Non-transposition of EU legislation: Commission takes action to ensure complete and timely transposition of EU directives

Brussels, 27 March 2023

The Commission has adopted a package of infringement decisions due to the absence of communication by Member States of measures taken to transpose EU directives into national law. The Commission has sent a letter of formal notice to those Member States who have failed to notify national measures transposing directives in time. In this package, there are 25 Member States who have not yet notified full transposition measures for six EU directives in the fields of environment, internal market, industry, entrepreneurship and SMEs, migration, home affairs, security union and justice. Member States concerned now have two months to reply to the letters of formal notice and complete their transposition, or the Commission may decide to issue a reasoned opinion.

Drinking water: Ensuring water quality intended for human consumption

Safe drinking water is essential for public health and well-being. The European Union has among the highest drinking water quality standards worldwide, due to over 30 years of successful EU drinking water policies and rules. The Commission updated Directive (EU) 2020/2184 (the Drinking Water Directive) which now includes updated safety standards, introduces a methodology to identify and manage quality risks in the whole water supply chain, establishes a watch list of emerging substances and introduces conformity provisions for products to be used in contact with drinking water. The new directive tackles water leakages as now on average 23% of the treated water is lost during distribution in the EU. The directive also includes new provisions that require Member States to improve and maintain access to drinking water for all, and for vulnerable and marginalised groups in particular.

Member States had the obligation to transpose these new EU provisions into their national systems by 12 January 2023, and to communicate their national transposition measures to the Commission. To date, Belgium, Bulgaria, Czechia, Denmark, Germany, Estonia, Ireland, Greece, Croatia, Cyprus, Latvia, Lithuania, Malta, Austria, Poland, Portugal, Slovenia, Slovakia, Finland and Sweden, failed to notify national measures fully transposing the Directive by the set deadline and will therefore be receiving letters of formal notice.

Lead in cables and wires and in their electrical connections: exemption for the use of lead in superconductor cables and wires as well as for their electrical connections

On 22 September 2022, the Commission Delegated Directive (EU) 2022/1631 was published which adds a new time-limited exemption from the substance restrictions under the Directive 2011/65/EU, the Restriction of Hazardous Substances Directive (RoHS) Directive. Lead is one of the ten substances restricted under this Directive. The application covered by the exemption concerns lead in a superconductor material for cables and wires, as well as lead in electrical connections to these wires. These components can help create electromagnetic circuits for medical devices or monitoring instruments (e.g., magnetic resonance devices (MRI)). The addition of lead provides technical and functional advantages such as stronger magnetic fields. Therefore, the Commission decided to grant an exemption of the lead use in these specific cases, which is otherwise forbidden in such applications. However, the exemption had to be transposed by the Member States before the deadline set for 28 February 2023 in order to become effective and to ensure a level playing field on the Union market. An expire date for the exemption of 30 June 2027 is foreseen. To date, Belgium, Czechia, Spain, Latvia, Malta, Portugal and Slovakia failed to notify national measures fully transposing the Directive by the set deadline and will therefore receive a letter of formal notice.

Lead in certain magnetic resonance imaging devices: exemption for its use

On 22 September 2022, time-limited exemption from the substance restriction was granted with the

Commission Delegated Directive (EU) 2022/1632. The application covered by the respective exemptions concerns lead in components which are used in magnetic fields for certain medical imaging devices. During the technical evaluation, it was concluded that the scope of the existing exemption can be further limited, so that only components for certain magnetic resonance devices can benefit from the exemption, for which no other alternative exists. This mainly concerns old models and helps to reduce the amount of lead placed on the market. The Delegated Directive adapts the exemption accordingly. The exemption had to be transposed by the Member States by 28 February 2023 and an expire date of 30 June 2027 is foreseen. To date, Belgium, Czechia, Spain, Latvia, Malta, Portugal and Slovakia failed to notify national measures fully transposing the Directive by the set deadline and will therefore receive a letter of formal notice.

Trade marks: ensuring an effective and accessible means for businesses to build and defend their brands

The Trade Mark Directive (Directive (EU) 2015/2436) constitutes an important step in modernising and further harmonising EU trade mark law. It brings a number of significant substantial changes in EU trademark law, such as a new trade mark definition more adapted to the digital age. The directive also includes new provisions to harmonise trade mark procedures across the European Union. The Member States were required to introduce national procedures for revocation or declaration of invalidity of trade marks by 14 January 2023 and communicate the text of those measures to the Commission. Bulgaria, Denmark, Malta, Austria, Portugal, Finland, and Slovenia have not notified a transposition of that provision of the Directive into national law by the set deadline and will therefore receive a letter of formal notice.

Fight against drugs: Ban on two harmful new drug substances*

The Commission Delegated Directive (EU) 2022/1326 banned two new psychoactive substances across the European Union in March 2022: 3-MMC and 3-CMC. These two substances are life threatening due to their toxicity. They have now been added to the definition of 'drug' used in Council Framework Decision 2004/757/JHA of 25 October 2004, on illicit drug trafficking. All Member States had to transpose this act into their national legislation and inform the Commission by 18 February 2023. The Netherlands, Poland and Romania have not notified their national measures bringing 3-MMC and 3-CMC under control, and will therefore receive a letter of formal notice today.

Company law: EU rules on cross border conversions, mergers and divisions

In November 2019, the Directive (EU) 2019/2121 amended the Directive (EU) 2017/1132 and laid down new rules to help companies move across borders under harmonised EU rules. These new rules will make it easier for companies to merge, divide or move within the Single Market, while providing safeguards against abuse and ensuring that employees' rights are well protected. The rules will stimulate the growth potential of European companies by benefiting from the opportunities offered by the internal market. All Member States had to transpose the Directive into their national legislation and inform the Commission thereof by 31 January 2023. The following Member States have not notified the national measures transposing the Directive and will receive today a letter of formal notice: Belgium, Bulgaria, Czechia, Denmark, Ireland, Greece, Spain, France, Croatia, Cyprus, Latvia, Lithuania, Luxembourg, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia and Slovakia.

*Updated on 27-03-23 at 16:45