

Consumer protection: cross-border infringements, administrative and legal cooperation (Regulation on consumer protection cooperation)

2003/0162(COD) - 27/10/2004 - Final act

PURPOSE : to lay down the conditions under which the competent authorities in the Member States designated as responsible for the enforcement of the laws that protect consumers' interests shall cooperate with each other and with the Commission in order to ensure compliance with those laws and the smooth functioning of the internal market and in order to enhance the protection of consumers' economic interests.

LEGISLATIVE ACT : Regulation 2006/2004/EC of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation).

CONTENT : the Council adopted a Regulation on cooperation between national authorities responsible for the enforcement of consumer protection laws. The Regulation provides a framework of mutual assistance for enforcement authorities to use when dealing with cross-border infringements and for administrative cooperation among the Member States and with the Commission on projects that are designed to inform, educate and empower consumers. Following an agreement between the Council and the European Parliament in the framework of the codecision procedure, it was possible to adopt the Regulation in first reading.

The Regulation stipulates that each Member State shall designate the competent authorities and a single liaison office responsible for the application of this Regulation. A Member State may, if necessary in order to fulfil its obligations under this Regulation, designate other public authorities. They may also designate bodies having a legitimate interest in the cessation or prohibition of intra-Community infringements.

These competent authorities shall fulfil their obligations under this Regulation as though acting on behalf of consumers in their own country and on their own account or at the request of another competent authority in their own country. Member States shall take all necessary measures to ensure effective coordination of the application of this Regulation by the competent authorities, other public authorities, bodies having a legitimate interest in the cessation or prohibition of intra-Community infringements designated by them and the competent courts, through the single liaison office.

Moreover, Member States shall encourage cooperation between the competent authorities and any other bodies having a legitimate interest under national law in the cessation or prohibition of intra-Community infringements to ensure that potential intra-Community infringements are notified to competent authorities without delay.

On the issue of the exchange of information on request, the Regulation states that a requested authority shall, on request from an applicant authority, supply without delay any relevant information required to establish whether an intra-Community infringement has occurred or to establish whether there is a reasonable suspicion it may occur. The requested authority shall undertake, if necessary with the assistance of other public authorities, the appropriate investigations or any other necessary or appropriate measures, in order to gather the required information. On request from the applicant authority, the requested

authority may permit a competent official of the applicant authority to accompany the officials of the requested authority in the course of their investigations.

As regards the exchange of information without request, when a competent authority becomes aware of an intra-Community infringement, or reasonably suspects that such an infringement may occur, it shall notify the competent authorities of other Member States and the Commission, supplying all necessary information, without delay. When a competent authority takes further enforcement measures or receives requests for mutual assistance in relation to the intra-Community infringement, it shall notify the competent authorities of other Member States and the Commission.

As far as the request for mutual assistance and information exchange procedures is concerned, the applicant authority shall ensure that all requests for mutual assistance contain sufficient information to enable a requested authority to fulfil the request, including any necessary evidence obtainable only in the territory of the applicant authority. Requests shall be sent by the applicant authority to the single liaison office of the requested authority, via the single liaison office of the applicant authority. Requests shall be forwarded by the single liaison office of the requested authority to the appropriate competent authority without delay.

In addition, the Community shall cooperate with third countries and with the competent international organisations in the areas covered by this Regulation in order to enhance the protection of consumers' economic interests. The arrangements for cooperation, including the establishment of mutual assistance arrangements, may be the subject of agreements between the Community and the third countries concerned.

Lastly, Member States shall communicate to the Commission the text of any provisions of national law that they adopt, or of agreements other than to deal with individual cases that they conclude, on matters covered by this Regulation. Every two years from the date of entry into force of this Regulation, the Member States shall report to the Commission on the application of this Regulation. The Commission shall make these reports publicly available.

ENTRY INTO FORCE : 29/12/2004. It shall apply from 29 December 2005. The provisions on mutual assistance set out in Chapters II and III shall apply from 29 December 2006.