



2017/0354(COD)

19.4.2018

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DRAFT REPORT

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 (COM(2017)0796 – C8-0005/2018 – 2017/0354(COD))

Committee on the Internal Market and Consumer Protection

Rapporteur: Ivan Štefanec

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION.....	5
EXPLANATORY STATEMENT.....	24

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

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 (COM(2017)0796 – C8-0005/2018 – 2017/0354(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2017)0796),
 - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0005/2018),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on the Internal Market and Consumer Protection (A8-0000/2018),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation Recital 1

Text proposed by the Commission

(1) The internal market comprises an area without internal frontiers in which the free movement of goods is ensured in accordance with the provisions of the Treaties. Quantitative restrictions on imports and all measures having equivalent effect are prohibited between Member States. That prohibition covers any national measure which is capable of hindering, directly or indirectly, actually or

Amendment

(1) The internal market comprises an area without internal frontiers in which the free movement of goods is ensured in accordance with the provisions of the Treaties. Quantitative restrictions on imports and all measures having equivalent effect are prohibited between Member States. That prohibition covers any national measure which is capable of hindering, directly or indirectly, actually or

potentially, intra-Union trade in goods. Free movement of goods is ensured in the internal market by harmonisation of rules at Union level setting common requirements for the marketing of certain goods or, for goods or aspects of goods not covered by Union harmonisation rules, by the application of the principle of mutual recognition.

potentially, intra-Union trade in goods. Free movement of goods is ensured in the internal market by harmonisation of rules at Union level setting common requirements for the marketing of certain goods or, for goods or aspects of goods not *fully* covered by Union harmonisation rules, by the application of the principle of mutual recognition.

Or. en

Amendment 2

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) Obstacles to the free movement of goods between Member States may be unlawfully created if, in the absence of Union harmonisation rules covering goods or a certain aspect of goods, a Member State's competent authority applies national rules to goods of that type lawfully marketed in another Member State, requiring the goods to meet certain technical requirements, for example requirements relating to designation, form, size, weight, composition, presentation, labelling or packaging. The application of such rules to goods lawfully marketed in another Member State could be contrary to Articles 34 and 36 of the Treaty even if the rules apply without distinction to all goods.

Amendment

(2) Obstacles to the free movement of goods between Member States may be unlawfully created if, in the absence of Union harmonisation rules covering goods or a certain aspect of goods, a Member State's competent authority applies national rules to goods of that type lawfully marketed in another Member State, requiring the goods to meet certain technical requirements, for example requirements relating to designation, form, size, weight, composition, presentation, labelling, *language requirements* or packaging. The application of such rules to goods lawfully marketed in another Member State could be contrary to Articles 34 and 36 of the Treaty even if the rules apply without distinction to all goods.

Or. en

Amendment 3

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) The concept of overriding reasons of public interest is an evolving concept developed by the Court of Justice in its case-law in relation to Articles 34 and 36 of the Treaty. This concept covers, inter alia, the effectiveness of fiscal supervision, the fairness of commercial transactions, protection of consumers, protection of the environment, the maintenance of press diversity and the risk of seriously undermining the financial balance of the social security system. Such overriding reasons, where legitimate differences exist from one Member State to another, may justify the application of national rules by the competent authorities. However, such decisions need to be duly justified, and the principle of proportionality must always be respected, regard being had to whether the competent authority has in fact made the least restrictive decision possible. Furthermore, administrative decisions restricting or denying market access in respect of goods lawfully marketed in another Member State must not be based on the mere fact that the goods under assessment fulfil the legitimate public objective pursued by the Member State in a different way from the way that *domestic* goods in that Member State fulfil that objective.

