

Reasoned opinion of the Swedish Parliament

The Riksdag has examined the application of the principle of subsidiarity in the Commission's 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 (COM(2016) 283).

As regards the proposal subject to a subsidiarity check by the Riksdag, the Riksdag considers, as does the Commission, that procedures for dealing with transnational infringements for EU consumer protection laws need to be made more effective. The current regulation therefore needs to be replaced with a new regulation to make it possible to meet the challenges presented by the digital economy and the development of cross-border retail trading within the EU. Effective cross-border cooperation between national authorities is of crucial importance in order to prevent traders from not following the rules. It is to the benefit of both consumers and traders that EU consumer protection legislation is followed.

The Riksdag thus does not question the need for an EU level regulation of the cooperation between national authorities responsible for the enforcement of consumer protection laws. However, the Riksdag does have objections to some of the new powers proposed by the Commission regarding investigation and enforcement in Article 8. According to the Riksdag, the proposed regulation is very detailed and far-reaching. Regarding the proposal to make it possible to temporarily suspend a website or to close down a website (Article 8.2 g and l), the Riksdag doubts whether such powers can be seen as compatible with the Swedish Constitution. The proposals for compensation to consumers and restitution of profits also give rise to concern (Article 8.2 n and o). Under the Swedish legal system, for example, there is no general obligation to compensate for profit obtained as a result of infringements. The proposal to make it possible to purchase goods and services under a cover identity in order to detect infringements and to obtain evidence (Article 8.2 f) also appears to be very far-reaching. The Riksdag thus considers that there is no need for such a far-reaching regulation of powers of national authorities, but that the responsibility to decide on such powers should to a larger extent be left with the member states at the national level. This part of the proposed regulation exceeds what is necessary to achieve the objectives.

The Riksdag also has objections to the proposal in Article 21 on common actions to counteract widespread infringements with a Union dimension. Here, the Riksdag has noted that the Commission is being given powers to determine whether threshold values for the Union dimension have been met, to decide whether to initiate a joint operation and that participation in such a joint operation is mandatory for the relevant authorities in the member states that are affected by the infringement. In the opinion of the Riksdag, it is questionable whether this regulation is compatible with the independent position that Swedish authorities are assured in accordance with the Swedish Constitution. This part of the proposal also exceeds what is necessary to achieve the objectives.

The Riksdag's overall view is that a number of proposals exceeds what is necessary to achieve the given objectives and that they thus conflict with the principle of subsidiarity. The Commission's proposal in its present form is therefore in its entirety not compatible with the principle of subsidiarity.