

Cooperation between national authorities responsible for the enforcement of consumer protection laws

2016/0148(COD) - 14/11/2017 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 591 votes to 95, with 15 abstentions, a legislative resolution on the 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.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amended the Commission proposal as follows:

Scope: this Regulation applies to intra-Union infringements, widespread infringements and widespread infringements with a Union dimension, even if those infringements have ceased before enforcement starts or is completed. 'Widespread infringement with a Union dimension' means a widespread infringement that has done, does or is likely to do harm to the collective interests of consumers in at least two-thirds of the Member States, accounting, together, for at least two-thirds of the population of the Union.

Competent Authorities and Single Liaison Offices: each Member State shall designate one or more competent authorities and the single liaison office responsible for the application of the Regulation. Those competent authorities, the other public authorities and, where appropriate, the designated bodies should cooperate effectively to enable the proper application of the Regulation within the Member States.

A competent authority may instruct a designated body to gather the necessary information regarding an infringement covered by this Regulation or to take the necessary enforcement measures available to it under national law, in order to bring about the cessation or prohibition of that infringement.

Powers of competent authorities: the latter shall have at least the following investigative powers:

- the power of access to any relevant documents, data or information related to an infringement covered by this Regulation;
- the power to require any public authority, body or agency within their Member State or any natural person or legal person to provide any relevant information, to establish whether an infringement covered by this Regulation has occurred or is occurring, including tracing financial and data flows, ascertaining the identity of persons involved in financial and data flows, and ascertaining bank account information and ownership of websites;
- the power to carry out necessary on-site inspections, including the power to enter any premises, land or means of transport that the trader concerned by the inspection uses for purposes related to his trade, business, craft or profession;
- the power to purchase goods or services as test purchases, where necessary, under a cover identity (mystery shopping).

In addition, competent authorities shall have at least the following enforcement powers:

- the power to adopt interim measures to avoid the risk of serious harm to the collective interests of consumers;
- the power to receive from the trader, on the trader's initiative, additional remedial commitments for the benefit of consumers that have been affected by the alleged infringement covered by this Regulation, or, where appropriate, to seek to obtain commitments from the trader to offer adequate remedies to the consumers that have been affected by that infringement;
- the power to bring about the cessation or the prohibition of infringements covered by this Regulation;
- the power to remove content or to restrict access to an online interface or to order the explicit display of a warning to consumers when they access an online interface;
- the power to order domain registries or registrars to delete a fully qualified domain name and to allow the competent authority concerned to register it;
- the power to impose penalties, such as fines or periodic penalty payments.

The competent authorities shall also have the power:

- to start investigations or proceedings on their own initiative to bring about the cessation or prohibition of infringements;
- to publish any final decision, trader's commitments or orders, including the publication of the identity of the trader responsible for an infringement covered by this Regulation.

Competent authorities may consult consumer organisations, trader associations, designated bodies or other persons concerned, regarding the effectiveness of the proposed commitments in bringing the infringement covered by this Regulation to an end.

Mutual assistance mechanism: it is proposed to set a deadline of 30 days to respond to requests for information from the requesting authority. The requested authority shall determine the appropriate enforcement measures needed to bring about the cessation or prohibition of the intra-Union infringement and shall take them without delay and not later than six months after receiving the request.

Launch of coordinated actions: where there is a reasonable suspicion of a widespread infringement, the competent authorities concerned by that infringement shall, by agreement, launch a coordinated action.

The Commission shall report to the competent authorities any suspected infringement covered by the Regulation. If it suspects that a wide scale Union-wide crime has been committed, it should inform the Member States giving the reasons for launching a possible coordinated action. If after investigation, the competent authorities concerned come to the conclusion that an infringement could be committed, then they should initiate a coordinated action.

Action to combat wide-scale crime across the Union shall always be coordinated by the Commission.

The text provided that a competent authority may refuse to participate in a coordinated action, for example if judicial proceedings have already

been initiated or if an investigation has shown that the actual or potential effects of the alleged infringement are negligible.

Sweeps: sweeps are another form of enforcement coordination that has proven to be an effective tool against infringements of Union laws that protect consumers' interests, and should be retained and strengthened in the future, for both online and offline sectors. They shall be coordinated by the Commission.

Union-wide alerts: Member States shall confer on designated bodies, European Consumer Centres, consumer organisations and associations, and, where appropriate, trader associations, that have the necessary expertise, the power to issue external alerts to the competent authorities of the relevant Member States and the Commission of suspected infringements covered by this Regulation and to provide the necessary information available to them.