

Measuring instruments: making available on the market. Recast. 'Goods package'

2011/0353(COD) - 09/01/2013 - Committee report tabled for plenary, 1st reading/single reading

The Committee on the Internal Market and Consumer Protection adopted the report by Zuzana ROITHOVÁ (EPP, CZ) on the proposal for a directive of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to making available on the market of measuring instruments (recast).

The committee recommends that the European Parliament's position adopted at first reading, following the ordinary legislative procedure, should amend the Commission proposal as follows:

Definitions: the definition of 'making available on the market' shall mean the supply of a measuring instrument for distribution or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge.

Consumer protection: Members consider that all obligations imposed on economic operators by this Directive should also apply in the case of **distance selling**.

Manufacturers shall indicate, on the measuring instrument, their **name, registered trade name or registered trade mark and the postal or, if available, the website address** at which they can be contacted or, where that is not reasonably possible, those details shall be provided on the packaging or in a document accompanying the measuring instrument. The contact details shall be in the **language easily understood by end-users and market surveillance authorities**. Such instructions and safety information as well as any labelling shall be **clear, understandable and intelligible**.

Products in stock: Members consider it necessary to provide for transitional arrangements that allow economic operators a **reasonable period of time** to make available on the market and put into service measuring instruments that have already been placed on the market in accordance with Directive 2004/22/EC. Economic operators should be able to sell stocks of measuring instruments that are already in the distribution chain on the date of application of national measures transposing this Directive. Member States shall ensure that the obligations of economic operators concerning the products in stock are applied.

EU Declaration of conformity (DoC): upon the request of the market surveillance authorities, the economic operator shall provide a copy of the EU declaration of conformity in **paper form or by electronic means**.

It is also proposed to add an exception to the rule on '**one single DoC**' for cases where the providing a single document creates specific problems due to its complexity or extent. It should be possible to replace that single EU declaration by individual EU declarations of conformity relevant for the particular measuring instrument.

Notifying bodies: Member States shall designate a **single notifying authority** that shall be responsible for setting up and carrying out the necessary procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies.

The report stipulates that the **notification** shall include information on the kinds of measuring instruments for which each body has been designated and, where relevant, the instrument accuracy classes, the measuring range, the measurement technology, and any other instrument characteristic limiting the scope of the notification.

Market surveillance: Members suggest that **Member States shall, on an annual basis, provide the Commission with details** of the activities of their market surveillance authorities and of any plans for and increase of market surveillance, including the allocation of more resources, the increase of efficiency and the building of the necessary capacity for achieving those goals. Member States shall provide **adequate funding** to their market surveillance authorities.

Member States shall ensure that appropriate restrictive measures are taken in respect of the measuring instrument concerned, such as **withdrawal of the measuring instrument from the market**, without delay.

Penalties: Members propose that the Member States shall build upon existing mechanisms to ensure **correct application of the regime governing the CE marking** and shall take appropriate action in the event of **improper use of the marking**. Rules on penalties applicable to infringements by economic operators of the national provisions may include criminal **penalties for serious infringements**. The penalties shall be **proportionate to the seriousness of the offence**.

Non-retroactive nature of EU legislation: Members propose that measuring instruments which were lawfully placed on the market before may be made available on the market by distributors without further product requirements.

Transposition: the transposition date shall be set at **three years** (instead of two). Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive. The Commission shall make those texts publicly available by publishing them on the internet.