BRIEFING

EU Legislation in Progress

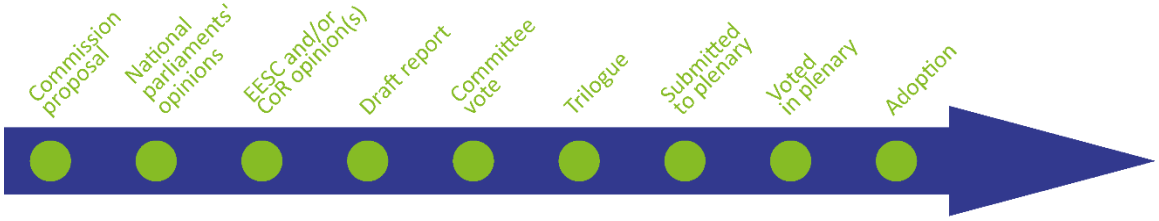
European Parliament

Strengthening market surveillance of harmonised industrial products

OVERVIEW

Harmonised products represent 69 % of the overall value of industrial products in the internal market. However, a significant part of these products does not comply with harmonised EU rules. This has negative effects on the health and safety of consumers, and on fair competition between businesses. To remedy the situation, in 2017 the Commission proposed to strengthen market surveillance rules for non-food products harmonised by EU legislation. Parliament and Council reached a provisional agreement on the proposal in February 2019. The new regulation was signed on 20 June and published in the Official Journal on 25 June 2019, applying in full from July 2021. It aims to increase EU-level coordination of market surveillance and clarify the procedures for the mutual assistance mechanism. Non-EU manufacturers of products that could cause an elevated level of risk to public interest will have to designate an importer, an authorised representative or a fulfilment service provider established in the EU.

Proposal for a regulation of the European Parliament and the Council laying down rules and procedures for compliance with and enforcement of Union harmonisation legislation on products		
Committee responsible:	Internal Market and Consumer Protection (IMCO)	COM(2017) 795 19.12.2017 2017/0353 (COD)
Rapporteur:	Nicola Danti (S&D, Italy)	
Shadow rapporteurs:	Othmar Karas (EPP, Austria) Dalton Daniel (ECR, United Kingdom) Jasenko Selimovic (ALDE, Sweden) Jiří Maštálka (GUE/NGL, Czechia) Pascal Durand (Greens/EFA, France) Marco Zullo (EFDD, Italy)	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
Procedure completed.	Regulation (EU) 2019/1020 OJ L 169, 25.6.2019, pp. 1–44	



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Author: Nikolina Šajn
Members' Research Service

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Introduction

Harmonised products represent a significant part of the internal market for goods. However, according to the European Commission, an increasing share of these products does not comply with the harmonised EU rules. According to these estimates, in the 2008-2014 period the annual value of harmonised industrial products was more than €2 400 billion, constituting 69 % of the overall value of manufacturing products in the single market. These are the products with technical or other characteristics covered by EU rules that protect citizens from health, safety, environmental and other risks.[1] Most, but not all of them can be recognised by their 'CE' mark.[2] Provided that they adhere to the EU rules, they can be circulated freely within the internal market. These products therefore represent a large part – two thirds – of the overall intra-EU imports of industrial goods. Around 1.2 million EU businesses are involved in their manufacturing, and 4 million in their distribution.

However, a significant number of these products do not comply with EU harmonised rules, either due to the products' technical characteristics or because they lack the correct labels, warning or other information. The exact share of non-compliant products is difficult to assess,[3] but in the 2010-2013 period, Member States reported that regular inspections revealed non-compliance in 32 % inspected toys, 47 % construction products and 58 % electromagnetic and radio equipment. Targeted joint inspections by multiple national market surveillance authorities found substantive or technical non-compliance in 46 % of tested toys, 68 % of mobile phone repeaters and 77 % of LED lighting equipment. In addition, in each year of the 2014-2016 period, Member States submitted more than 2 100 notifications of dangerous products to the European rapid alert system for dangerous non-food products (RAPEX).[4]

Non-compliance endangers the environment and consumers' health and safety, and has detrimental effects on fair competition, as ensuring compliance incurs additional costs for businesses. For eight harmonised product groups,[5] these costs have been estimated at €342 million per year (this corresponds to between 0.1 % and 3.9 % of average company turnover, depending on the sector).