Amendment

(4) The concept of overriding reasons of public interest is an evolving concept developed by the Court of Justice in its case-law in relation to Articles 34 and 36 of the Treaty. This concept covers, inter alia, the effectiveness of fiscal supervision, the fairness of commercial transactions, protection of consumers, protection of the environment, the maintenance of press diversity and the risk of seriously undermining the financial balance of the social security system. Such overriding reasons, where legitimate differences exist from one Member State to another, may justify the application of national rules by the competent authorities. However, such decisions need to be duly justified, and the principle of proportionality must always be respected, regard being had to whether the competent authority has in fact made the least restrictive decision possible. Furthermore, administrative decisions restricting or denying market access in respect of goods lawfully marketed in another Member State must not be based on the mere fact that the goods under assessment fulfil the legitimate public objective pursued by the Member State in a different way from the way that goods in that Member State fulfil that objective. ***In order to assist Member States in their task of justifying restrictions to the principle of mutual recognition, the Commission should provide guidance on the concept of overriding reasons of public interest and on how to apply the principle of mutual recognition.***

Or. en

Amendment 4

**Proposal for a regulation
Recital 11**

Text proposed by the Commission

(11) It is important to clarify that the types of goods covered by this Regulation include agricultural products. The term 'agricultural products' includes products of fisheries, as provided for in Article 38(1) of the Treaty.

Amendment

(11) It is important to clarify that the types of goods covered by this Regulation include agricultural products. The term 'agricultural products' includes products of fisheries, as provided for in Article 38(1) of the Treaty. ***The Commission should keep and, when feasible, further develop an indicative and non-exhaustive list up to date online to help identify, which types of goods are subject to this Regulation.***

Or. en

Amendment 5

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) To benefit from the principle of mutual recognition, goods must be lawfully marketed in another Member State. It should be clarified that, for goods to be considered as lawfully marketed in another Member State, the goods need to comply with the relevant rules applicable in that Member State, and to be ***being*** made available to end users in that Member State.

Amendment

(14) To benefit from the principle of mutual recognition, goods must be lawfully marketed in another Member State. It should be clarified that, for goods to be considered as lawfully marketed in another Member State, the goods need to comply with the relevant rules applicable in that Member State, and to be made available to end users in that Member State.

Or. en

Amendment 6

Proposal for a regulation

Recital 14 a (new)

Text proposed by the Commission

Amendment

(14 a) To raise awareness on the part of national authorities and economic

operators of the principle of mutual recognition, Member States should be urged 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.

Or. en

Amendment 7

Proposal for a regulation

Recital 34

Text proposed by the Commission

(34) However, where the SOLVIT's informal approach fails, and *serious* doubts remain regarding the compatibility of the administrative decision with the mutual recognition principle the Commission should 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 the SOLVIT centre. The Commission's intervention should be subject to a reasonable time-limit, in compliance with the European Code of Good Administrative Behaviour.

Amendment

(34) However, where the SOLVIT's informal approach fails, and doubts remain regarding the compatibility of the administrative decision with the mutual recognition principle the Commission should 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 the SOLVIT centre. ***For the purposes of collecting additional information or documents necessary for completing its assessment, the Commission should inform the relevant SOLVIT centres about its communications with the economic operator or competent authority concerned.*** The Commission's intervention should be subject to a reasonable time-limit, in compliance with the European Code of Good Administrative Behaviour.

Or. en

Amendment 8

Proposal for a regulation

Article 1 – paragraph - 1

Text proposed by the Commission

Amendment

The aim of this Regulation is to strengthen the functioning of the internal market by improving the functioning of the mutual recognition principle.

Or. en

Amendment 9

Proposal for a regulation

Article 2 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. This Regulation applies to goods of any type, including agricultural products, and to administrative decisions taken or to be taken by a competent authority of a Member State ('the Member State of destination') in relation to any such goods lawfully marketed in another Member State, where the decision meets the following criteria:

1. This Regulation applies to goods of any type, including agricultural products, and to administrative decisions taken or to be taken by a competent authority of a Member State ('the Member State of destination') in relation to any such goods lawfully marketed in another Member State, where the decision meets ***both of*** the following criteria:

Or. en

Amendment 10

Proposal for a regulation

Article 2 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) the provision either prohibits the making available of goods, or a type of goods, on the ***domestic*** market in that Member State or else it makes compliance with the provision compulsory, de facto or de jure, whenever goods, or goods of a

