

Equipment and protective systems intended for use in potentially explosive atmospheres. Recast. 'Goods package'

2011/0356(COD) - 05/02/2014 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 646 votes to 13, with 12 abstentions, a legislative resolution 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 equipment and protective systems intended for use in potentially explosive atmospheres (recast).

Parliament adopted its position at first reading following the ordinary legislative procedure. The amendments adopted in plenary are the result of an agreement reached between the European Parliament and the Council. They amended the proposal as follows:

Further align the Directive to the “new legislative framework” and ensure legal certainty: the amendments made by the Parliament seek to ensure that the proposed Directive is more consistent with the terms used by Decision No 768/2008/EC and to eliminate any inconsistencies in the text which could otherwise create legal uncertainty.

Purpose and scope: the objective of this Directive is to ensure that products on the market fulfil the requirements providing for a high level of protection of health and safety of persons, especially workers, and, where appropriate, protection of **domestic animals and property**.

This Directive covers products which are **new to the Union market** when they are placed on the market; that is to say they are either new products made by a manufacturer established in the Union or products, whether new or second-hand, imported from a third country. It should apply to **components** intended to be incorporated into equipment and protective systems intended for use in potentially explosive atmospheres.

This Directive should apply to all forms of supply, including **distance selling**.

Obligations of economic operators: manufacturers should ensure that each product is accompanied by a copy of the EU declaration of conformity or of the attestation of conformity, as appropriate. However, where a large number of products is delivered to a single user, the batch or consignment concerned may be accompanied by a single copy. They should also ensure that products, other than components, which they have placed on the market bear the **specific marking of explosion protection**.

In order to protect the health and safety of end-users, manufacturers and importers should:

- carry out sample testing of products made available on the market,
- investigate non-conforming products and product recalls,
- if necessary, keep a register of complaints, of non-conforming products and product recalls, and keep distributors informed of any such monitoring;
- **indicate, on the product, their name, registered trade name or registered trade mark and the postal address** at which they can be contacted or, where that is not possible, on its packaging or in a document accompanying the product.

Distributors who consider or have reason to believe that a product which they have made available on the market is not in conformity with this Directive should make sure that the **corrective measures necessary** to bring that product into conformity, to withdraw it or recall it, if appropriate, are taken.

In order to increase consumer protection, manufacturers should ensure that the product is accompanied by instructions and safety information in a **language which can be easily understood** by end-users, as determined by the Member State concerned. Such instructions and safety information, as well as any labelling, shall be **clear, understandable and intelligible**.

In order to facilitate communication between economic operators, market surveillance authorities and end-users, Member States should encourage economic operators to include a **website address** in addition to the postal address.

Before making a product available on the market, **distributors** shall verify that it bears the CE marking, that it is accompanied by the EU declaration of conformity, by the required documents and by the instructions and safety information.

CE marking: Parliament enhanced the rules as regards the CE marking. **Specific, clear marking of equipment** and protective systems, stating their use in a potentially explosive atmosphere, has also been introduced. Parliament called on the Member States to 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 that marking.

Notified bodies: a conformity assessment body shall have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and shall have access to all necessary equipment or facilities. The **impartiality** of the conformity assessment bodies, their top level management and of the personnel responsible for carrying out the conformity assessment tasks shall be guaranteed.

Market surveillance: Member States should take all appropriate measures to ensure that products covered by this Directive may be placed on the market only if, when properly stored and used for their intended purpose, or under conditions of use which can be reasonably foreseen, they do not endanger the health and safety of persons.

Restrictive measures in case of non-compliance: Member States should ensure that appropriate restrictive measures, such as withdrawal of the product concerned, are taken in respect of the measuring instrument concerned without delay.

Rules on **penalties** applicable to infringements by economic operators may include criminal penalties for serious infringements. These penalties should be effective, proportionate and dissuasive.

Stock: distributors should therefore be able to supply products that have been placed on the market, namely stock that is already in the distribution chain, before the date of application of national measures transposing this Directive.

Implementing measures: in order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission.

On duly justified imperative grounds of urgency relating to the protection of health and safety of persons, the Commission should adopt immediately applicable implementing acts.

When matters relating to this Directive, other than its implementation or infringements, are being examined, i.e. in a Commission expert group, the **European Parliament should receive full information** and documentation and, where appropriate, an invitation to attend such meetings.