To remedy this situation, on 19 December 2017, the Commission adopted a proposal for a regulation on compliance and enforcement of EU harmonising legislation on products. It concerns the placement of non-food products on the internal market that is subject to Union harmonising acts. It aims to s**trengthen controls by national market surveillance and customs authorities to ensure that products are safe and comply with the Union rules.** The proposal was published alongside a proposal for a regulation on the mutual recognition of goods,[6] which concerns non-harmonised products, as part of **t**he 'goods package', the aim of which is to make products in the internal market safer for consumers, while at the same time creating a fairer playing field for businesses.

Existing situation

Market surveillance of harmonised products is based on what is known as the new legislative framework (NFL), consisting of Regulation (EC) 765/2008 on accreditation and market surveillance **(which established the legal bases for market surveillance, the framework for control of products imported from third countries and the general principles for CE marking), and** Decision 768/2008/EC on a common framework for the marketing of products (which provided a blueprint for future harmonising legislation). In a**ddition, certain provisions of the 2001** General Product Safety Directive (GPSD) also apply to harmonised consumer products.

Regulation (EC) 765/2008 is the principal legislation concerning market surveillance of harmonised non-food products at EU level and covers **both consumers and professional products.** Market surveillance in the EU is the task of the Member States, which are required to ensure that products that compromise the health and safety of users, or otherwise do not conform to the harmonising legislation, are withdrawn, prohibited or restricted from the market. The regulation does not specify how market surveillance should be organised at national level, beyond

the requirement that Member States establish market surveillance authorities and equip them with the necessary powers, resources and knowledge. In practice, every Member State appoints at least one market surveillance authority for each set of products harmonised at the EU level, while some Member States also have regional or local market surveillance authorities. As a result, there are more than 500 market surveillance authorities in the EU.

Market surveillance authorities are required to perform controls on the characteristics of products on a sufficient scale, by checking documents, and where appropriate, through physical and laboratory checks on the basis of adequate samples. They have to alert users in their own Member State if they discover any danger; recall, withdraw or prohibit products presenting a serious risk; inform the Commission through the RAPEX system if the threat extends beyond their country; and cooperate with their counterparts in other Member States, including by coordinating and exchanging information via the information and communication system on market surveillance (ICSMS).

The regulation contains *lex specialis* provisions, which means that sector-specific legislation that contains more specific provisions with the same objective also applies to market surveillance. This is the case with harmonising acts based on Decision 768/2008/EC. The decision represents a political agreement between the European Parliament, the Council and the Commission to implement a set of common principles and procedures for EU legislation harmonising marketing of products on the internal market. It includes a template for future product harmonisation legislation, which lays out a clear division of responsibility between manufacturers, importers and distributors. The decision stipulates that future harmonising legislation should determine only the essential requirements that a product must meet, while the technical specifications for meeting them should be laid down in harmonised standards, which are voluntary.[7]

Additionally, the 2010 Commission guidance explains in detail which provisions of the **GPSD** apply to the market surveillance of harmonised consumer products.

In 2013, the Commission proposed a package that included proposals for a regulation on market surveillance of products (aimed at replacing Regulation (EC) 765/2008), and for a directive on consumer product safety (to replace the GPSD). The former sought comprehensive reform of the market surveillance framework and to merge the market surveillance rules of the GPSD, Regulation (EC) 765/2008 and much of the sector-specific harmonisation legislation into a single text. All products on the single market, harmonised and non-harmonised, consumer and professional, would be covered by the same market surveillance system, making it simpler for both the economic operators and the national market surveillance authorities. However, Member States have repeatedly failed to reach a common approach in the Council,[8] leading the Commission to conclude that any progress is 'highly unlikely'. Nevertheless, the Commission has decided not to withdraw the 2013 proposal, considering that it could be brought into line with new legislative developments, should the political deadlock on the 2013 proposal end.

Parliament's starting position

The European Parliament, in its previous mandate, criticised the complex nature of EU market surveillance legislation and proposed, in its resolution of March 2011, that the Commission establish a common framework for market surveillance for all products, based on the GPSD and Regulation (EC) 765/2008. Parliament also called for measures against imports of illegal products from third countries; heavy fines for economic operators that deliberately break the rules; and standardised customs checks on products bought on the internet.

