

Directive 2014/34/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to equipment and protective systems intended for use in potentially explosive atmospheres (recast) (Text with EEA relevance)


CHAPTER 5

UNION MARKET SURVEILLANCE, CONTROL OF PRODUCTS ENTERING THE UNION MARKET AND UNION SAFEGUARD PROCEDURE

Article 38

Formal non-compliance

1 Without prejudice to Article 35, where a Member State makes one of the following findings, it shall require the relevant economic operator to put an end to the non-compliance concerned:

- a the CE marking has been affixed in violation of Article 30 of Regulation (EC) No 765/2008 or of Article 16 of this Directive;
- b the CE marking, where required, has not been affixed;
- c the specific marking of explosion protection , the symbols of the equipment-group and category and, where applicable, the other markings and information have been affixed in violation of point 1.0.5 of Annex II or have not been affixed;
- d the identification number of the notified body, where that body is involved in the production control phase, has been affixed in violation of Article 16 or has not been affixed;
- e the EU declaration of conformity or the attestation of conformity, as appropriate, does not accompany the product;
- f the EU declaration of conformity or, where required, the attestation of conformity has not been drawn up correctly;
- g technical documentation is either not available or not complete;
- h the information referred to in Article 6(7) or 8(3) is absent, false or incomplete;
- i any other administrative requirement provided for in Article 6 or 8 is not fulfilled.

2 Where the non-compliance referred to in paragraph 1 persists, the Member State concerned shall take all appropriate measures to restrict or prohibit the product being made available on the market or ensure that it is recalled or withdrawn from the market.