

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

2011/0353(COD) - 05/02/2014 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 648 votes to 14, with 11 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 making available on the market of measuring instruments (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: it is stated that Directive covers measuring instruments which are new to the Union market when they are placed on the market; that is to say they are either new measuring instruments made by a manufacturer established in the Union or measuring instruments, whether new or second-hand, imported from a third country.

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

Essential requirements: Member States may require, if it is needed for correct use of the instrument, information to be provided in a language which can be easily understood by end-users.

Obligations of economic operators: manufacturers shall ensure that measuring instruments which they have placed on the market bear a type, batch or serial number or other element allowing their identification, or, where the size or nature of the measuring instrument does not allow it, that the required information is provided in a document accompanying the measuring instrument and on the **packaging**, if any.

Manufacturers and importers should indicate on the measuring instrument their **name, registered trade name or registered trade mark and the postal address** at which they can be contacted.

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.

The contact details shall be in a **language easily understood** by end-users and market surveillance authorities.

Instructions and information, as well as any labelling, shall be **clear, understandable and intelligible**.

Before placing a measuring instrument on the market and/or putting a measuring instrument into use, distributors should ensure that it is accompanied by the EU declaration of conformity.

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.

The amended text also stated that an **accredited in-house body** could be used to carry out conformity assessment activities for the undertaking of which it forms a part. That body shall constitute a separate and distinct part of the undertaking and shall not participate in the design, production, supply, installation, use or maintenance of the measuring instruments it assesses.

Market surveillance: Member States should take all appropriate measures to ensure that measuring instruments may be placed on the market only if, when properly stored and used for their intended purpose, 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 instrument from the market, 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 be able to supply measuring instruments 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.

The amended text stated that the examination procedure should be used for the adoption of implementing acts with respect to compliant measuring instruments which present a risk to the health or safety of persons or to other aspects of public interest protection.

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.