(b) the provision either prohibits the making available of goods, or a type of goods, on the market in that Member State or else it makes compliance with the provision compulsory, de facto or de jure, whenever goods, or goods of a given type,

given type, are being made available on that market;

are being made available on that market;

Or. en

Amendment 11

Proposal for a regulation

Article 2 – paragraph 3 – point c – point i

Text proposed by the Commission

(i) it lays down the characteristics required of those goods, or goods of that type, such as their levels of quality, performance or safety, or dimensions, including the requirements applicable to the goods or type of goods as regards the name under which they are sold, terminology, symbols, testing and test methods, packaging, marking or labelling, and conformity assessment procedures;

Amendment

(i) it lays down the characteristics required of those goods, or goods of that type, such as their levels of quality, performance or safety, or dimensions, including the requirements applicable to the goods or type of goods as regards the name under which they are sold, terminology, symbols, testing and test methods, packaging, marking or labelling, ***instructions for use***, and conformity assessment procedures;

Or. en

Amendment 12

Proposal for a regulation

Article 2 – paragraph 3 – point c – point ii

Text proposed by the Commission

(ii) it imposes on those goods, or goods of that type, other requirements that are imposed for the purposes of protecting consumers or the environment and that affect the life-cycle of the goods after they have been made available on the ***domestic*** market in that Member State, such as conditions of use, recycling, reuse or disposal, where such conditions can significantly influence either the composition or nature of the goods, or type of goods, or the making available of them

Amendment

(ii) it imposes on those goods, or goods of that type, other requirements that are imposed for the purposes of protecting consumers or the environment and that affect the life-cycle of the goods after they have been made available on the market in that Member State, such as conditions of use, recycling, reuse or disposal, where such conditions can significantly influence either the composition or nature of the goods, or type of goods, or the making available of them on the market in that

on the *domestic* market in that Member State.

Member State.

Or. en

Amendment 13

Proposal for a regulation

Article 2 – paragraph 7 – point a

Text proposed by the Commission

(a) Article 8(1)(d) to (f) *or* Article 8(3) of Directive 2001/95/EC;

Amendment

(a) Article 8(1)(d) to (f) *and* Article 8(3) of Directive 2001/95/EC;

Or. en

Amendment 14

Proposal for a regulation

Article 3 – paragraph 1 – point 2

Text proposed by the Commission

(2) 'making available on the *domestic* market in a Member State' means any supply of the goods for distribution, consumption or use on the market within the territory of that Member State in the course of a commercial activity, whether in return for payment or free of charge;

Amendment

(2) 'making available on the market in a Member State' means any supply of the goods for distribution, consumption or use on the market within the territory of that Member State in the course of a commercial activity, whether in return for payment or free of charge;

Or. en

Amendment 15

Proposal for a regulation

Article 3 – paragraph 1 – point 3

Text proposed by the Commission

(3) 'restricting market access' means imposing conditions to be fulfilled before

Amendment

(3) 'restricting market access' means imposing conditions to be fulfilled before

the goods can be made available on the *domestic* market in the relevant Member State, or conditions for keeping the goods on that market, which in either case require the modification of one or more of the characteristics of those goods, as described in Article 2(3)(c)(i), or the performance of additional testing;

the goods can be made available on the market in the relevant Member State, or conditions for keeping the goods on that market, which in either case require the modification of one or more of the characteristics of those goods, as described in Article 2(3)(c)(i), or the performance of additional testing;

Or. en

Amendment 16

Proposal for a regulation

Article 3 – paragraph 1 – point 4 – point a

Text proposed by the Commission

(a) prohibiting the goods from being made available on the *domestic* market in the relevant Member State or from being kept on that market;

Amendment

(a) prohibiting the goods from being made available on the market in the relevant Member State or from being kept on that market;

Or. en

Amendment 17

Proposal for a regulation

Article 3 – paragraph 1 – point 5

Text proposed by the Commission

(5) 'prior authorisation' means an administrative procedure under the law of a Member State whereby the competent authority of that Member State is required, on the basis of an application by an economic operator, to give its formal approval before goods may be made available on the *domestic* market in that Member State;

