Basic information

2013/0049(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure lapsed or withdrawn
Consumer product safety Repealing Directive 2001/95/EC 2000/0073(COD) **Subject** 2.10.03 Standardisation, EC/EU standards and trade mark, certification, compliance 3.45.08 Business environment, reduction of the administrative burdens 4.60.08 Safety of products and services, product liability 6.20.02 Export/import control, trade defence, trade barriers 6.20.04 Union Customs Code, tariffs, preferential arrangements, rules of origin 8.50.02 Legislative simplification, coordination, codification	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
IMCO Internal Market and Consumer Protection	SCHALDEMOSE Christel (S&D)	20/02/2013

Committee for opinion	Rapporteur for opinion	Appointed
INTA International Trade		
ECON Economic and Monetary Affairs	The committee decided not to give an opinion.	
ENVI Environment, Public Health and Food Safety	The committee decided not to give an opinion.	
ITRE Industry, Research and Energy	TOIA Patrizia (S&D)	26/04/2013
JURI Legal Affairs		

Council of the European Union

Council configuration	Meetings	Date
Competitiveness (Internal Market, Industry, Research and Space)	3276	2013-12-03
Competitiveness (Internal Market, Industry, Research and Space)	3353	2014-12-04

European Commission	Commission DG	Commissioner
	Internal Market, Industry, Entrepreneurship and SMEs	TAJANI Antonio

European Economic and Social Committee

Key events

Date	Event	Reference	Summary
13/02/2013	Legislative proposal published	COM(2013)0078	Summary
12/03/2013	Committee referral announced in Parliament, 1st reading		
17/10/2013	Vote in committee, 1st reading		
25/10/2013	Committee report tabled for plenary, 1st reading	A7-0355/2013	Summary
03/12/2013	Debate in Council		
15/04/2014	Decision by Parliament, 1st reading	T7-0383/2014	Summary
15/04/2014	Results of vote in Parliament		
15/04/2014	Debate in Parliament		
04/12/2014	Debate in Council		
29/09/2020	Proposal withdrawn by Commission		

Technical information

Procedure reference	2013/0049(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Repealing Directive 2001/95/EC 2000/0073(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 114-p1
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure lapsed or withdrawn
Committee dossier	IMCO/7/11987

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE513.309	25/06/2013	
Amendments tabled in committee		PE516.922	16/09/2013	

Committee opinion	INTA	PE513.019	18/09/2013	
Committee opinion	JURI	PE514.663	18/09/2013	
Committee opinion	ITRE	PE514.880	02/10/2013	
Committee report tabled for plenary, 1st reading/single reading		A7-0355/2013	25/10/2013	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0383/2014	15/04/2014	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2013)0078	13/02/2013	Summary
Document attached to the procedure	SWD(2013)0033	13/02/2013	
Document attached to the procedure	SWD(2013)0034	13/02/2013	
Commission response to text adopted in plenary	SP(2014)471	09/07/2014	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2013)0078	11/04/2013	
Contribution	RO_SENATE	COM(2013)0078	12/04/2013	
Contribution	ES_PARLIAMENT	COM(2013)0078	19/04/2013	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1600/2013	22/05/2013	

Additional information		
Source	**Document**	**Date**
National parliaments	IPEX	
European Commission	EUR-Lex	

Consumer product safety

2013/0049(COD) - 13/02/2013 - Legislative proposal

PURPOSE: to ensure the functioning of the internal market as regards products intended for consumers by laying down uniform rules regarding a general safety requirement (product safety and market surveillance package).

PROPOSED ACT: Regulation of the European Parliament and of the Council (repealing Council Directive 87/357/EEC and Directive 2001/95/EC on general product safety).

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: the free movement of safe consumer products is one of the cornerstones of the European Union. Directive 2001/95/EC on general product safety (GPSD) lays down the requirement that consumer products must be safe and that Member States' market surveillance authorities must take action against dangerous products as well as exchange information to that effect through the Community rapid information exchange system RAPEX.

