



8.2.2019

## **NATIONAL PARLIAMENT REASONED OPINION ON SUBSIDIARITY**

**Subject:** Reasoned opinion of the Swedish Parliament on the proposal for a directive of the European Parliament and of the Council on representative actions for the protection of the collective interests of consumers, and repealing Directive 2009/22/EC (COM(2018)0184 – C8-0149/2018 – 2018/0089(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 directive.

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

## Reasoned opinion of the Swedish Parliament (Riksdag)

The Riksdag has examined the application of the subsidiarity principle in the Commission's proposal for a directive of the European Parliament and of the Council on representative actions for the protection of the collective interests of consumers (COM(2018)0184) and in the Commission's proposal for a directive of the European Parliament and of the Council amending four directives on better enforcement and modernisation of EU consumer protection rules (COM(2018)0185).

The Riksdag is of the opinion that it is important to work towards ensuring that there is a high level of consumer protection in the EU and that measures at EU level are often needed to achieve this. The Riksdag therefore shares the Commission's assessment that further measures are needed at EU level in order to promote cross-border trade and counteract cross-border infringements of consumer protection legislation. The Riksdag also considers that the proposals are generally compatible with the principles of subsidiarity and proportionality.

However, the Riksdag has objections regarding the parts of the proposals that contain instructions on how revenues from fines or equivalent financial penalties should be allocated. The Riksdag considers that there should be rules at EU level to determine the nature of effective and deterrent sanctions in order to maintain a high level of consumer protection. On the other hand, in the opinion of the Riksdag, it is not necessary to introduce instructions at EU level to describe how the Member States are to allocate fines or equivalent penalties. Those measures go beyond what is necessary in order to maintain a smoothly functioning internal market and safeguard a high level of consumer protection.

The way in which fines or penalties are used is often closely connected with the way in which a national supervisory system is designed. Some Member States, Sweden among them, have an administrative procedure according to which a state authority will take appropriate action. Other systems are based on a procedure founded on procedural law or civil law. It should be possible for Member States to retain their systems, and this includes deciding how the proceeds from fines and penalties are to be used.

In summary, the Riksdag considers that those parts of the Commission's two proposals for directives go beyond what is necessary to achieve the stated objectives and that they therefore do not comply with the principle of proportionality. Neither are the proposed directives, in their current form, fully consistent with the subsidiarity principle.