

Procedure for the provision of information in the field of technical regulations and of rules on information society services. Codification

2010/0095(COD) - 19/12/2017 - Follow-up document

This report analyses the application of the notification procedure laid down by Directive (EU) 2015/1535 (Single Market Transparency Directive).

The notification procedure for national technical regulations allows the Commission and the Member States of the EU to examine before adoption the technical regulations Member States intend to introduce for products (industrial, agricultural and fishery) and for Information Society services.

The purpose of the notification procedure is to prevent the creation of new barriers to the internal market before they have been put in place and have produced any negative effects.

The main conclusion of the report is that during the period 2014-2015, the **usefulness of the procedure has again been confirmed** in terms of transparency, administrative cooperation and prevention of technical barriers in the internal market.

It is an effective instrument that would improve the dialogue with the Commission and facilitate a more targeted and effective approach to barriers to intra-EU trade.

Developments during 2014-2015: during this period, the Commission received **1382 notifications** (655 in 2014, 727 in 2015). This represents a small decrease with respect to the previous two years (1484 notifications). Marked differences in the number of notifications among Member States have been noticed, with some Member States carrying out on average more than 50 notifications per year and others notifying less than 10 notifications per year.

As in the previous reporting period, the **construction sector** saw the highest number of notifications over the reporting period, followed by notifications in the area of **agricultural products, fishery and aquaculture products and other foodstuffs**.

Numerous notifications were also made in the **telecommunications sector** and **gambling products** and services. Lastly, a number of notifications related to the **environment sector** (mainly packaging and packaging waste, recyclable products, processing of biodegradable waste).

Most common tackled barriers: the Commission identified in the period under analysis several recurrent barriers in the notified draft legislation:

- the Commission reacted frequently to notifications of draft technical regulations in which the **mutual recognition** clause was not included;
- the Commission examined many notifications concerning the **hygiene of foodstuffs**. Several potential breaches have also been identified in respect of the implementation by the notifying Member States of the exceptions and the flexibility clauses contained in the Regulations in force;
- in the **Information Society** services sector, numerous notifications were in the area of gambling, while others concerned, inter alia, copyright in the digital environment, on demand audiovisual media services, electronic commerce, electronic signature and other trust services;

- another recurring issue is a practice whereby national legislation seeks to **make voluntary European harmonised standards compulsory** by inserting them into national law.

In the period considered the **Commission issued 141 detailed opinions** (60 from 2014, 81 from 2015), which represents 10.2% of the total number of drafts notified by the Member States over the reporting period. This figure shows a 10% decrease in the number of detailed opinions issued by the Commission compared to the previous two years.

For their part, the **Member States issued 131 detailed opinions** (64 from 2014 and 67 from 2015), which represents a decrease compared to the previous two years (157 detailed opinions).

Main conclusions and potential improvements: the high number of detailed opinions and comments issued during the reporting period demonstrates that there is an increasing risk of fragmentation of the internal market for goods. This growing interest mirrors the effort to improve the transparency and the efficiency of the TRIS (Technical Regulation Information System) public website. During the period 2014-2015, the usefulness of the procedure has again been confirmed in terms of transparency, administrative cooperation and prevention of technical barriers in the internal market:

- the **preventive and networking approach** of the notification procedure, has reduced the risk of national regulatory activities being carried out in a way that would create technical barriers to the free movement of goods within an internal market which is rapidly evolving, but is not yet delivering on its full potential;
- the notification procedure has been an important tool for **guiding national regulatory activity** including in certain emerging sectors and improving the quality of national technical regulations - in terms of transparency, legibility and effectiveness - in non-harmonised or partly harmonised areas. The notification procedure has also confirmed its usefulness in providing the possibility to identify areas where harmonisation at EU level might be an option;
- on average **79% of the detailed opinions** issued by the Commission were replied to by the Member States concerned and dialogues followed to remove any incompatibility with EU law, thus avoiding infringement procedures ;
- notified drafts continue to be **available electronically, free of charge and in all the official languages of the EU**, thus providing the opportunity for economic operators and other stakeholders to comment on them.

The report noted that there is **still room for improvement in the application of the procedure**, namely concerning the number of notifications from some Member States and their compliance with the notification obligations. A higher number of notifications and a more active participation of Member States in the procedure would favour the prevention of new technical barriers.

Efforts will continue in order to ensure a clear legal framework for economic operators aiming to enhance the competitiveness of European enterprises in the EU and abroad, taking into account the links between the notification procedure and that established by the Agreement on Technical Barriers to Trade (TBT) in the context of the World Trade Organisation (WTO).