

Parliament of Romania
Chamber of Deputies

Ref. 1/1696/RA

20 October 2011

OPINION

regarding the proposal for a Regulation of the European Parliament and of the Council
concerning customs enforcement of intellectual property rights
COM(2011) 285

Having regard to the Treaty of Lisbon, in particular Articles 5 and 12 of the Treaty on European Union and Protocols 1 and 2 attached thereto,

Having regard to the Romanian Constitution, republished, in particular Article 148 thereof,^o

Considering the point of view of the Romanian Government, presented in the letter sent to the Department of European Affairs,

Considering the opinion of the Committee for Legal Affairs, Disciplinary Issues and Immunities, expressed at its meeting of 24 August 2011,

Considering the opinion of the Committee for Education, Science, Youth and Sport, expressed at its meeting of 13 September 2011,

Considering the final draft opinion presented by the Committee for European Affairs at its meeting of 21 September 2011,

Having regard to the approval given by the Permanent Office of the Chamber of Deputies on 26 September 2011,

The Chamber of Deputies, acting in accordance with Article 40 of Decision No 11/2011 of the Chamber of Deputies of 27 April 2011, hereby adopts this opinion:

1. The Chamber of Deputies considers that Romania should be in favour of regulating the matter concerned, because this initiative of the European Parliament and of the Council is aimed at strengthening the capacity to fight against counterfeiting and piracy at European level.

2. The Chamber of Deputies would point out that the adoption of the proposed regulation would not require any significant amendments to the Romanian legislation, because it would not change any national legal rules. Any potential legal amendments would refer to measures specific to the Romanian state, because the regulation introduces measures for the customs enforcement of legislation that are already present in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

3. The Chamber of Deputies would stress that:

- the derogation regarding parallel trade should not be eliminated, even if it constitutes an infringement of intellectual property rights, as this area could be excluded under the new regulation as well, because on the one hand it is difficult for customs authorities to

identify such consignments and on the other hand those consignments are based on private agreements between two undertakings;

- more attention should be paid to the discussions that will be held on the following topics: extension of the validity period, provisions on notification, inspection, sampling and information, cost forecasts, the simplified procedure, allowing information to be used by the applicant, and ex officio measures;

- following the discussions held by the members of the Committee for Legal Affairs, Disciplinary Issues and Immunities, the Committee for Education, Science, Youth and Sport and the Committee for European Affairs to examine the proposal for a Regulation of the European Parliament and of the Council concerning customs enforcement of intellectual property rights, they concluded that the proposal respects the principle of subsidiarity, as regards the competences of the EU. They also concluded that, from the point of view of the principle of proportionality, the proposal does not affect any aspects of national substantive law and respects the national legal framework specific to each Member State, as adopted in accordance with the legal, political and economic traditions of each Member State. Therefore, the provisions of the proposal do not go beyond and do not exceed the criteria and conditions imposed by the application of the national legal framework.

The proposed regulation does not affect any aspects of national substantive law and respects the national legal framework.

This opinion is addressed to the Presidents of the European Parliament, the Council and the European Commission.

President,
Roberta Alma Anastase