Amendment

(5) 'prior authorisation' means an administrative procedure under the law of a Member State whereby the competent authority of that Member State is required, on the basis of an application by an economic operator, to give its formal approval before goods may be made available on the market in that Member State;

Or. en

Amendment 18

Proposal for a regulation

Article 3 – paragraph 1 – point 6

Text proposed by the Commission

(6) 'producer' means any natural or legal person who manufactures the goods or has the goods designed or manufactured, and markets them under his name or trademark, or any other natural or legal person who, by putting his name, trademark or other distinguishing feature on the goods presents himself as its producer;

Amendment

(6) 'producer' means any natural or legal person who manufactures the goods or has the goods designed or manufactured, and markets them under his name or trademark, ***any natural or legal person who modifies goods already lawfully marketed in a Member State in such a way that compliance with the relevant rules applicable in that Member State might be affected,*** or any other natural or legal person who, by putting his name, trademark or other distinguishing feature on the goods, ***including agricultural products, which were not obtained by a manufacturing process,*** presents himself as its producer;

Or. en

Amendment 19

Proposal for a regulation

Article 3 – paragraph 1 – point 7

Text proposed by the Commission

(7) 'authorised representative' means any natural or legal person established within the Union who has received a written mandate from the producer to act on the producer's behalf with regard to the making available of the goods on the ***domestic*** market in question;

Amendment

(7) 'authorised representative' means any natural or legal person established within the Union who has received a written mandate from the producer to act on the producer's behalf with regard to the making available of the goods on the market in question;

Or. en

Amendment 20

Proposal for a regulation

Article 3 – paragraph 1 – point 9

Text proposed by the Commission

(9) 'distributor' means any natural or legal person in the supply chain established in the Union, other than the producer or the importer, who makes the goods available on the **domestic** market in the relevant Member State;

Amendment

(9) 'distributor' means any natural or legal person in the supply chain established in the Union, other than the producer or the importer, who makes the goods available on the market in the relevant Member State;

Or. en

Amendment 21

Proposal for a regulation

Article 3 – paragraph 1 – point 12

Text proposed by the Commission

(12) 'legitimate public interest ground' means any of the grounds set out in Article 36 of the Treaty or any other overriding reasons of public interest.

Amendment

(12) 'legitimate public interest ground' means any of the grounds set out in Article 36 of the Treaty or any other overriding reasons of public interest **as defined by the European Court of Justice in its case-law in relation to Articles 34 and 36 of the Treaty.**

Or. en

Amendment 22

Proposal for a regulation

Article 3 – paragraph 1 – point 12 a (new)

Text proposed by the Commission

Amendment

(12 a) 'Conformity assessment body' means conformity assessment body as defined in Article 2(13) of Regulation (EC) 765/2008.

Or. en

Amendment 23

Proposal for a regulation

Article 4 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The producer of goods, or goods of a given type, that are being or are to be made available on the *domestic* market in a Member State ('the Member State of destination') may draw up a declaration (a 'mutual recognition declaration') in order to demonstrate to the competent authorities of the Member State of destination that the goods, or goods of that type, are lawfully marketed in another Member State.

Amendment

The producer of goods, or goods of a given type, that are being or are to be made available on the market in a Member State ('the Member State of destination') may draw up a *voluntary* declaration (a 'mutual recognition declaration') in order to demonstrate to the competent authorities of the Member State of destination that the goods, or goods of that type, are lawfully marketed in another Member State.

Or. en

Amendment 24

Proposal for a regulation

Article 4 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The declaration shall be completed in one of the official languages of the Union and, where that language is not the language required by the Member State of destination, it shall be translated by the economic operators into the language *or languages* required by the Member State of destination.

Amendment

The declaration shall be completed in one of the official languages of the Union and, where that language is not the language required by the Member State of destination, it shall be translated by the economic operators into the language required by the Member State of destination.

