

Compliance with and enforcement of Union harmonisation legislation on products

2017/0353(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 Nicola DANTI (S&D, IT) on the proposal for a regulation of the European Parliament and of the Council laying down rules and procedures for compliance with and enforcement of Union harmonisation legislation on products and amending Regulations (EU) No 305/2011, (EU) No 528/2012, (EU) 2016/424, (EU) 2016/425, (EU) 2016/426 and (EU) 2017/1369 of the European Parliament and of the Council, and Directives 2004/42/EC, 2009/48/EC, 2010/35/EU, 2013/29/EU, 2013/53/EU, 2014/28/EU, 2014/29/EU, 2014/30/EU, 2014/31/EU, 2014/32/EU, 2014/33/EU, 2014/34/EU, 2014/35/EU, 2014/53/EU, 2014/68/EU and 2014/90/EU of the European Parliament and of the Council.

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.

Strengthen market surveillance: the proposed Regulation shall **aim** to improve the functioning of the internal market by strengthening product surveillance of products with a view to ensure that only compliant products that fulfil requirements providing a high level of protection of public interests such as health and safety in general, health and safety in the workplace, the protection of consumers, protection of the environment and public security, are made available on the Union market.

Under the amended text, market surveillance authorities shall take appropriate measures, including ensuring that the making available of the product on the market is **prohibited or restricted or that a product is withdrawn or recalled from the market** if the product is liable to compromise the health or safety of end-users; if the product does not conform to applicable requirements under Union harmonisation legislation or if it is counterfeit.

Reference person: all companies wishing to sell products on the single market, including those from third countries, shall first designate a reference person in the EU for these products. This person shall be responsible for **contacting the manufacturer in the event of non-compliance** and taking action to remedy any case of non-compliance.

Compliance partnership agreements: the proposal introduces the possibility for a market surveillance authority to enter into partnership agreement with an economic operator established in its territory. Members are against harmonised provisions on compliance partnership agreements.

Enhanced cooperation between Member States' supervisory authorities: market surveillance authorities shall develop **appropriate and effective communication and cooperation mechanisms** with customs authorities for the identification and examination of potential risks related to counterfeit products and withdrawal of such products from the market.

To ensure that the same rules are applied in the same manner by the different market surveillance authorities in the Member States, Members propose **harmonising the methodology and criteria for assessing risks** and the checks in order to ensure a level playing field for all economic operators. They also suggested creating an effective **peer review system** to help market surveillance authorities ensure the uniform implementation of the Regulation.

EU Product Compliance Network: Members specified that the purpose of the Network is to serve as a platform for structured cooperation between authorities of the Member States and the Commission and to streamline the practices of market surveillance within the Union making market surveillance activities more effective.

It is proposed to **strengthen the role of the Network**, in particular by providing it with the possibility of (i) adopting its bi-annual work programme setting out priorities for common market surveillance actions, (ii) regularly discussing a general risk assessment methodology, (iii) discussing the uniform conditions of checks, criteria for determination of the frequency of checks or amount of samples to be checked in relation to certain products, and (iv) facilitating the exchange of information on non-compliant products.

E-commerce and Internet of Things: the development of e-commerce poses certain challenges for market surveillance authorities with regard to ensuring the compliance of products sold online and effectively enforcing the Union harmonisation legislation.

Members proposed that each Member State should provide for the **efficient organisation of market surveillance activities** for products sold online and ensure that there is an appropriate number of **inspectors**, dealing with products sold online (“online inspectors”), within their national market surveillance authorities.

Economic operators offering a product for sale online shall indicate with their offer for sale the name, registered trade name or registered trade mark and the contacts details of a reference person with respect to the product.

Information and communication system: the system shall allow data to be shared between Member States and allow the Commission to monitor market surveillance activities. This system shall have a public interface with key information in all Union languages and inform end-users about market surveillance activities and their results.

Consumers who have purchased non-compliant products shall be informed, through an online portal, of rights relating to non-compliant products which they have acquired, such as the right to obtain a replacement for a product or to receive compensation, the right of recourse and contacts from which all appropriate information can be obtained.