Overlaps of market surveillance rules and obligations of economic operators laid down in various pieces of Union legislation (the GPSD, the Regulation (EC) No 765/2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and sector-specific Union harmonisation legislation that also covers consumer products) **has led to confusion on the part of both economic operators and national authorities** and has seriously hampered the effectiveness of market surveillance activity in the Union.

The Commission considers that Directive 2001/95/EC needs to be fundamentally revised to improve its functioning and to ensure consistency with developments in Union legislation as regards market surveillance, obligations of economic operators and standardisation. In the interest of clarity, Directive 2001/95/EC should be repealed and replaced by this Regulation.

The proposal is part of the "**Product Safety and Market Surveillance Package**" which also includes a proposal for a single market surveillance regulation and a **multiannual action plan for market surveillance covering the period 2013-2015**. The Single Market Act II, adopted in 2012, confirms the "Product Safety and Market Surveillance Package" as a key action to improve the safety of products circulating in the EU.

IMPACT ASSESSMENT: the impact assessment prepared by the Commission thus covers aspects related to both this proposal and the proposal for a new Market Surveillance Regulation. The Commission's Impact Assessment Board delivered a favourable opinion in September 2012.

LEGAL BASIS: Article 114 of the Treaty on the Functioning of the European Union.

CONTENT: this proposal for a Regulation on **consumer product safety**, which will replace Directive 2001/95/EC on general product safety (GPSD), concerns **manufactured non-food consumer products**. It aims at **clarifying the regulatory framework for consumer products** taking into account legislative developments in recent years.

Like the GPSD, the proposed Regulation requires that consumer products must be "safe", sets certain obligations on economic operators and contains provisions for the development of standards in support of the general safety requirement.

The main elements of the proposal are as follows:

Scope and definitions: the proposed Regulation **clearly delimits its scope of application compared to sectoral Union harmonisation legislation**.

- Whilst the general principle that all non-food consumer products must be safe applies across the board, the more detailed obligations on economic operators only apply to those operators that are not subject to corresponding obligations laid down in harmonising legislation covering a specific product sector.
- The definitions section has been updated and, where applicable aligned with the New Legislative Framework for the Marketing of Products.

General safety requirement and obligations of economic operators: the general requirement, laid down already in the GPSD, that all consumer products must be safe when placed or made available on the Union market has been kept. However, its operation in practice will be **significantly simplified due to the introduction of a clear link with sector-specific legislation** and a simplification of the rules on standards.

On the basis of Decision No 768/2008/EC on a common framework for the marketing of products, the proposal:

- **lays down the elementary obligations of economic operators** (manufacturers, importers, distributors) involved in the supply chain of consumer products insofar as they are not subject to corresponding requirements under sector specific Union harmonisation legislation. These obligations concern issues related to labelling, product identification, corrective actions to be taken in case of unsafe products and information of the competent authorities;
- **requires economic operators to be able to identify the operators who supplied them with the product** and to whom they supplied it. Where justified due to the risks inherent to specific types of products, the Commission should be empowered to adopt measures requiring economic operators to establish or adhere to an electronic traceability system.

Use of European standards: like the GPSD, also the proposal for the new Regulation favours the use of standards in support of the implementation of the general safety requirement. However, the **process** to identify existing European standards or to ask for the development of European standards that would give rise to presume that a product is safe **has been significantly simplified** and aligned to Regulation (EU) No 1025/2012 that sets a new overarching framework for European standardisation.

Market surveillance and RAPEX: the provisions regarding market surveillance and RAPEX that are currently contained in the GPSD have been transferred to the **proposal for a new single Market Surveillance Regulation**. That new Regulation would produce a one-tier system in which all market surveillance rules are brought together in a single instrument and in which RAPEX will be the single alert system regarding products presenting a risk.