Or. en

Amendment 25

Proposal for a regulation

Article 4 – paragraph 7 – point a

Text proposed by the Commission

(a) the declaration, **together with any** evidence **reasonably required by the competent authority to verify** the information contained in it, shall be accepted by the competent authority as sufficient to demonstrate that the goods are lawfully marketed in another Member State; and

Amendment

(a) the declaration **and the** evidence **supporting** the information contained in it, shall be accepted by the competent authority as sufficient to demonstrate that the goods are lawfully marketed in another Member State; and

Or. en

Amendment 26

Proposal for a regulation
Article 4 – paragraph 8 – point c

Text proposed by the Commission

(c) any other information the competent authority considers **useful** for the purposes of its assessment.

Amendment

(c) any other information the competent authority considers **necessary** for the purposes of its assessment.

Or. en

Amendment 27

Proposal for a regulation
Article 5 – paragraph 1

Text proposed by the Commission

1. Where a competent authority of a Member State **has** doubts as **regards** goods **which the economic operator claims** are lawfully marketed in another Member State, the competent authority shall contact the relevant economic operator without delay and shall carry out an assessment the goods.

Amendment

1. Where, **as part of their market control activities**, a competent authority of **the** Member State **of destination has reasonable** doubts as **to whether** goods **that are made available or are going to be made available on its market** are lawfully marketed in another Member State, the competent authority shall contact the **competent authority of that other Member State and the** relevant economic operator without delay, and shall carry out an

assessment *of* the goods.

Or. en

Amendment 28

Proposal for a regulation Article 5 – paragraph 3

Text proposed by the Commission

3. Where, on completion of an assessment under paragraph 1, the competent authority of a Member State takes an administrative decision with respect to the goods, it shall communicate its decision within **20** working days to the relevant economic operator referred to in paragraph 1, to the Commission and to the other Member States. Notification to the Commission and to the other Member States shall be done by means of the system referred to in Article 11.

Amendment

3. Where, on completion of an assessment under paragraph 1, the competent authority of a Member State takes an administrative decision with respect to the goods, it shall communicate its decision ***without delay and no later than*** within **15** working days to the relevant economic operator referred to in paragraph 1, to the Commission and to the other Member States. Notification to the Commission and to the other Member States shall be done by means of the system referred to in Article 11.

Or. en

Amendment 29

Proposal for a regulation Article 6 – paragraph 1 – introductory part

Text proposed by the Commission

1. While the competent authority of a Member State is carrying out an assessment of goods pursuant to Article 5, it shall not temporarily suspend the making available of those goods on the ***domestic*** market in that Member State, except in one or the other of the following situations:

Amendment

1. While the competent authority of a Member State is carrying out an assessment of goods pursuant to Article 5, it shall not temporarily suspend the making available of those goods on the market in that Member State, except in one or the other of the following situations:

Or. en

Amendment 30

Proposal for a regulation

Article 6 – paragraph 1 – point b

Text proposed by the Commission

(b) the making available of the goods, or goods of that type, on the **domestic** market in that Member State is generally prohibited in that Member State on grounds of public morality or public security.

Amendment

(b) the making available of the goods, or goods of that type, on the market in that Member State is generally prohibited in that Member State on grounds of public morality or public security.

Or. en

Amendment 31

Proposal for a regulation

Article 7 – paragraph 1 – introductory part

Text proposed by the Commission

1. If the administrative decision referred to in Article 5 or the temporary suspension referred to in Article 6 is also a measure which is required to be notified through RAPEX as referred to in the General Product Safety Directive 2001/95/EC, a separate notification to the Commission under this Regulation is not required, provided that the following conditions are met:

Amendment

1. If the administrative decision referred to in Article 5 or the temporary suspension referred to in Article 6 is also a measure which is required to be notified through RAPEX as referred to in the General Product Safety Directive 2001/95/EC, a separate notification to the Commission **and to the other Member States** under this Regulation is not required, provided that the following conditions are met:

Or. en

Amendment 32

Proposal for a regulation

Article 8 – paragraph 1

Text proposed by the Commission

1. This Article applies if an economic operator affected by an administrative

Amendment

1. This Article applies if an economic operator affected by an administrative

decision has submitted the decision to the Internal Market Problem Solving Network (SOLVIT) and, during the SOLVIT procedure, the Home Centre asks the Commission to give an opinion to assist in solving the case.

decision has submitted the decision to the Internal Market Problem Solving Network (SOLVIT) and, during the SOLVIT procedure, the Home Centre *or the Lead Centre* asks the Commission to give an opinion to assist in solving the case.