In its legislative resolution of 15 April 2014, considering the 2013 market surveillance proposal, Parliament emphasised that the new regulation should apply to all forms of supply of products, including distance selling, and that a common approach for the market surveillance of products sold online is necessary. It advocated that the economic operators bear all the costs of certain market surveillance measures, such as destruction of non-compliant products. It also called for the

establishment of a public Union-wide blacklist of economic operators who repeatedly and intentionally breach product safety rules.

In its resolution of 15 February 2017 on the annual report on the single market's governance within the European Semester 2017, Parliament called on the Commission to strengthen the market surveillance mechanism and reiterated its call to the Council to immediately adopt the 2013 package.

Market surveillance aspects were also discussed by the Parliament in the context of the Volkswagen scandal. In December 2015, Parliament set up a Committee of Inquiry on Emission Measurements (EMIS). Based on its report, Parliament adopted a recommendation on 4 April 2017, including a call for the Commission to review market surveillance rules for cars and 'other areas where market surveillance efforts are similarly lacking' and to make legislative proposals. Giving its position on the Commission's proposal for a regulation on the approval and market surveillance of motor vehicles, Parliament proposed introducing a requirement for Member States to randomly test at least 20 % of car models placed on their market every year and to regularly prepare and submit their national market surveillance programmes for the Commission's approval. In addition, the Commission would be empowered to supervise the work of national authorities.

Preparation of the proposal

As part of the preparations, the Commission conducted an external evaluation of Regulation (EC) 765/2008 between July 2016 and May 2017, which concluded that the regulation did not achieve the expected improvements to safety for consumers and a level playing field for businesses.

During 2016 and 2017, the Commission organised stakeholder consultations, including with the market surveillance authorities, during several meetings of the expert group on the internal market for products and with the customs authorities within the customs expert group. A stakeholder conference was held in June 2016, and the public consultation, conducted from 1 July to 31 October 2016, received 239 replies, mainly from businesses (127) and public authorities (80), with the rest coming from citizens (32). The consultations showed that stakeholders thought that the regulation's effectiveness needed improvement, especially with respect to online sales. Many participants said they had experienced discrepancies in market surveillance in different Member States. Industry representatives generally expressed a desire to be more involved in market surveillance activities.

These consultations and evaluations fed into the impact assessment (with executive summary) that accompany the Commission's proposal.[9] According to this document, market surveillance authorities often lack staff and resources. Due to differences in organisation, strategies, approaches and penalties, market surveillance is very uneven across Member States and is likely to be more rigorous in some than in others.

Since the cooperation mechanisms were assessed not to work well, market surveillance authorities experience difficulties in enforcing their decisions in other Member States, and can effectively address non-compliance only with companies in their own territory.

A serious challenge is presented by imports from third countries. The share of harmonised product imported from third countries increased from 24 % in 2008 to 30 % in 2015, with their value in 2015 estimated at €750 billion. At the same time, Commission analysis suggests that imported products make up a significant share of non-compliant products in the EU: in the period 2010-2016, 75 % of RAPEX notifications concerned imported products and 59 % of all notifications concerned products from China.

The rapid growth of retail e-commerce, valued in 2015 at an estimated €231 billion with a trend to rapid growth, poses a new set of problems, such as market-surveillance authorities' inability to identify and contact third-country businesses selling products directly to consumers, uncertainty about whether a product has been placed on the market, by whom and when, and lack of clarity on the responsibilities of newly arrived actors.[10]

Businesses responding to the public consultation said overwhelmingly that non-compliance was a significant problem: 89 % thought that products in their sector were affected, while 80 % thought this had a negative effect on sales for companies that follow the rules. A deliberate choice to disregard the rules was named as the most important reason for non-compliance (33.5 % of respondents), followed by a lack of knowledge (26.8 %), and technical inability to comply (10.9 %). Almost half the respondents (46 %) agreed that current market surveillance is an insufficient deterrent in their sector.