BUDGETARY IMPLICATION: the proposal does not have other budgetary implications than those related to the proper management of the Regulation which, in form of the GPSD, is already part of the Union law acquis. The budgetary implications are already foreseen in the existing or proposed programmes and respect the Commission proposal for the new multiannual financial framework.

According to the financial statement, the total appropriations (operational appropriations, human resources and administrative expenditure) amount to **EUR 12 019 million in commitments for 2015-2020**.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.

Consumer product safety

2013/0049(COD) - 25/10/2013 - Committee report tabled for plenary, 1st reading/single reading

The Committee on the Internal Market and Consumer Protection adopted the report by Christel SCHALDEMOSE (S&D, DK) on the proposal for a regulation of the European Parliament and of the Council on consumer product safety and repealing Council Directive 87/357/EEC and Directive 2001 /95/EC

The committee recommends that Parliament adopt its position in first reading following the ordinary legislative procedure, and amend the Commission proposal as follows:

Purpose of the Regulation: the Regulation should aim in to ensure the functioning of the internal market and contributing to protecting the health and safety of consumers. The provisions of the Regulation are based on the **precautionary principle**, and the Regulation applies to the **online market**.

However, it will not apply to second-hand products originally placed on the market before the entry into force of the Regulation.

A **'safe product'** is defined any authentic product which is compliant with Union harmonisation legislation for health and safety. The notion of a **'product model'**, cornerstone of the work of market surveillance authorities, is introduced.

'Serious risk' means any serious risk, including those the effects of which are not immediate, requiring rapid intervention by the public authorities.

Food-imitation products: the marketing, import, manufacture and export of products that, although not foodstuffs, resemble foodstuffs and are likely to be confused with foodstuffs must be prohibited.

Factors related to evaluating the safety of a product: the report required the characteristics of the product to be taken into account, including its authenticity; the characteristics of consumers at risk when using the product under reasonably foreseeable conditions, in particular **vulnerable consumers**; the fact that the product resembles an object commonly recognised as **appealing to children**.

Evaluation must also bear in mind: reasonable consumer expectations concerning safety in terms of the nature, composition and intended use of the product; the essential requirements contained in the standardisation requests to European standardisation organisations; whether the product, categories or groups of products, have caused injuries notified into the Pan-European Injury Database.

'EU Safety Tested' marking: Members proposed to put in place a new CE marking certifying that the product had been tested by an independent third party and found safe by a competent body.

The new 'EU Safety Tested' marking will be complementary to the current CE marking.

Obligations of economic operators: the amended text strengthened these obligations by introducing the following provisions, amongst other things:

- Proportionate to the possible risks presented by a product, manufacturers or importers shall **carry out at least once a year** representative sample testing of a randomly selected product made available on the market chosen under the control of a judicial officer.
- Manufacturers must: (i) keep the **technical documentation** in paper or electronic form at the disposal of the market surveillance authorities and provide it to those authorities, upon reasoned request; (ii) ensure that their product is accompanied by instructions and safety information **addressed to the consumer in a clear and comprehensible manner;** (iii) ensure that they have procedures in place for taking corrective action, withdrawing or recalling their products; (iv) **warn** consumers who are at risk caused by the non-conformity of the product.
- Distributors shall not obscure any compulsory information or safety-related information provided by the manufacturer or importer.

Product Safety Contact Points: Member States shall designate Product Safety Contact Points in their territories and shall communicate their contact details to the other Member States and to the Commission.

Members proposed to **broaden the scope** of the Product Contact Points by facilitating training on product safety legislation and transfer information across industries and to the economic operators.

Penalties: penalties must take into account: (i) the seriousness, the duration and, where applicable, the intentional character of the infringement; (ii) whether the relevant economic operator has previously committed a similar infringement.

