

Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation) (Text with EEA relevance) (repealed)

REGULATION (EC) No 2006/2004 OF THE  
EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 27 October 2004

on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation)

(Text with EEA relevance) (repealed)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee<sup>(1)</sup>,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>(2)</sup>,

Whereas:

- (1) The Council Resolution of 8 July 1996 on cooperation between administrations for the enforcement of legislation on the internal market<sup>(3)</sup> acknowledged that a continuing effort is required to improve cooperation between administrations and invited the Member States and the Commission to examine as a matter of priority the possibility of reinforcing administrative cooperation in the enforcement of legislation.
- (2) Existing national enforcement arrangements for the laws that protect consumers' interests are not adapted to the challenges of enforcement in the internal market and effective and efficient enforcement cooperation in these cases is not currently possible. These difficulties give rise to barriers to cooperation between public enforcement authorities to detect, investigate and bring about the cessation or prohibition of intra-Community infringements of the laws that protect consumers' interests. The resulting lack of effective enforcement in cross-border cases enables sellers and suppliers to evade enforcement attempts by relocating within the Community. This gives rise to a distortion of competition for law-abiding sellers and suppliers operating either domestically or cross-border. The difficulties of enforcement in cross-border cases also undermine the confidence of consumers in taking up cross-border offers and hence their confidence in the internal market.

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- (3) It is therefore appropriate to facilitate cooperation between public authorities responsible for enforcement of the laws that protect consumers' interests in dealing with intra-Community infringements, and to contribute to the smooth functioning of the internal market, the quality and consistency of enforcement of the laws that protect consumers' interests and the monitoring of the protection of consumers' economic interests.
- (4) Enforcement cooperation networks exist in Community legislation, to protect consumers above and beyond their economic interests, not least where health is concerned. Best practice should be exchanged between the networks established by this Regulation and these other networks.
- (5) The scope of the provisions on mutual assistance in this Regulation should be limited to intra-Community infringements of Community legislation that protects consumers' interests. The effectiveness with which infringements at national level are pursued should ensure that there is no discrimination between national and intra-Community transactions. This Regulation does not affect the responsibilities of the Commission with regard to infringements of Community law by the Member States, nor does it confer on the Commission powers to stop intra-Community infringements defined in this Regulation.
- (6) The protection of consumers from intra-Community infringements requires the establishment of a network of public enforcement authorities throughout the Community and these authorities require a minimum of common investigation and enforcement powers to apply this Regulation effectively and to deter sellers or suppliers from committing intra-Community infringements.
- (7) The ability of competent authorities to cooperate freely on a reciprocal basis in exchanging information, detecting and investigating intra-Community infringements and taking action to bring about their cessation or prohibition is essential to guaranteeing the smooth functioning of the internal market and the protection of consumers.
- (8) Competent authorities should also make use of other powers or measures granted to them at national level, including the power to initiate or refer matters for criminal prosecution, in order to bring about the cessation or prohibition of intra-Community infringements without delay as a result of a request for mutual assistance, where this is appropriate.
- (9) Information exchanged between competent authorities should be subject to the strictest guarantees of confidentiality and professional secrecy in order to ensure investigations are not compromised or the reputation of sellers or suppliers unfairly harmed. Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>(4)</sup> and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>(5)</sup> should apply in the context of this Regulation.

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- (10) The enforcement challenges that exist go beyond the frontiers of the European Union and the interests of Community consumers need to be protected from rogue traders based in third countries. Hence, there is a need for international agreements to be negotiated with third countries regarding mutual assistance in the enforcement of the laws that protect consumers' interests. These international agreements should be negotiated at Community level in the areas covered by this Regulation in order to ensure the optimum protection of Community consumers and the smooth functioning of enforcement cooperation with third countries.
- (11) It is appropriate to coordinate at Community level the enforcement activities of the Member States in respect of intra-Community infringements in order to improve the application of this Regulation and contribute to raising the standard and consistency of enforcement.
- (12) It is appropriate to coordinate at Community level the administrative cooperation activities of the Member States, in respect of their intra-Community dimension, in order to improve the application of the laws that protect consumers' interests. This role has already been demonstrated in the establishment of the European extra-judicial network.
- (13) Where the coordination of the activities of the Member States under this Regulation entails Community financial support, the decision to grant such support shall be taken in accordance with the procedures set out in Decision No 20/2004/EC of the European Parliament and of the Council of 8 December 2003 establishing a general framework for financing Community actions in support of consumer policy for the years 2004 to 2007<sup>(6)</sup>, in particular Actions 5 and 10 set out in the Annex to that Decision and future Decisions.
- (14) Consumer organisations play an essential role in terms of consumer information and education and in the protection of consumer interests, including in the settlement of disputes, and should be encouraged to cooperate with competent authorities to enhance the application of this Regulation.
- (15) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>(7)</sup>.
- (16) The effective monitoring of the application of this Regulation and the effectiveness of consumer protection requires regular reports from the Member States.
- (17) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union<sup>(8)</sup>. Accordingly this Regulation should be interpreted and applied with respect to those rights and principles.
- (18) Since the objective of this Regulation, namely cooperation between national authorities responsible for the enforcement of consumer protection law, cannot be sufficiently achieved by the Member States because they cannot ensure cooperation and coordination by acting alone, and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity

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as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION:

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- (1) [OJ C 108, 30.4.2004, p. 86.](#)
- (2) Opinion of the European Parliament of 20 April 2004 (not yet published in the Official Journal) and Council Decision of 7 October 2004.
- (3) [OJ C 224, 1.8.1996, p. 3.](#)
- (4) [OJ L 281, 23.11.1995, p. 31.](#) Directive as amended by Regulation (EC) No 1882/2003 ([OJ L 284, 31.10.2003, p. 1.](#))
- (5) [OJ L 8, 12.1.2001, p. 1.](#)
- (6) [OJ L 5, 9.1.2004, p. 1.](#) Decision as amended by Decision No 786/2004/EC ([OJ L 138, 30.4.2004, p. 7.](#))
- (7) [OJ L 184, 17.7.1999, p. 23.](#)
- (8) [OJ C 364, 18.12.2000, p. 1.](#)

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