The impact assessment looked at four options: (1) the baseline scenario, which included no policy change; (2) improvement of existing tools and cooperation mechanisms, which included a modest revision of the market surveillance framework; (3) increased deterrence effect for enforcement tools and stepped up EU coordination in addition to Option 2, which included important additions to the market surveillance framework; and (4) centralised EU level enforcement in certain cases in addition to Option 3, which included a significant modification of the market surveillance framework. The preferred option was Option 3.

EPRS has published an initial appraisal of the Commission's impact assessment, which acknowledged the substantial – if lengthy – analysis which had gone into the assessment, but noted a lack of detail on the interlinking of the present proposal with two other pending proposals.

The changes the proposal would bring

The proposed regulation would replace Articles 15 to 29 on market surveillance and external control in Regulation (EC) 765/2008 on accreditation and market surveillance, and delete or amend market surveillance provisions from more than 20 directives and regulations harmonising non-food products. It would apply from 2020.

Member States would still decide the organisation of their market surveillance authorities, but would be required to designate **a single liaison office** responsible for coordinating enforcement and market surveillance activities within their territory and cross-border. Article 14 of the proposed regulation would harmonise the **minimum powers** that market surveillance authorities should have in each Member State, including new powers to seal any premises or seize any information, make test purchases and conduct mystery shopping, request providers to remove or disable content, suspend or restrict access to a website or put a domain name on hold, impose penalties and order the recovery of profits obtained as a result of non-compliance.[11]

The proposed regulation would introduce an EU layer of market surveillance in the form of a **Union product compliance network**, which would comprise of representatives of the Commission, national single liaison offices, competent national surveillance authorities for around 70 groups of products, and, where appropriate, representatives of business and consumer associations. Their work would be supported by a secretariat staffed with Commission personnel. The network would define the priorities for common market surveillance actions, coordinate the enforcement of Union harmonisation legislation, establish and coordinate common actions such as cross-border market surveillance activities, develop common practices and methodologies, develop best practices for market surveillance methods and activities, identify issues of shared interest. The Commission would also be able to designate **Union testing facilities** for specific products that would, in addition to the actual testing, also develop new methods of analysis, help resolve disputes and provide the Commission with technical and scientific advice. An **information and communication system** for communication and coordination of market surveillance efforts would also be developed by the Commission.

Furthermore, the proposed regulation clarifies the rules for cross-border cooperation between the national authorities. Market surveillance authorities would be able to use a **mutual assistance** mechanism to send requests for information or requests for enforcement measures to their counterparts in another Member State. The proposed regulation would lay down the procedure for such requests. It would also allow market surveillance authorities to use any evidence acquired by

market surveillance authorities in another Member State in their investigations, without further formal requirements.

A major innovation would be that manufacturers not established in the EU who wish to make products covered by harmonising legislation available on the internal market would have to designate either an importer or **a person responsible for compliance information** established in the EU. This natural or legal person would have to be easily identifiable on the product website or by other means, and would be responsible for cooperation with market surveillance authorities should they request it.[12]

The regulation also introduces measures to avoid non-compliance of products. Product contact points, which already exist for non-harmonised products in the framework of mutual product recognition, would provide economic operators with information on Union harmonisation legislation free of charge. Market surveillance authorities would be able to enter partnership agreements with economic operators to provide them with advice and guidance. They could also enter into memoranda of understanding with businesses, business organisations or end-users for carrying out joint activities aimed at identifying non-compliance or promoting compliance.

The proposal would also clarify the procedure for the cooperation between national market surveillance authorities and **customs authorities**. It would introduce a requirement for the market surveillance authorities to provide the customs authorities with information on categories of products or the identity of economic operators where a higher risk of non-compliance has been identified.

Advisory committees

The European Economic and Social Committee (EESC) adopted its opinion on the whole 'goods package' on 23 May 2018, with Jorge Pegado Liz (Various interests – Group 3, Portugal) as rapporteur. It generally welcomed the 'necessary' market surveillance proposal, but considered it to give Member States too much flexibility. It called for the Commission to be given more control, by requiring the Member States to report to the Commission on their activities and controls on a quarterly basis, and by giving the Commission the power to assess the implemented national market surveillance measures. It suggested to include the precautionary principle in the regulation, in the general principles governing market surveillance, clarify the rules for the RAPEX system, and set up a pan-European Injuries Database.

