

Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (codification) (Text with EEA relevance)

DIRECTIVE (EU) 2015/1535 OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL

of 9 September 2015

laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (codification)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 114, 337 and 43 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinions of the European Economic and Social Committee⁽¹⁾,

Acting in accordance with the ordinary legislative procedure⁽²⁾,

Whereas:

- (1) Directive 98/34/EC of the European Parliament and of the Council⁽³⁾ has been substantially amended several times⁽⁴⁾. In the interests of clarity and rationality, that Directive should be codified.
- (2) The internal market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured. Therefore, the prohibition of quantitative restrictions on the movement of goods and of measures having an equivalent effect is one of the basic principles of the Union.
- (3) In order to promote the smooth functioning of the internal market, as much transparency as possible should be ensured as regards national initiatives for the establishment of technical regulations.
- (4) Barriers to trade resulting from technical regulations relating to products may be allowed only where they are necessary in order to meet essential requirements and have an objective in the public interest of which they constitute the main guarantee.
- (5) It is essential for the Commission to have the necessary information at its disposal before the adoption of technical provisions. Consequently, the Member States, which are required to facilitate the achievement of its task pursuant to Article 4(3) of the

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Treaty on European Union (TEU), must notify it of their projects in the field of technical regulations.

- (6) All the Member States must also be informed of the technical regulations envisaged by any one Member State.
- (7) The aim of the internal market is to create an environment that is conducive to the competitiveness of undertakings. Increased provision of information is one way of helping undertakings to make more of the advantages inherent in this market. It is therefore necessary to enable economic operators to give their assessment of the impact of the national technical regulations proposed by other Member States, by providing for the regular publication of the titles of notified drafts and by means of the provisions relating to the confidentiality of such drafts.
- (8) It is appropriate, in the interests of legal certainty, that Member States publicly announce that a national technical regulation has been adopted in accordance with the formalities laid down in this Directive.
- (9) As far as technical regulations for products are concerned, the measures designed to ensure the proper functioning or the continued development of the market include greater transparency of national intentions and a broadening of the criteria and conditions for assessing the potential effect of the proposed regulations on the market.
- (10) It is therefore necessary to assess all the requirements laid down in respect of a product and to take account of developments in national practices for the regulation of products.
- (11) Requirements, other than technical specifications, referring to the life cycle of a product after it has been placed on the market are liable to affect the free movement of that product or to create obstacles to the proper functioning of the internal market.
- (12) It is necessary to clarify the concept of a de facto technical regulation. In particular, the provisions by which the public authority refers to technical specifications or other requirements, or encourages the observance thereof, and the provisions referring to products with which the public authority is associated, in the public interest, have the effect of conferring on such requirements or specifications a more binding value than they would otherwise have by virtue of their private origin.
- (13) The Commission and the Member States must also be allowed sufficient time in which to propose amendments to an envisaged measure, in order to remove or reduce any barriers which it might create to the free movement of goods.
- (14) The Member State concerned must take account of those amendments when formulating the definitive text of the measure envisaged.
- (15) It is inherent in the internal market that, in particular where the principle of mutual recognition cannot be implemented by the Member States, the Commission adopts or proposes the adoption of binding acts. A specific temporary standstill period has been established in order to prevent the introduction of national measures from compromising the adoption of binding acts by the European Parliament and the Council or by the Commission in the same field.

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- (16) The Member State concerned is to, pursuant to the general obligations laid down in Article 4(3) TEU, defer implementation of the envisaged measure for a period sufficient to allow either a joint examination of the proposed amendments or the preparation of a proposal for a legislative act or the adoption of a binding act of the Commission.
- (17) With a view to facilitating the adoption of measures by the European Parliament and the Council, Member States should refrain from adopting technical regulations once the Council has adopted a position at first reading on a Commission proposal concerning that sector.
- (18) It is necessary to provide for a Standing Committee, the members of which are appointed by the Member States, with the task of cooperating in the efforts of the Commission to lessen any adverse effects on the free movement of goods.
- (19) This Directive should be without prejudice to the obligations of the Member States relating to the time limits for the transposition into national law of the Directives set out in Part B of Annex III,

HAVE ADOPTED THIS DIRECTIVE:

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- (1) Opinion of 14 July 2010 (OJ C 44, 11.2.2011, p. 142) and opinion of 26 February 2014 (OJ C 214, 8.7.2014, p. 55).
- (2) Position of the European Parliament of 15 April 2014 (not yet published in the Official Journal) and decision of the Council of 13 July 2015.
- (3) Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services (OJ L 204, 21.7.1998, p. 37). The original title was 'Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations'. It was amended by Directive 98/48/EC of the European Parliament and of the Council of 20 July 1998 amending Directive 98/34/EC laying down a procedure for the provision of information in the field of technical standards and regulations (OJ L 217, 5.8.1998, p. 18).
- (4) See Annex III, Part A.