

Procedure file

Basic information	
<p>COD - Ordinary legislative procedure (ex-codecision procedure) 2011/0353(COD) Directive</p>	Procedure completed
<p>Measuring instruments: making available on the market. Recast. 'Goods package'</p> <p>Repealing Directive 2004/22/EC 2000/0233(COD) See also 2007/0029(COD) See also 2007/0030(COD) Amended by 2017/0353(COD)</p> <p>Subject 2.10.03 Standardisation, EC/EU standards and trade mark, certification, compliance 3.40.11 Precision engineering, optics, photography, medical</p>	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	IMCO Internal Market and Consumer Protection		29/11/2011
		PPE ROITHOVÁ Zuzana	
		Shadow rapporteur	
		S&D SCHALDEMOSE Christel	
		ALDE MANDERS Antonius	
		Verts/ALE RÜHLE Heide	
		ECR FOX Ashley	
		EFD SALVINI Matteo	
	Committee for opinion	Rapporteur for opinion	Appointed
	ITRE Industry, Research and Energy	The committee decided not to give an opinion.	
	JURI Legal Affairs		18/10/2012
		EFD SPERONI Francesco Enrico	
Council of the European Union	Council configuration	Meeting	Date
	Competitiveness (Internal Market, Industry, Research and Space)	3295	20/02/2014
European Commission	Commission DG	Commissioner	
	Internal Market, Industry, Entrepreneurship and SMEs	TAJANI Antonio	
European Economic and Social Committee			

Key events			

21/11/2011	Legislative proposal published	COM(2011)0769	Summary
30/11/2011	Committee referral announced in Parliament, 1st reading		
06/11/2012	Vote in committee, 1st reading		
09/01/2013	Committee report tabled for plenary, 1st reading	A7-0376/2012	
04/02/2014	Debate in Parliament		
05/02/2014	Results of vote in Parliament		
05/02/2014	Decision by Parliament, 1st reading	T7-0091/2014	Summary
20/02/2014	Act adopted by Council after Parliament's 1st reading		
26/02/2014	Final act signed		
26/02/2014	End of procedure in Parliament		
29/03/2014	Final act published in Official Journal		

Technical information

Procedure reference	2011/0353(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Recast
Legislative instrument	Directive
	Repealing Directive 2004/22/EC 2000/0233(COD) See also 2007/0029(COD) See also 2007/0030(COD) Amended by 2017/0353(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 114-p1
Other legal basis	Rules of Procedure EP 159
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed
Committee dossier	IMCO/7/07943

Documentation gateway

Legislative proposal	COM(2011)0769	21/11/2011	EC	Summary
Committee draft report	PE488.064	07/05/2012	EP	
Amendments tabled in committee	PE491.131	07/06/2012	EP	
Committee report tabled for plenary, 1st reading/single reading	A7-0376/2012	09/01/2013	EP	
Text adopted by Parliament, 1st reading/single reading	T7-0091/2014	05/02/2014	EP	Summary
Draft final act	00051/2013/LEX	26/02/2014	CSL	

Additional information

National parliaments

[IPEX](#)

European Commission

[EUR-Lex](#)**Final act**[Directive 2014/32](#)[OJ L 096 29.03.2014, p. 0149](#) Summary[Corrigendum to final act 32014L0032R\(04\)](#)[OJ L 013 20.01.2016, p. 0057](#)

Final legislative act with provisions for delegated acts

Delegated acts[2014/2933\(DEA\)](#)

Examination of delegated act

Measuring instruments: making available on the market. Recast. 'Goods package'

PURPOSE: to align Directive 2004/22/EC on the harmonisation of the laws of the Member States relating to making available on the market of measuring instruments with the new legislative framework, in particular to Decision No 768/2008/EC establishing a common framework for the marketing of products (Goods Package).

PROPOSED ACT: Directive of the European Parliament and of the Council.

BACKGROUND: experience with the implementation of Union harmonisation legislation has shown on a cross-sector scale certain weaknesses and inconsistencies in the implementation and enforcement of this legislation, leading to:

- the presence of non-compliant or dangerous products on the market and consequently a certain lack of trust in CE marking;
- competitive disadvantages for economic operators complying with the legislation as opposed to those circumventing the rules;
- unequal treatment in the case of non-compliant products and distortion of competition amongst economic operators due to different enforcement practices;
- differing practices in the designation of conformity assessment bodies by national authorities;
- problems with the quality of certain notified bodies.

To remedy these horizontal shortcomings in Union harmonisation legislation observed across several industrial sectors, the New Legislative Framework was adopted in 2008 as part of the goods package. Its objective is to strengthen and complete the existing rules and to improve practical aspects of their application and enforcement. The New Legislative Framework (NLF) consists of two complementary instruments, Regulation (EC) No 765/2008 on accreditation and market surveillance and Decision No 768/2008/EC establishing a common framework for the marketing of products.