National parliaments

The deadline for the submission of reasoned opinions on the grounds of subsidiarity was 23 March 2018. One parliament, the Swedish Riksdag, issued a reasoned opinion. It argued that the proposal is in breach of the principle of subsidiarity and especially objected to granting national market surveillance authorities the power to close down a website, buy products by means of test purchases and order the restitution of profits.

Stakeholders' views[13]

The European consumer organisations BEUC and ANEC welcome the proposal, but consider that it does go far enough, as it does not cover non-harmonised products. They request that the Commission introduce stricter surveillance to products sold online, set up a pan-European accident and injury database, and allow for the involvement of consumer groups in the network. They call on the Member States to increase their budget for market controls.

Eurocommerce, an organisation representing retailers and wholesalers in Europe, welcomed the 'goods package', especially the proposed better coordination and collaboration between national market surveillance authorities, and between market surveillance and customs authorities.

Business Europe said the proposal makes important improvements in the area of market surveillance, as better cooperation between market surveillance authorities is necessary for fair competition and detection of non-compliant traders. Business Europe called on the Bulgarian EU Presidency to prioritise the 'goods package' in the Council in the first half of 2018.

Orgalime, the European engineering industries association, also called for the package to be dealt with as a priority in 2018. It believes the proposal is 'a welcome move to help businesses demonstrate compliance with the law – while reinforcing the means to deter rogue, non-compliant economic operators'. However, Orgalime says the proposal puts too little emphasis on protecting enterprises from unfair competition.

Legislative process

In the European Parliament, the Committee for the Internal Market and Consumer Protection (IMCO) is responsible for the file, and has appointed Nicola Danti (S&D, Italy) as rapporteur. IMCO held a public hearing on the goods package on 21 March and the rapporteur presented his draft report on 17 April 2018.

The report was adopted by IMCO on 3 September 2018. It proposed harmonisation of methodology and criteria for assessing risks, as well as harmonisation of conditions for inspections of certain products where specific risks or serious breaches of legislation have been repeatedly identified. It sought to strengthen market surveillance of online sales by requiring Member States to have an appropriate number of 'online inspectors'. It would modify the Commission's proposal so that all companies selling products on the internal market would have to designate a 'reference person'. This natural or legal person would be responsible for verifying that products have an EU declaration of conformity and technical documentation; informing the manufacturer when they have reason to believe that the product is not in conformity; cooperating with the market surveillance authorities; and taking immediate action to eliminate or remedy any non-compliance. The reference person would have to be established in the EU, and could be a manufacturer, an importer or a representative. Information on the reference person, including the contact details, would have to be indicated on the product or its packaging. This information would also have to be displayed when products are sold online, including on online marketplaces.

The report would modify the role of the Product Contact Points, so that they would not be able to enter into partnership arrangements with economic operators, as proposed by the Commission, to avoid conflicts of interest. The report also proposed that the Union Product Compliance Network be reorganised, and provided with additional tasks and powers, including defining priorities for EU-level market surveillance actions. A peer-review system for national market surveillance authorities would be introduced and carried out by two market surveillance authorities from other Member States and the Commission, at least once every five years. The Commission would be authorised to decide the precise criteria for the methodology, the composition of peer evaluation teams and other details in delegated acts. During the September plenary session, Parliament endorsed the mandate for negotiations with the Council adopted by the IMCO committee.

In the Council, meetings on the proposal started within the working party on technical harmonisation (goods package) on 23 January 2018. Following this, 16 working party meetings were held under the Bulgarian and Austrian Presidencies. On 23 November 2018, Coreper approved a mandate for negotiations with the European Parliament, based on a compromise text prepared by the Austrian Presidency, but without adopting a general approach. This is because Member States could not, at that stage, find an agreement on the provisions of Article 4, on the 'person responsible for compliance information'. According to the Presidency compromise text, this would be replaced by an 'economic operator', with tasks regarding compliance, and could be a manufacturer, an importer, an authorised representative or a fulfilment service provider (offering any two of the following services: warehousing, picking, packaging and shipping, but without having ownership of the products involved). Instead of applying to all harmonised products, Article

4 would apply only to products that, when non-compliant, would cause an elevated level of risk to public interest, covered by 17 directives and regulations listed in Article 4. The Commission would be required to publish guidelines on Article 4 and, two years after the date of the application of the regulation, an evaluation report on its implementation.

