particular Article 148 thereof;

Having regard to the stance adopted by the Romanian Government as set out in the memorandum from its European Affairs Department;

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Having regard to the opinion of the Committee for Legal Affairs, Discipline and Immunities, delivered at its meeting of 24 August 2011;

Having regard to the opinion of the Committee for Education, Science, Youth and Sport, delivered at its meeting of 13 September 2011;

Having regard to the final draft opinion of the Committee on European Affairs, delivered at its meeting of 21 September 2011;

Having regard to the endorsement of the Permanent Bureau of the Chamber of Deputies, delivered on 26 September 2011;

The Chamber of Deputies, in accordance with the provisions of Article 40 of Decision No. 11/2011 of the Chamber of Deputies of 27 April 2011, adopts the following opinion:

1. The Chamber of Deputies considers that Romania should endorse the resolution of this problem, given that the initiative by the European Parliament and the Council is intended to provide more effective means of combating counterfeiting and piracy at European level.
2. The Chamber of Deputies notes that, in the absence of any modifications to national legal provisions, adoption of this proposal for a regulation will not result in significant amendments to Romanian legislation. Amendments to the law may relate to specific measures by Romania, given that the regulation implements the border enforcement provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).
3. The Chamber of Deputies stresses that:
 - the parallel trade derogation should not be eliminated, despite the fact

that it infringes the TRIPS Agreement, given that it may also be excluded under the new regulation, since, on the one hand, it is difficult for customs authorities to identify the consignments affected and, on the other, they are the result of a private agreement between two business operators;

- more attention should be given to future deliberations concerning the following: extended validity period, notification, inspection, sampling, and reporting procedures, cost estimates, simplified procedure, authorisation for use of information by applicants and *ex officio* measures;
- in the light of the deliberations arising from examination by the members of the Committee on Legal Affairs, Discipline and Immunities, the Committee on Education, Science, Youth and Sport and the Committee on European Affairs of the proposal for a regulation of the European Parliament and of the Council concerning customs enforcement of intellectual property rights, it was concluded that *the proposal complies with the legal principle of subsidiarity regarding the EU terms of reference, while, concerning the principle of proportionality, the proposal does not fundamentally affect any substantial provisions of national law and is in accordance with the internal legal framework provisions of each Member State, adopted in accordance with the legal, political and economic traditions of each, and that the provisions of the proposed regulation do not go beyond or exceed the criteria and conditions for the implementation thereof.*

The proposal for a regulation does not fundamentally affect any substantial provisions of national law and is in accordance with internal legal framework

provisions.

Speaker

Roberta Alma Anastase