This proposal on the harmonisation of the laws of the Member States relating to making available on the market of measuring instruments is presented in the framework of the implementation of the goods package adopted in 2008. It is part of a package of proposals aligning ten product directives to Decision No 768/2008/EC establishing a common framework for the marketing of products.

IMPACT ASSESSMENT: based on the information collected, the Commission carried out an impact assessment which examined and compared three options:

- Option 1 No changes to the current situation;
- Option 2 Alignment to the NLF Decision by non-legislative measures;
- Option 3 Alignment to NLF Decision by legislative measures: this option consists in integrating the provisions of the NLF Decision into the existing directives.

Option 3 was found to be the preferred option for the following reasons: (i) it will improve the competitiveness of companies and notified bodies taking their obligations seriously, as opposed to those cheating on the system; (ii) it will improve the functioning of the internal market by ensuring equal treatment of all economic operators, notably importers and distributors, as well as notified bodies; (iii) it does not entail significant costs for economic operators and notified bodies; (iv) it is considered more effective than option 2: due to the lack of enforceability of option 2 it is questionable that the positive impacts would materialise under that option.

LEGAL BASIS: Article 114 of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the alignment to the NLF Decision requires a number of substantive amendments to the provisions of Directive 2004/22/EC. To ensure the readability of the amended text, the technique of recasting has been chosen. The proposal does not change the scope of Directive 2004/22/EC and the essential requirements.

The main elements of the proposal are as follows:

- Horizontal definitions: the proposal introduces harmonised definitions of terms which are commonly used throughout Union harmonisation legislation and should therefore be given a consistent meaning throughout that legislation.
- Obligations of economic operators and traceability requirements: the proposal clarifies the obligations of manufacturers and introduces obligations for importers and distributors. Importers must verify that the manufacturer has carried out the applicable conformity assessment procedure and has drawn up a technical documentation. They must also make sure with the manufacturer that this technical documentation can be made available to authorities upon request. Furthermore importers must verify that the instruments are correctly marked and accompanied by instructions and safety information. They must keep a copy of the Declaration of conformity and indicate their name and address on the product, or where this is not possible on the packaging or the accompanying documentation. Distributors must verify that the article bears the CE marking, the name of the manufacturer and of the importer, if relevant, and that it is accompanied by the required documentation and instructions.
- Harmonised standards: compliance with harmonised standards provides a presumption of conformity with the essential requirements. On 1 June 2011 the Commission adopted a [proposal for a Regulation on European Standardisation](#) that sets out a horizontal legal framework for European standardisation. The proposal for the Regulation contains inter alia provisions on standardisation requests from the Commission to the European Standardisation Organisations, on the procedure for objections to harmonised standards and on stakeholder participation in the standardisation process. Consequently the provisions of Directive 2004/22/EC which cover the same aspects have been deleted in this proposal for reasons of legal certainty. The provision conferring presumption of conformity to harmonised standards has been modified to clarify the extent of the presumption of conformity when standards only partially cover the essential requirements.
- Conformity assessment and CE marking: Directive 2004/22/EC on the placing on the market of pyrotechnic articles has selected the appropriate conformity assessment procedures which manufacturers have to apply in order to demonstrate that their instruments comply with the essential safety requirements. The proposal aligns these procedures to their updated versions set out in the NLF Decision.
- Notified Bodies: the proposal reinforces the notification criteria for notified bodies. It clarifies that subsidiaries or subcontractors must also comply with the notification requirements. Specific requirements for notifying authorities are introduced, and the procedure for notification of notified bodies is revised. The competence of a notified body must be demonstrated by an accreditation certificate.
- Market surveillance and the safeguard clause procedure: the proposal revises the existing safeguard clause procedure. It introduces a phase of information exchange between Member States, and specifies the steps to be taken by the authorities concerned, when a non-compliant instrument is found.

BUDGETARY IMPLICATIONS: this proposal does not have any implications for the EU budget.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.

Measuring instruments: making available on the market. Recast. 'Goods package'

The Committee on the Internal Market and Consumer Protection adopted the report by Zuzana ROITHOVÁ (EPP, CZ) on the proposal for a directive of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to making available on the market of measuring instruments (recast).

The committee recommends that the European Parliaments position adopted at first reading, following the ordinary legislative procedure, should amend the Commission proposal as follows:

Definitions: the definition of 'making available on the market' shall mean the supply of a measuring instrument for distribution or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge.

Consumer protection: Members consider that all obligations imposed on economic operators by this Directive should also apply in the case of distance selling.

