

Explosives for civil uses: making available on the market and supervision. Recast. 'Goods package'

2011/0349(COD) - 05/02/2014 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 615 votes to 15, with 7 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 the making available on the market and supervision of explosives for civil uses (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.

In order to ensure legal certainty, it is necessary to clarify that rules on Union market surveillance and control of products entering the Union market provided for in Regulation (EC) No 765/2008 apply to explosives. This Directive should not prevent Member States from choosing the competent authorities to carry out those tasks.

Scope: this Directive shall apply to explosives for civil uses. The Directive shall not apply to: (a) explosives, including ammunition, intended for use, in accordance with national law, by the armed forces or the police; (b) pyrotechnic articles falling within the scope of Directive 2013/29/EU; (c) ammunition, except in cases provided for in the Directive.

The definition of 'ammunition' has been introduced to mean projectiles with or without propelling charges and blank ammunition used in portable firearms, other guns and artillery.

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

Parliament introduced an **Annex I** containing a non-exhaustive list of pyrotechnic articles and ammunition respectively identified following the United Nations recommendations on the transport of dangerous goods.

Identification and traceability of explosives: economic operators should adhere to a uniform system for the unique identification and traceability of explosives, that takes into account their size, shape or design, except where it is not necessary to place a unique identification on the explosive due to its low level of hazard.

The system should provide for the collection and storage of data, including where appropriate by electronic means, enabling the unique identification and traceability of the explosive as well as for the placement of a unique identification on the explosive and/or its packaging enabling access to that data.

The data should be tested at regular intervals and protected against accidental or malicious damage or destruction and should be stored for 10 years after the transaction took place or, where the explosives have been used or disposed of, 10 years after their use or disposal, even if the economic operator has ceased trading.

Obligations of importers: manufacturers should ensure that explosives which they have placed on the market bear a unique identification in accordance with the system for the identification and traceability of explosives.

For explosives excluded from that system, manufacturers should indicate on the explosive 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 explosive.

Manufacturers should ensure that explosives which they have placed on the market are 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, should 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.

Identification of economic operators: for explosives not covered by the identification and traceability of explosives system, economic operators should, on request, identify the following to the market surveillance authorities: (a) any economic operator who has supplied them with an explosive; (b) any economic operator to whom they have supplied an explosive.

Economic operators shall be able to **present this information for 10 years** after they have been supplied with the explosive and for 10 years after they have supplied the explosive.

Licence or authorisation: economic operators shall be in possession of a licence or authorisation which entitles them to engage in the manufacture, storage, use, import, export, transfer or trade of explosives.

EU declaration of conformity: in order to reduce the administrative burden on economic operators, that single EU declaration of conformity may be a dossier made up of relevant individual declarations of conformity.

CE marking: 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 shall take all appropriate measures to ensure that explosives may be placed on the market only if, when properly stored and used for their intended purpose, they do not endanger the health or safety of persons.

Where the market surveillance authorities of one Member State have sufficient reason to believe that an explosive presents a risk to the health or safety of persons, or to property or the environment, they should carry out an evaluation in relation to the explosive concerned.

Restrictive measures in case of non-compliance: appropriate restrictive measures, such as withdrawal of the explosive from the market should be taken in respect of the explosive concerned without delay. Rules on **penalties** applicable to infringements by economic operators could include criminal penalties for serious infringements.

Implementing measures: in order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission. The Commission should adopt **immediately applicable** implementing acts where, in duly justified cases relating to compliant explosives which present a risk to the health or safety of persons, or to property or the environment, imperative grounds of urgency so require.

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.