

Application of certain national technical rules to products lawfully marketed in another Member State

2007/0028(COD) - 14/02/2007 - Legislative proposal

PURPOSE: i) to lay down the procedures for national authorities in cases where they wish to deny the principle of “mutual recognition” to a product and ii) to establish “Product Contact Points” in the Member States.

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

BACKGROUND: the internal market not only furthers European integration it also enhances the overall competitiveness of the European Union. Primary EU legislation forbids Member States from refusing products which have been lawfully marketed in another Member State and which are not subject to Community harmonisation – unless they are forbidden on the ground of public health and safety. The 1979 Cassis de Dijon judgement sets out, clarifies and gives added authority to the principle of mutual recognition.

However, in recent years, the principle of mutual recognition is being undermined for the following reasons:

- both enterprises and national authorities lack awareness of the mutual recognition principle;
- the scope of the principle remains unclear. For example, it is often unclear to which categories of product mutual recognition applies;
- enterprises still risk the possibility that their products will not gain access to the Member State market which they are targeting;
- lack of regular dialogue between Member State national authorities.

Although current policy has succeeded in eliminating an overwhelming amount of technical barriers without the need for harmonisation at an EU level, stakeholders are indicating that current policy has reached its limits and that progress has come to a standstill.

CONTENT: the purpose of this proposal, therefore, is to define the rights and obligations of national authorities, on the one hand, and the rights and obligations of enterprises wishing to sell their products to another EU Member State, on the other. It intends to do so:

- firstly, by laying down procedures which the national authorities will be obliged to follow in cases where they choose to deny a product entry on to their market but which has been lawfully marketed in another EU Member State; and
- secondly, by establishing Product Contact Points which enterprises can contact for further information.

More specifically the Commission is proposing:

- the laying down of rules and procedures to be followed by the national authorities if they intend to ban, refuse, modify or withdraw a product which has been lawfully marketed in another EU Member State;
- the establishment, in each Member State, of “Product Contact Points” in order to provide information on national technical rules;
- that the Regulation apply to any industrially manufactured product or agricultural product (including fish products) which have been lawfully marketed in another Member State;
- the establishment of a telematic network for the exchange of information between the Product Contact Points.

For further details of the financial implications of this proposal, please refer to the financial statement.