Administrative penalties applicable to infringements shall **at least offset the economic advantage sought through the infringement**, but shall not exceed 10 % of the annual turnover or an estimate thereof. They may be higher than 10 % of the annual turnover, where necessary to offset the economic advantage sought through the infringement. The penalties may include criminal sanctions for serious infringements.

Consumer product safety

2013/0049(COD) - 15/04/2014 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 485 votes to 130 with 27 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on consumer product safety and repealing Council Directive 87/357/EEC and Directive 2001/95/EC.

Parliament adopted its position at first reading following the ordinary legislative procedure, and amend the Commission proposal as follows:

Purpose of the Regulation: the Regulation should aim in to ensure the functioning of the internal market and contributing to protecting the health and safety of consumers. The provisions of the Regulation are based on the **precautionary principle**, and the Regulation applies to the **online market**.

However, it will not apply to second-hand products originally placed on the market before the entry into force of the Regulation.

A **'safe product'** is defined any authentic product which is compliant with Union harmonisation legislation for health and safety. The notion of a **'product model'**, cornerstone of the work of market surveillance authorities, is introduced.

'Serious risk' means any serious risk, including those the effects of which are not immediate, requiring rapid intervention by the public authorities.

Food-imitation products: the marketing, import, manufacture and export of products that, although not foodstuffs, resemble foodstuffs and are likely to be confused with foodstuffs must be **prohibited**.

Factors related to evaluating the safety of a product: Parliament called for the required the characteristics of the product to be taken into account, including its **authenticity**; the characteristics of consumers at risk when using the product under reasonably foreseeable conditions, in particular **vulnerable consumers**; the fact that the product resembles an object commonly recognised as **appealing to children**.

The evaluation must also bear in mind reasonable consumer expectations concerning safety in terms of the nature, composition and intended use of the product; the essential requirements contained in the standardisation requests to European standardisation organisations; whether the product, categories or groups of products, have caused injuries notified into the Pan-European Injury Database.

Identification of the origin: Parliament proposed that the manufacturers should be authorised to indicate the country of origin in English alone ('Made in [country]'), since this is readily comprehensible for consumers.

Obligations of economic operators: the amended text strengthened these obligations by introducing the following provisions, amongst other things:

Proportionate to the possible risks presented by a product, manufacturers or importers should **carry out at least once a year** representative sample testing of a randomly selected product made available on the market chosen under the control of a judicial officer.

Manufacturers should: (i) keep the **technical documentation** in paper or electronic form at the disposal of the market surveillance authorities and provide it to those authorities, upon reasoned request; (ii) ensure that their product is accompanied by instructions and safety information **addressed to the consumer in a clear and comprehensible manner;** (iii) ensure that they have procedures in place for taking corrective action, withdrawing or recalling their products; (iv) **warn** consumers who are at risk caused by the non-conformity of the product.

Distributors should not obscure any compulsory information or safety-related information provided by the manufacturer or importer. In order to protect the health and safety of consumers, they should carry out at least once a year representative sample testing of products made available on the market chosen under the control of a judicial officer or any qualified person designated by each Member State.

Product Safety Contact Points: Member States should designate Product Safety Contact Points in their territories and shall communicate their contact details to the other Member States and to the Commission. Members proposed to **broaden the scope** of the Product Contact Points by facilitating training on product safety legislation and transfer information across industries and to the economic operators.

Product Safety Contact Points should provide information on the remedies generally available in the territory of that Member State in the event of a dispute between the competent authorities and an economic operator. They should respond within 15 **working days** of receiving any request.

Penalties: penalties should take into account: (i) the seriousness, the duration and, where applicable, the intentional character of the infringement; (ii) whether the relevant economic operator has previously committed a similar infringement.

Administrative penalties applicable to infringements should **at least offset the economic advantage sought through the infringement**, but shall not exceed 10 % of the annual turnover or an estimate thereof. They may be higher than 10 % of the annual turnover, where necessary to offset the economic advantage sought through the infringement. The penalties could include criminal sanctions for serious infringements.