Mutual recognition of goods: Council agrees position to reinforce the single market

The Council today agreed on a general approach on a draft regulation aimed at improving the mutual recognition of goods marketed in another member state.

The objective of the regulation is to improve the application of the principle of mutual recognition in the internal market, and so ensure that goods lawfully marketed in one member state can be sold in any other, as long as they are safe and respect the public interest.

We have still to overcome a number of artificial barriers in various areas of the internal market. Many of them are a result of the application of different rules in non-harmonised sectors or poor implementation of mutual recognition principles. Today's agreement will help promote the freedom of movement of goods in the internal market, and therefore facilitate market access for our companies, which will in the end benefit all European consumers.

Emil Karanikolov, Minister for the Economy of Bulgaria

The existing legislative framework does not ensure a reliable application of the principle of mutual recognition, since market access to goods which are considered safe and in line with the public interest in one member state, may be denied or restricted in another. Consequently, businesses face unwarranted costs and delays, because they have to adapt their goods to the various requirements of national markets.

All member states have acknowledged the need to adapt the existing legislative framework in order to reduce differences in the interpretation and application of the principle of mutual recognition by national authorities, and to remove obstacles, in the way of achieving a genuinely playing field for businesses.

Mutual recognition application

The EU harmonisation legislation sets out common requirements on how products have to be manufactured. This is for example the case of toys, cosmetic products or pyrotechnical articles.

However, there is a wide range of consumer goods such as textile, footwear, childcare articles, jewellery, tableware or furniture, that are not subject to the EU harmonisation legislation or that are only partially covered by it. The new regulation will apply to these goods.

Where there are no EU common rules or when goods are only partially covered by those rules, member states remain free to adopt their national technical rules laying down requirements to be met by those goods. Those requirements may refer for example to designation, form, size, weight, composition, labelling, packaging, etc.

Improving the current framework

As compared to the current legislative framework, a number of improvements are proposed to the application of the principle of mutual recognition, including:

- the clarification of the scope of mutual recognition. This will increase legal certainty for businesses and national authorities as to when the principle of mutual recognition can be applied;
- the introduction of a self-declaration to make it easier to demonstrate that goods have already been lawfully marketed in a member state. This is meant to enable economic operators to benefit from the use of such a declaration within the framework of assessment of goods in question;
- the establishment of a problem-solving procedure to provide practical solutions to citizens and businesses regarding the compatibility of an administrative decision denying or restricting market access with the principle of mutual recognition. The
use of this non-judicial mechanism will make the application of the principle by businesses and national authorities easier;
- the setting up of an efficient administrative cooperation to enhance the exchange of information and trust among national authorities, which will help in the application of the principle of mutual recognition.

Next steps

The general approach enables the Council to start negotiations with the European Parliament (EP) once the EP has agreed its own position.

A vote in the EP’s internal market committee is scheduled after the summer break.

Background

The Commission presented the original proposal on mutual recognition on 19 December 2017 as a part of the “Goods package”, which also contains a proposal for a regulation laying down rules and procedures for compliance with and enforcement of Union harmonisation legislation on products.

The current legislative framework is based on regulation 764/2008, which was adopted in July 2008 in order to facilitate the application of the mutual recognition principle. An evaluation carried out between 2014 and 2016 showed that the principle does not function as it should.

In its conclusions on single market policy of February 2015, the Council called on the Commission to bring forward proposals with a view to improving the mutual recognition.

- General approach on the draft regulation on the mutual recognition of goods lawfully marketed in another member state

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