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## **Directive 98/34/EC at the Service of ‘Better Regulation’ in the Enlarged EU: The Notification Procedure in 2005**

2005 was the first entire calendar year in which the information procedure pursuant to Directive 98/34/EC applied to the enlarged EU of 25 Member States. The full involvement of the new Member States in 2005 confirmed the **smooth extension** of this procedure to EU 10 as of 1 May 2004.

The **number of national regulations** regarding products and of rules on information society services **significantly increased**. All were monitored before their adoption and new barriers to the enlarged internal market could be prevented. In this way Directive 98/34/EC **contributed to ‘better regulation’** thus **improving the competitiveness** of EU enterprises.

### **1. THE INVOLVEMENT OF THE 10 NEW MEMBER STATES**

In 2005, the Commission received altogether **800 draft technical regulations** from the Member States (739) and the EFTA countries (61). This is an increase of more than 30% compared to 2004 (609 EU/EFTA notifications). As in previous years, **food and agricultural products, transport, telecommunication** and **construction** were the sectors with most notifications. Particularly sensitive were **the 13 notifications concerning GMOs** and their co-existence with conventional and organic crops. **31 drafts** were notified in the sector of **information society services** concerning subjects such as the electronic submission of documents to authorities or courts, electronic signature and domain names.

800 notified drafts in 2005					
United Kingdom :98	Spain:	35	Greece :	12	
France :	82	Hungary :	28	Portugal :	7
Slovakia :	63	Denmark :	27	Lithuania :	7
Germany :	60	Czech Republic :	27	Estonia :	7
Netherlands:	51	Poland :	26	Finland :	6
Austria :	49	Belgium :	20	Luxembourg :	4
Italy :	46	Slovenia :	19	Ireland :	1
Sweden :	45	Latvia :	18	Malta :	1
EFTA :	61				

Food products and agriculture :	140	Various :	37
Transport :	121	Chemicals :	33
Telecommunications :	102	Information Society services :	31
Construction :	99	Pharmaceutical products :	21
Energy, minerals, wood :	75	Domestic appliances and leisure :	16
Machinery :	60	GMOs :	13
Environment, packaging :	47	Health, medical devices :	5

The new Member States actively participated in the notification procedure. **196 notifications** (almost 25%) originated **from EU 10**. Their smooth involvement in the procedure is the result of at least three factors:

- the conclusion, in 2003, of **bilateral Agreements** with the former Candidate Countries establishing a simplified notification procedure;
- the provision of **information within the 98/34-Committee**, in which the new Member States participated as observers since 2003, and the organization of **seminars** in their capitals about the functioning of the procedure;
- and the **strong commitment of the competent authorities** in the new Member States and their good cooperation with the Commission and between themselves (e.g. twinning).

Unit C-3 of DG Enterprise and Industry is preparing for the same approach to be taken in respect of Bulgaria and Romania.

## **2. AN INSTRUMENT OF COOPERATION BETWEEN INSTITUTIONS AND ENTERPRISES TO ENSURE THE SMOOTH FUNCTIONING OF THE INTERNAL MARKET**

The Commission **reacted to about one third** of all notifications (52 detailed opinions, 204 comments). The Member States also made ample use of this instrument of reciprocal control (34 detailed opinions, 134 comments; 17% came from EU 10). Although these figures can still rise until the end of March 2006 (end of standstill period of latest notifications received in 2005), they already indicate a slight decline compared to 2004 which suggests a better quality of notified drafts. For instance, many notified regulations already include a mutual recognition clause so that the principle of free movement of goods, in principle, is ensured.

<b>Until 6 January 2006</b>			
Commission :	52	detailed opinions	
	204	comments	
Member States :	34	detailed opinions	
	134	comments	

With regard to 4 notifications, the Commission made use of its power to ‘block’ the adoption of the notified text for 12 months in order to prevent interference with harmonisation work at Community level on the same subject (sectors concerned: foodstuffs, chemicals and greenhouse gases).

The notified texts are available to the public via the TRIS-website (<http://europa.eu.int/comm/enterprise/tris/>; more than 102,000 searches in 2005). Interested parties can also subscribe to a **mailing list** in order to be alerted to new notifications (currently almost **1300 subscribers**). Enterprises, the principal beneficiaries of the notification procedure, are thus informed about new legislative initiatives at an early stage and they can identify potential new barriers to their commercial activity. Industry and professional organisations regularly intervene and provide useful information concerning the impact of draft national measures on their business.

In June 2005, a conference was held with about 200 participants from Member States, the Commission and industry in order to give an overview of Directive 98/34/EC, to listen to **stakeholders' expectations of the procedure** and to further **promote their participation** therein.

### **3. THE USE OF DIRECTIVE 98/34/EC IN THE CONTEXT OF THE 'BETTER REGULATION' POLICY**

In its Communication "Better regulation for growth and jobs in the EU" [COM(2005)97] the Commission has highlighted that the preventive control mechanism established by Directive 98/34/EC is crucial for **improving national regulations** regarding products and rules on information society services. Unit C-3 of DG Enterprise and Industry therefore invited both Commission services and the Member States to intensify their assessment of the notified technical regulations in terms of their **enhanced transparency, readability and efficiency**. Stakeholders were encouraged to express their concerns with regard to proposed 'red tape' provisions. Several **comments** issued by the Commission pursuant to Article 8(2) of Directive 98/34/EC have been **based on the "Better Regulation" strategy**.

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Unit C-3 of the DG Enterprise and Industry would like to thank everyone who has contributed to the smooth functioning of the notification procedure in 2005 and hopes to continue this fruitful cooperation in 2006 and beyond.

(signed)  
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Head of Unit