The Council would change the powers of market surveillance authorities from what had been proposed by the Commission. For instance, they would not be able to perform system audits of economic operators' organisations, access their financial and data flows, nor order restitution of profits obtained as a result of non-compliance.

According to the Council compromise text, market surveillance authorities would not be able to request their counterparts to assist them with enforcement measures in order to bring an instance of non-compliance to an end. Only requests for information would be possible, under the name of 'mutual assistance requests'. The requested authority would be required to supply information or documentation within four weeks, but would be allowed to refuse to comply with a request in well-justified cases, including when its own duties would be substantially impaired.

The Union product compliance network would also be reorganised. Member States would set up administrative cooperation groups of market surveillance authorities (ADCOs) for the implementation of Union harmonisation legislation. Unlike the 'administrative coordination groups' proposed by the Commission, solely representatives of market surveillance authorities would be members of ADCOs, with stakeholder organisations being allowed to participate in their meetings only when invited.

The Commission would not be able to designate Union testing facilities for specific products, but would be able to set up a programme for the establishment of new testing facilities for products for which testing capacity within the Union is lacking, or to encourage existing facilities to increase their scope or capacity.

The interinstitutional negotiations started on 10 December 2018 and finished on 7 February 2019 with a provisional agreement. According to the final text agreed, the title of the regulation would change to 'regulation on market surveillance and compliance of products'. The scope of the regulation would be widened, so that provisions on the products entering the Union market (Articles 25-29) would apply to all products covered by Union legislation, and not just the harmonisation legislation listed in Article 1. In line with Council's request, an importer, an authorised representative or a fulfilment service provider established in the EU would be required only for those non-EU manufactured harmonised products that could cause an elevated level of risk to public interest (listed in Article 4).

The Commission would be required to provide online information regarding the harmonised product requirements via the Your Europe portal, and Member States would be required to put in place procedures for providing economic operators with free, on-request information on the national transposition and implementation of Union harmonisation legislation (Article 8). The provisional agreement would remove the possibility of compliance partnership arrangements between market surveillance authorities and economic operators (Article 7 in the Commission's proposal).

The agreement would harmonise the factors to be taken into account when market surveillance authorities decide what checks to perform. For products for which specific risk or serious breaches have been continually identified, the Commission would be allowed to adopt implementing acts to determine the uniform conditions of checks, their frequency and amount of samples at EU level. Market surveillance authorities could request assistance from their counterparts in another Member State in the form of requests for information (renamed 'mutual assistance'), when despite appropriate efforts they cannot obtain the information themselves (Article 22), and requests for enforcement measures, when non-compliance cannot be brought to an end without measures within the jurisdiction of another Member State (Article 23). An information request would need to be replied to within 30 days, while the deadline for enforcement requests is not stipulated. In both

cases, the authorities would be allowed to refuse a request in well-justified cases, including when their own activities would be substantially impaired.

To verify product compliance, market surveillance authorities would be able to use, without any further formal requirements, evidence used by a market surveillance authority in another Member State. Products deemed to be non-compliant in one Member State would be presumed to be non-compliant by market surveillance authorities in another Member State, unless their own investigation shows otherwise (Article 11). Market surveillance authorities would exchange information on non-compliant products using the existing Union Rapid Alert System, RAPEX (for information on products presenting a serious risk), and using a new information and communication system, to be set up by the Commission. That system would include data on measures concerning non-compliant products, reports of testing, corrective actions and reports of injuries, but would also be used for more comprehensive collection, processing and storage of information on market surveillance, including for communication regarding information requests (Article 34).

Within the Union product compliance network, ADCOs would be established, with stakeholders allowed to their meetings only when invited. The tasks of the network would be somewhat less stringent than proposed by the Commission. For instance, instead of defining the priorities for common market surveillance actions, its task would be to 'facilitate the identification of common priorities for market surveillance activities'. The peer reviews of market surveillance authorities, which Parliament proposed as binding, would be voluntary, 'organised for those market surveillance authorities wishing to be peer reviewed' (Article 12). The Commission would have the possibility to designate a public testing facility of a Member State or its own testing facility as a Union testing facility, which would have to at least carry out product testing at the request of the Commission, or of the network or national market surveillance authorities; provide independent technical or scientific advice; and develop new techniques and methods of analysis.