Manufacturers shall indicate, on the measuring instrument, their name, registered trade name or registered trade mark and the postal or, if available, the website address at which they can be contacted or, where that is not reasonably possible, those details shall be provided on the packaging or in a document accompanying the measuring instrument. The contact details shall be in the language easily understood by end-users and market surveillance authorities. Such instructions and safety information as well as any labelling shall be clear, understandable and intelligible.

Products in stock: Members consider it necessary to provide for transitional arrangements that allow economic operators a reasonable period of time to make available on the market and put into service measuring instruments that have already been placed on the market in accordance with Directive 2004/22/EC. Economic operators should be able to sell stocks of measuring instruments that are already in the distribution chain on the date of application of national measures transposing this Directive. Member States shall ensure that the obligations of economic operators concerning the products in stock are applied.

EU Declaration of conformity (DoC): upon the request of the market surveillance authorities, the economic operator shall provide a copy of the EU declaration of conformity in paper form or by electronic means.

It is also proposed to add an exception to the rule on 'one single DoC' for cases where the providing a single document creates specific problems due to its complexity or extent. It should be possible to replace that single EU declaration by individual EU declarations of conformity relevant for the particular measuring instrument.

Notifying bodies: Member States shall designate a single notifying authority that shall be responsible for setting up and carrying out the necessary procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies.

The report stipulates that the notification shall include information on the kinds of measuring instruments for which each body has been designated and, where relevant, the instrument accuracy classes, the measuring range, the measurement technology, and any other instrument characteristic limiting the scope of the notification.

Market surveillance: Members suggest that Member States shall, on an annual basis, provide the Commission with details of the activities of their market surveillance authorities and of any plans for and increase of market surveillance, including the allocation of more resources, the

increase of efficiency and the building of the necessary capacity for achieving those goals. Member States shall provide adequate funding to their market surveillance authorities.

Member States shall ensure that appropriate restrictive measures are taken in respect of the measuring instrument concerned, such as withdrawal of the measuring instrument from the market, without delay.

Penalties: Members propose that the Member States shall build upon existing mechanisms to ensure correct application of the regime governing the CE marking and shall take appropriate action in the event of improper use of the marking. Rules on penalties applicable to infringements by economic operators of the national provisions may include criminal penalties for serious infringements. The penalties shall be proportionate to the seriousness of the offence.

Non-retroactive nature of EU legislation: Members propose that measuring instruments which were lawfully placed on the market before may be made available on the market by distributors without further product requirements.

Transposition: the transposition date shall be set at three years (instead of two). Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive. The Commission shall make those texts publicly available by publishing them on the internet.

Measuring instruments: making available on the market. Recast. 'Goods package'

The European Parliament adopted by 648 votes to 14, with 11 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to making available on the market of measuring instruments (recast).

Parliament adopted its position at first reading following the ordinary legislative procedure. The amendments adopted in plenary are the result of an agreement reached between the European Parliament and the Council. They amended the proposal as follows:

Further align the Directive to the new legislative framework and ensure legal certainty: the amendments made by the Parliament seek to ensure that the proposed Directive is more consistent with the terms used by Decision No 768/2008/EC and to eliminate any inconsistencies in the text which could otherwise create legal uncertainty.

Purpose and scope: it is stated that Directive covers measuring instruments which are new to the Union market when they are placed on the market; that is to say they are either new measuring instruments made by a manufacturer established in the Union or measuring instruments, whether new or second-hand, imported from a third country.

This Directive should apply to all forms of supply, including distance selling.

Essential requirements: Member States may require, if it is needed for correct use of the instrument, information to be provided in a language which can be easily understood by end-users.

Obligations of economic operators: manufacturers shall ensure that measuring instruments which they have placed on the market bear a type, batch or serial number or other element allowing their identification, or, where the size or nature of the measuring instrument does not allow it, that the required information is provided in a document accompanying the measuring instrument and on the packaging, if any.

Manufacturers and importers should indicate on the measuring instrument their name, registered trade name or registered trade mark and the postal address at which they can be contacted.

In order to facilitate communication between economic operators, market surveillance authorities and end-users, Member States should encourage economic operators to include a website address in addition to the postal address.

The contact details shall be in a language easily understood by end-users and market surveillance authorities.

Instructions and information, as well as any labelling, shall be clear, understandable and intelligible.

Before placing a measuring instrument on the market and/or putting a measuring instrument into use, distributors should ensure that it is accompanied by the EU declaration of conformity.

EU declaration of conformity: in order to reduce the administrative burden on economic operators, that single EU declaration of conformity may be a dossier made up of relevant individual declarations of conformity.

CE marking: Parliament called on the Member States to build upon existing mechanisms to ensure correct application of the regime governing the CE marking and shall take appropriate action in the event of improper use of that marking.

