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COVER NOTE

From: National Assembly of the Republic of Bulgaria
date of receipt: 29 July 2016
To: General Secretariat of the Council

Subject: 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 (Text with EEA relevance)

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- Reasoned opinion on the application of the Principles of Subsidiarity and Proportionality

Delegations will find attached copy of the above mentioned opinion.



РЕПУБЛИКА БЪЛГАРИЯ
НАРОДНО СЪБРАНИЕ

ПРЕДСЕДАТЕЛ

РЕПУБЛИКА БЪЛГАРИЯ
НАРОДНО СЪБРАНИЕ

№ 650-06-56

дата 28.1.2016

ДО

Г-Н РОБЪРТ ФИЦО
ПРЕДСЕДАТЕЛ НА СЪВЕТА
НА ЕВРОПЕЙСКИЯ СЪЮЗ

ОТНОСНО: Мотивирано становище на Народното събрание на Република България относно Предложение за регламент на Европейския парламент и на Съвета относно сътрудничеството между националните органи, отговарящи за прилагане на законодателството за защита на потребителите

УВАЖАЕМИ ГОСПОДИН ФИЦО,

На свое заседание, проведено на 27 юли 2016 г., Комисията по европейските въпроси и контрол на европейските фондове (КЕВКЕФ) в Народното събрание на Република България обсъди Предложение за регламент на Европейския парламент и на Съвета относно сътрудничеството между националните органи, отговарящи за прилагане на законодателството за защита на потребителите.

След като внимателно обсъдиха проекта на акт и вземайки предвид изразената Рамкова позиция от Съвета по европейски въпроси в Министерския съвет на Република България, както и доклада на Комисията по икономическа политика и туризъм, членовете на КЕВКЕФ се обединиха около необходимостта да упражнят правомощията, дадени на Народното Събрание по силата на чл. 6 от Протокол № 2 към Договора за функциониране на Европейския съюз, като изразят мотивирано становище (тук приложено) по горепосоченото Предложение за регламент.

В рамките на утвърдената процедура, приложено представям на Вашето внимание приетия доклад и мотивираното становище към него, отразяващо позицията на българския парламент по темата.

Приложение: Съгласно текста.

С УВАЖЕНИЕ

ПЕНКА ЦАЧЕВА

ПРЕДСЕДАТЕЛ
НА НАРОДНОТО СЪБРАНИЕ
НА РЕПУБЛИКА БЪЛГАРИЯ

Courtesy Translation

TO
MR. ROBERT FICO
PRESIDENT OF THE COUNCIL
OF THE EUROPEAN UNION

SUBJECT: Reasoned opinion of the National Assembly of the Republic of Bulgaria 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

DEAR MR. FICO,

On a sitting held on 27 July 2016, the Committee on European Affairs and Oversight of the European Funds within the National Assembly of the Republic of Bulgaria examined 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, with regards to the principles of subsidiarity and proportionality.

After discussing the Proposal for a Regulation and taking into consideration the framework position of the Republic of Bulgaria, as well as the report of the Economic Policy and Tourism Committee, the MPs united in the necessity to exercise the rights granted to the National Assembly by Article 6 of Protocol № 2 of the Treaty on Functioning of the European Union, by expressing a Reasoned opinion on the Proposal for a Regulation.

In the light of the above-mentioned, please find enclosed the adopted Report and Reasoned opinion, which reflects the Bulgarian Parliament's position on the subject.

ENCLOSURE: as per text.

YOURS SINCERELY,

PRESIDENT OF
THE NATIONAL ASSEMBLY OF
THE REPUBLIC OF BULGARIA
TSETSKA TSACHEVA



NATIONAL ASSEMBLY
OF THE REPUBLIC OF BULGARIA

REASONED OPINION

OF THE NATIONAL ASSEMBLY OF THE REPUBLIC OF BULGARIA 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

On a regular session held on 27 July 2016, the Committee on European Affairs and Oversight of the European Funds (CEAOEF) within the National Assembly of the Republic of Bulgaria discussed the above-mentioned Proposal for a Regulation.

Following the discussion 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 (COM/2016/0283), CEAOEF expresses the following **Reasoned Opinion**, which is to be sent to the European Institutions:

1. CEAOEF welcomes the European Commission's initiative targeted at increasing the consumer protection in the European Union. The action at EU level to enhance the cooperation among national authorities, responsible for the enforcement of consumer protection laws, aims to prevent and detect cross-border infringements. In this sense, the implementation of such an initiative could be efficient and effective at Union level due to its cross-border nature. However, CEAOEF considers that the Proposal for a Regulation **does not comply with the principle of subsidiarity**, set out in Article 5, Paragraph 3 of the Treaty on European Union, because the reasoning of the EC on the proposed measures is insufficient.
2. CEAOEF considers that there are not sufficient quantitative and qualitative indicators (including proofs that the costs are commensurate to the anticipated outcome), on the basis of which to determine that the objectives of the Regulation will be better achieved through legislative measures at Union level, among which:
 - The 5-year limitation period, set out for the imposition of penalties upon cessation of the infringement – Article 4 of the Proposal;
 - The minimum powers of competent authorities – Article 8 of the Proposal – letters “g”, “h”, “i”, “k”, “n”, “o” (in the part “order the restitution of profits obtained as a result of infringements”) and letter “p” (in the part concerning the publication of the identity of the trader);
 - The authority of the EC to adopt implementing acts setting out the conditions for implementation and exercise of the minimum powers, as well as the details of the implementation of traders' rights of defence in coordinated and common actions – Article 10 and Article 31 of the Proposal, respectively;
 - Ensuring compensation of consumers when designating another competent authority to take enforcement measures – Article 18 of the Proposal;

- The requirement for the competent authorities to ensure that the trader concerned reports regularly to the European Commission about the progress of the implementation of the commitments – Article 24 of the Proposal;
 - The compulsory participation of other entities in the alert mechanism and the power of the European Commission to adopt implementing acts setting out the details of the designation and participation of such entities – Article 35 of the Proposal;
 - The possibility to use as evidence, without further formal requirements, any information, documents, findings, statements, certified true copies or intelligence communicated, when they are made by another competent authority – Article 42 of the Proposal.
3. In reference to the legal security, CEAOEF draws attention to Article 23, Paragraph 1 of the Proposal, regarding the inclusion of the assessment of a widespread infringement with a Union dimension in the common position agreed upon among the competent authorities. Along these lines, it should be taken into account that different legal definitions of a given action or omission are possible in the different EU Member States. Also, it is legally relevant to clarify the hypothesis of Article 29, Paragraph 2 of the Proposal, as it could lead to different interpretations whether to confer to the EC, in its capacity as coordinator under Article 21 of the Proposal, the powers under Article 8 of the Proposal.
 4. CEAOEF expresses the opinion that the Proposal for a Regulation **does not comply with the principle of proportionality**, set out in Article 5, Paragraph 4 of the Treaty on European Union. The proposed measures by the European Commission exceed what is necessary to achieve their objectives, and particularly those regarding the minimum powers under Article 8 of the Proposal and the possibility for the EC to establish benchmarks as regards resources necessary for the implementation of the Regulation, in accordance with Article 46, Paragraph 1 of the Proposal. The adoption of the Proposal would cause extra administrative and financial burden for the Republic of Bulgaria and it would trigger changes in the current Bulgarian legislation.