The agreement would require Member States to determine penalties for infringements of Union harmonisation legislation that does not currently include such measures. It would not, however, lay down rules on how to determine whether a penalty should be imposed in individual cases.

Coreper endorsed the agreement on 15 February 2019, and IMCO approved the text on 21 February. The agreement was adopted by Parliament on 17 April and by the Council on 14 June 2019. The final act was signed on 20 June 2019. It was published in the Official Journal on 25 June and entered into force on 15 July 2019. It applies from 16 July 2021, with the exception of provisions on the Union Product Compliance Network and financing activities, which apply from 1 January 2021.

EP SUPPORTING ANALYSIS

Collovà C with Maestri D, Strengthening the market surveillance of products, Initial appraisal of a European Commission impact assessment, EPRS, European Parliament, March 2018.

Effectiveness of market surveillance in the Member States, Policy Department for Economic and Scientific Policy, European Parliament, October 2009.

Market Surveillance and revision of GPS Directive, Policy Department for Economic and Scientific Policy, European Parliament, September 2010.

Remeur C., Market surveillance and product safety, Library briefing, European Parliament, May 2013.

The product safety and market surveillance package, Policy Department for Economic and Scientific Policy, European Parliament, May 2014.

OTHER SOURCES

Compliance with and enforcement of Union harmonisation legislation on products, Legislative Observatory (OEIL) European Parliament.

ENDNOTES

[1] Different aspects of a product can be harmonised: for toys, EU legislation covers all characteristics; for other products, it lays down only the technical characteristics (such as level of noise, chemical substances) or the rules concerning labelling only (for instance, for composition of clothes and shoes and energy efficiency labelling for electric appliances). For more, see N. Copeland, harmonisation of national laws in the EU, Library briefing, European Parliament, 2010.

[2] The CE marking is a declaration by the manufacturer that the product is in line with harmonisation rules and that it can be sold throughout the internal market. It does not mean that it was produced in the EU. It can only be attached to a product if a harmonising legislation requires it (this is not the case of all harmonising legislation).

[3] This is because not all products are controlled, but only a sample based on risk of non-compliance. Therefore, the results of inspections can overestimate the real non-compliance rate.

[4] These notifications refer only to products suspected of presenting a 'serious risk', and typically not to products whose non-compliance refers to administrative requirements, such as labelling or placing of warnings. In addition, some Member States notify consumer, but not professional products, in RAPEX.

[5] The products were electric motors, laptops, domestic refrigerators/freezers, lifts, gardening equipment, petrol pumps, air conditioners and integrated circuits.

[6] For more, see M. Szczepanski, Mutual recognition of goods, EU Legislation in progress, EPRS, European Parliament, January 2018.

[7] Products made according to the standards benefit from a presumption of conformity and, in some cases, from simpler conformity assessment. Producers who choose different technical solutions have to demonstrate that the products conform to the essential requirements. For more details, see Commission 2016 'Blue Guide' on the implementation of EU product rules.

[8] The main issue was a disagreement between Member States over the Article 7 of the proposal on consumer product safety, which would have introduced a requirement for products to bear an indication of the country of origin.

[9] Commission's impact assessment received first a negative opinion of the regulatory scrutiny board in April 2017 and then a positive opinion with reservations in June 2017, provided that the final version provides additional details and evidence on the options considered.

[10] Some of the issues were clarified by the Commission 2017 notice on the market surveillance of products sold online.

[11] Current Regulation 765/2008 does not detail the powers that national market authorities need to have, beyond saying that these need to be 'necessary for the proper performance of their tasks'. The national authorities 'may require' economic operators to make documentation and information available, take necessary samples of products, destroy or render inoperable products presenting a serious risk and enter the economic operators' premises.

[12] All manufacturers already can, on a voluntary basis, designate an 'authorised representative' with such responsibilities for products covered by harmonising legislation based on Decision 768/2008 (Article R3). The decision also requires all manufacturers and importers to indicate their name and the address at which they can be contacted on the product or packaging or a document accompanying the product.

[13] This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'EP supporting analysis'.

eprs@ep.europa.eu (contact)

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