

Amending certain Regulations as regards the establishment of the Single Market emergency instrument

2022/0279(COD) - 19/09/2022 - Legislative proposal

PURPOSE: to make targeted amendments to certain Regulations regarding emergency procedures for the conformity assessment, adoption of common specifications and market surveillance due to a Single Market emergency.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: recent crises, such as the COVID-19 pandemic or Russia's invasion of Ukraine, have demonstrated some vulnerability of the Single Market and its supply chains in case of unforeseen disruptions and, at the same time, how much the European economy and all its stakeholders rely on a well-functioning Single Market. In the future, in addition to geopolitical instability, climate change and resulting natural disasters, biodiversity loss, and global economic instability may lead to other, new emergency situations. For this reason, **the functioning of the Single Market needs to be guaranteed in times of emergency.**

The impact of a crisis on the Single Market can be two-fold. On the one hand, a crisis can lead to the appearance of obstacles to free movement within the Single Market, thus disrupting its functioning. On the other hand, a crisis can amplify the shortages of crisis-relevant goods and services if the Single Market is fragmented and is not functioning.

The proposal therefore aims to address two separate but interrelated problems: obstacles to free movement of goods, services and persons in times of crisis and shortages of crisis-relevant goods and services.

It is part of a package of proposal establishing the [single market instrument for emergencies](#) (SMEI) and responds to the request, expressed by the European Council in its conclusions of 1-2 October 2020, to draw lessons from the COVID-19 crisis and to address the fragmentation, barriers and weaknesses of the Single Market in facing emergency situations.

CONTENT: the proposal aims to **amend the harmonised rules established by a number of EU sectoral frameworks**. These frameworks do not provide for the possibility for Member States to adopt crisis response measures by derogation from the harmonised rules.

The proposal is based on Article 114 TFEU, which is the original legal basis for the adoption of the following **five sectoral frameworks**, which this proposal aims to amend:

- Regulation (EU) 2016/424 on cableway installations;
- Regulation (EU) 2016/425 on personal protective equipment;
- Regulation (EU) 2016/426 on gas appliances;

- Regulation (EU) 2019/1009 on fertilising products;
- Regulation (EU) 305/2011 on construction products.

The EU sectoral frameworks, which are considered in the context of this proposal are the ones, which are among the so-called ‘harmonised products’. These sectoral frameworks lay down harmonised rules regarding the design, manufacture, conformity assessment and placing on the market of such products. Essentially, these sectoral frameworks introduce for each respective sector/product category the **essential safety requirements** which the products should meet and the procedures how to assess the compliance with these requirements. These rules lay down full harmonisation and therefore the Member States cannot derogate from these rules, even in a case of emergency, unless the respective framework provides for such a possibility.

Another common feature of these frameworks is that they are more or less closely aligned to the general principles laid down in Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a **common framework for the marketing of products**, which lays down reference provisions for the drawing up of Community legislation harmonising the conditions for the marketing of products.

The **changes** that this proposal aims to introduce cover the following aspects:

- (1) prioritisation by the notified bodies of the conformity assessment of products designated as crisis-relevant;
- (2) possibility for the national competent authorities to issue temporary authorisations for crisis relevant products, which have not undergone the standard conformity assessment procedures, provided that the products comply with all the applicable essential requirements and provided that the authorisation is limited to the duration of the Single Market emergency and to the territory of the issuing Member State;
- (3) possibility for the manufacturers to rely on relevant international and national standards during an emergency if no harmonised standards are available and if the alternative standards ensure an equivalent level of safety;
- (4) possibility for the Commission to adopt via delegated acts voluntary or mandatory common technical specifications for crisis-relevant products;
- (5) prioritisation of the market surveillance activities for crisis-relevant goods.

The general objective of the initiative is to lay down the mechanisms and procedures, which would allow to prepare for and to address potential crises and disruptions to the proper functioning of the Single Market. Such measures are also aimed to minimise the intra-EU obstacles to the free movement in times of crisis.