

Mutual recognition of goods lawfully marketed in another Member State

2017/0354(COD) - 06/09/2018 - Committee report tabled for plenary, 1st reading/single reading

The Committee on the Internal Market and Consumer Protection adopted the report by Ivan ŠTEFANEK (EPP, SK) on the proposal for a regulation of the European Parliament and of the Council on the mutual recognition of goods lawfully marketed in another Member State.

The committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission's proposal as follows.

Objective: according to the principle of mutual recognition, goods lawfully marketed in one Member State should not be prohibited in another Member State, unless the latter has justified reasons for banning or restricting the sale.

Members considered that the objective of the proposed new regulation should be to strengthen the functioning of the internal market by **improving the application of the principle of mutual recognition** and removing unjustified barriers to trade.

Declaration of mutual recognition: the producer of goods which are intended to be made available on the market of a Member State may establish a voluntary legal marketing declaration for the purpose of mutual recognition in order to demonstrate to the competent authorities of the Member State of destination when assessing the goods that the goods in question are lawfully marketed in another Member State.

Economic operators shall be liable in accordance with national laws for providing declarations containing false or misleading information.

Declarations that are made available **online** shall be accompanied by supporting evidence that may reasonably be requested, upon a reasoned request from the competent authority.

Assessment of goods: the purpose of the assessment is to establish whether the goods or that type of goods are lawfully marketed in another Member State and, if so, whether the **legitimate public interests** covered by the applicable national technical rule of the Member State of destination are adequately protected having regard to the characteristics of the goods in question.

Administrative decisions need to be always duly **justified, legitimate, appropriate and in respect with the principle of proportionality** and the competent authority has to make the least restrictive decision possible.

In order to assist Member States in their task of justifying restrictions to the principle of mutual recognition, the Commission should provide **non-binding guidance** reviewing the case law on the concept of overriding reasons of public interest and on how to apply the principle of mutual recognition. Competent authorities should have the ability and opportunity to provide contributions and deliver feedback on the guidance.

The report called on Member States to provide for clear and unambiguous **'single market clauses'** in their national technical rules which ensure that goods lawfully marketed in one Member State are presumed to be compatible with the national technical rules of another Member State.

Problem-solving procedure (SOLVIT): each Member State and the Commission must ensure that a national SOLVIT centre is established and that adequate **human and financial resources** are available to guarantee that the SOLVIT centre takes part in the European SOLVIT network. The Commission shall raise awareness of the existence and benefits of SOLVIT, in particular among companies.

Where the SOLVIT's informal approach fails, and doubts remain regarding the compatibility of the administrative decision with the mutual recognition principle the **Commission shall be empowered** to look into the matter and provide an assessment to be taken into account by the competent national authorities at the request of any of the SOLVIT centres.

For the purposes of collecting additional information or documents necessary for completing its assessment, the Commission shall inform the relevant SOLVIT centres about its communications with the economic operator or competent authority concerned.

When completing an assessment, the **Commission shall issue an opinion** to be communicated through the relevant SOLVIT centre to the economic operator concerned and to the competent authorities and to be considered during the SOLVIT procedure. The Commission's intervention shall be subject to a **two-months' time-limit**. If the case is solved during this two months period, the Commission should be able to decide not to issue an opinion.

Administrative cooperation: Members proposed to strengthen cross-border cooperation by setting up a **coordination group** composed of representatives of the competent authorities and product contact points of the Member States.

The tasks of the coordination group shall be to: (i) facilitate the exchange of information and best practice of control activities in the Member States; (ii) support the functioning of the product contact points; (iii) provide the Commission with feedback on the guidelines on the concept of overriding public interest; (iv) promote and coordinate the exchange of officials between Member States, in particular with regard to particularly problematic sectors.

Where possible, the Commission shall develop an **indicative and non-exhaustive list up to date online** to help identify which types of goods are subject to this Regulation.