Or. en

Amendment 33

Proposal for a regulation Article 8 – paragraph 2

Text proposed by the Commission

2. The Commission shall, within *three months of receipt of the request referred to in paragraph 1, enter into communication with the relevant economic operator or operators and the competent authorities who took the administrative decision* in order to assess the compatibility of the administrative decision with the principle of mutual recognition and this Regulation.

Amendment

2. The Commission shall, *without undue delay, consider the documents and information provided* within *the SOLVIT procedure* in order to assess the compatibility of the administrative decision with the principle of mutual recognition and this Regulation. *Where additional information is needed for the purposes of the assessment referred to above, the Commission may enter into communication with the relevant economic operator or operators and the competent authorities.*

Or. en

Amendment 34

Proposal for a regulation Article 8 – paragraph 3

Text proposed by the Commission

3. *Following completion of its assessment*, the Commission *may* issue an opinion identifying concerns that should, in its view, be addressed in the SOLVIT case and, where appropriate, making recommendations to assist in solving the

Amendment

3. *Within two months of receipt of the request referred to in paragraph 1*, the Commission *shall* issue an opinion identifying concerns that should, in its view, be addressed in the SOLVIT case and, where appropriate, making

case.

recommendations to assist in solving the case. ***The two months period does not include the time necessary for receiving the additional information and documents as provided for in paragraph 2.***

Or. en

Amendment 35

Proposal for a regulation

Article 8 – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Where, during the assessment referred to in paragraph 2, the Commission is informed that the case is solved, it may decide not to issue an opinion.

Or. en

Amendment 36

Proposal for a regulation

Article 8 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission's opinion shall be ***considered*** during the SOLVIT procedure referred to in paragraph 1.

4. The Commission's opinion shall be ***communicated to all parties involved in the case as well as to the market surveillance authorities within the meaning of Regulation (EC) No765/2008 by means of the system referred to in Article 11. The opinion shall be taken into account*** during the SOLVIT procedure referred to in paragraph 1.

Or. en

Amendment 37

Proposal for a regulation

Article 9 – paragraph 3

Text proposed by the Commission

3. Where necessary to complement the information provided online under paragraph 2, Product Contact Points shall provide, at the request of an economic operator or a competent authority of another Member State, any useful information, such as an electronic copy of or an electronic link to the national technical rules applicable to specific goods or a specific type of goods in the territory in which the Product Contact Point is established and information as whether that the goods or goods of that type are subject to a requirement for prior authorisation under national law.

Amendment

3. Where necessary to complement the information provided online under paragraph 2, Product Contact Points shall provide, at the request of an economic operator or a competent authority of another Member State, any useful information, such as an electronic copy of or an electronic link to the national technical rules ***and national administrative procedures*** applicable to specific goods or a specific type of goods in the territory in which the Product Contact Point is established and information as whether that the goods or goods of that type are subject to a requirement for prior authorisation under national law.

Or. en

Amendment 38

Proposal for a regulation

Article 10 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. For the purpose of paragraph 1, the Commission shall establish a Coordination Group (the ‘Group’). The Group shall be composed of representatives from the competent authorities and the Product Contact Points of the Member States.

The Group shall have at least the following tasks:

(a) facilitate the exchange of information, best practices and other relevant aspects of control activities in Member States;

(b) support the functioning of the Product

Contact Points and enhance their cross-border cooperation;

(c) provide contributions and feedback to the Commission guidance on the concept of overriding reasons of public interest and recommendations, as well as best practices in order to encourage consistent application of this Regulation;

(d) facilitate and coordinate exchange of officials among Member States, especially with regard to particularly problematic sectors;

(e) facilitate and coordinate the organisation of common training programmes for authorities and businesses.

Or. en

Amendment 39

Proposal for a regulation Article 10 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that their competent authorities and Product Contact Points participate in the activities referred to in paragraph 1.

Amendment

3. ***Each Member State shall inform the Commission of the identity of the representatives appointed from that Member State to the Group.*** Member States shall ensure that their competent authorities and Product Contact Points participate in the activities referred to in paragraph 1 ***and paragraph 2a.***

Or. en

EXPLANATORY STATEMENT

The single market for goods is one of the greatest achievements of the European Union. Achieving a deeper and fairer single market is one of the key political priorities of the European Union together with the implementation of the Single Market Strategy. The free movement of goods is the most developed fundamental freedom generating 25 % of EU GDP and 75 % of intra-EU trade. However, the single market for goods is still not completed. If there are no common rules on the single market such as for products that do not fall under harmonised EU product safety rules or only fall partially under such rules, the principle of mutual recognition should apply. However, the current framework has not proven sufficient to ensure consistent and effective application of the mutual recognition principle.

Therefore, the European Commission announced in its 2017 Commission Work Programme a proposal for the 'Goods Package' that will comprehensively revamp and facilitate the use of mutual recognition in the Single market, hence addressing these weaknesses for a better functioning of the single market for goods.

The principle of mutual recognition requires that 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. Mutual recognition applies to products not subject to Union harmonisation legislation or only partly covered by it, such as a wide range of consumer products (textile, footwear, childcare articles, jewellery, tableware or furniture).

The new mutual recognition regulation should clarify and simplify the procedures to be followed by businesses and national authorities and improve the functioning of mutual recognition.

Market access based on mutual recognition should only be denied if there is a legitimate and proportionate public interest at stake. Moreover, it is necessary to clarify the scope of mutual recognition and clearly define when it is applicable to increase legal certainty for businesses and national authorities as to when the mutual recognition principle can be used.

The voluntary 'mutual recognition declaration' to be completed by economic operators should help businesses demonstrate that their product already meets the requirements of another Member State, reassure the authorities and facilitate cross-border cooperation. The introduction of a self-declaration to facilitate the demonstration of a product being already lawfully marketed will increase legal certainty about the application of mutual recognition and facilitate its application by businesses.

Setting up administrative cooperation will enhance communication and trust among national authorities, and thus facilitate the functioning of mutual recognition. Those involved in mutual recognition do not communicate sufficiently well with each other. This is often because powers and responsibilities for specific regulations are scattered, which complicates navigation around these — often very technical — matters. Therefore, the Product Contact Points should be reinforced as the communication channel for mutual recognition.

The Rapporteur proposes to enhance the cross-border cooperation by establishing a Coordination Group composed of the representatives from the competent authorities and the Product Contact Points of the Member States.

The new mutual recognition proposal also introduces a problem solving procedure to provide

effective remedies and re-establish trust in mutual recognition. The existing SOLVIT mechanism should be used as the main problem solving procedure. SOLVIT is a service provided by the national administration in each EU Member State. It helps business when their rights are breached by national authorities in another EU Member State, by aiming at finding a solution. Thus, SOLVIT may be used, as an alternative to court proceedings, by businesses when facing a national decision denying or restricting market access on the basis of the mutual recognition principle.

The proposal should strengthen the European level and the role of the European Commission in the mutual recognition by giving the European Commission obligation to issue opinion on the cases presented to SOLVIT network. Moreover, the European Commission should work more closely with specific countries and sectors to make mutual recognition work. The Commission should also further assess the possible benefits for businesses and national authorities by further developing the existing product list for mutual recognition and provide a guidance on how to apply the principle of mutual recognition. Finally, Member States should continue to explicitly provide for mutual recognition in their national technical rules, but they should do so in a comprehensible manner. Therefore, the Rapporteur encourages Member States to insert a clear and unambiguous 'single market clause' in national technical regulations, and develop specific guidance for its use.

The Rapporteur welcomes the proposal and believes that the improvement of the system for the mutual recognition of goods will simplify the procedures for businesses and national authorities and decrease the administrative burdens for businesses allowing them to benefit from the free movement of goods on the Single Market of the European Union.