Notified bodies: a conformity assessment body shall have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and shall have access to all necessary equipment or facilities. The impartiality of the conformity assessment bodies, their top level management and of the personnel responsible for carrying out the conformity assessment tasks shall be guaranteed.

The amended text also stated that an accredited in-house body could be used to carry out conformity assessment activities for the undertaking of which it forms a part. That body shall constitute a separate and distinct part of the undertaking and shall not participate in the design, production, supply, installation, use or maintenance of the measuring instruments it assesses.

Market surveillance: Member States should take all appropriate measures to ensure that measuring instruments may be placed on the market only if, when properly stored and used for their intended purpose, they do not endanger the health and safety of persons.

Restrictive measures in case of non-compliance: Member States should ensure that appropriate restrictive measures, such as withdrawal of the instrument from the market, are taken in respect of the measuring instrument concerned without delay.

Rules on penalties applicable to infringements by economic operators may include criminal penalties for serious infringements. These penalties should be effective, proportionate and dissuasive.

Stock: distributors should be able to supply measuring instruments that have been placed on the market, namely stock that is already in the distribution chain, before the date of application of national measures transposing this Directive.

Implementing measures: in order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission.

The amended text stated that the examination procedure should be used for the adoption of implementing acts with respect to compliant measuring instruments which present a risk to the health or safety of persons or to other aspects of public interest protection.

When matters relating to this Directive, other than its implementation or infringements, are being examined, i.e. in a Commission expert group, the European Parliament should receive full information and documentation and, where appropriate, an invitation to attend such meetings.

Measuring instruments: making available on the market. Recast. 'Goods package'

PURPOSE: to align Directive 2004/22/EC on the harmonisation of the laws of the Member States relating to making available on the market of measuring instruments with the new legislative framework, which established a common framework for the marketing of products (Goods Package).

LEGISLATIVE ACT: Directive 2014/32/EU of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to the making available on the market of measuring instruments (recast).

CONTENT: the Directive is part of a package aiming to recast eight directives in order to adapt them to the EU's new legislative framework on sectoral product harmonisation.

The recast seeks to further harmonise and simplify national laws applicable to:

- [explosives for civil uses](#)
- [simple pressure vessels](#)
- [electromagnetic compatibility](#)
- [non-automatic weighing instruments](#)
- measuring instruments
- [lifts and safety components for lifts](#)
- [equipment for use in potentially explosive atmospheres](#)
- [electrical equipment designed for use within certain voltage limits.](#)

The EU's "new legislative framework", which was adopted in 2008, is a general measure of the internal market with the objective of strengthening the effectiveness of the Unions legislation on product safety and its implementation mechanisms. It aims to strengthen the safety of products available on the market, and ensures a better functioning internal market for instance through equal treatment of economic operators on the market.

It is made up of two complementary texts: regulation 765/2008 outlining the requirements concerning accreditation and surveillance for the marketing of products, and decision 768/2008/EC relating to a common framework for the marketing of products.

The main elements of the new Directive are as follows:

Scope and application: this Directive aims to ensure that measuring instruments on the market fulfil the requirements providing for a high level of protection of the public interests covered by this Directive while guaranteeing the functioning of the internal market.

This Directive regulates measuring instruments which are new to the Union market when they are placed on the market; that is to say they are either new measuring instruments made by a manufacturer established in the Union or measuring instruments, whether new or second-hand, imported from a third country. This Directive should apply to all forms of supply, including distance selling.

Optionality: the Directive states that Member States may prescribe the use of measuring instruments for measuring tasks, where they consider it justified for reasons of public interest, public health, public safety, public order, protection of the environment, protection of consumers, levying of taxes and duties and fair trading.

Where Member States do not prescribe such use, they shall communicate the reasons therefor to the Commission and the other Member States.

Essential requirements: it is stipulated that Member States may require, if it is needed for correct use of the instrument, the information to be provided in a language which can be easily understood by end-users.

Obligations of economic operators and traceability requirements: the Directive clarifies the obligations of manufacturers and introduces obligations for importers and distributors:

- When placing their instruments on the market, manufacturers shall ensure that they have been designed and manufactured in accordance with the essential safety requirements set out in Annex I. Instruments which they have placed on the market must bear a type and serial or batch identification allowing their identification. Where the size or nature of the instrument does not allow it, the required information shall be placed on the packaging or in a document accompanying the instrument.
- Before placing instruments on the market, importers shall ensure that the appropriate conformity assessment procedure has been carried out by the manufacturer. They shall ensure that the manufacturer has drawn up the technical documentation, that the instrument bears the CE marking and the supplementary metrology marking and is accompanied by a copy of the EU declaration of conformity and the required documents.
- Manufacturers and importers shall indicate on the instrument their name, registered trade name or registered trade mark and the

postal address at which they can be contacted. The address shall indicate a single point at which the manufacturer can be contacted. The contact details shall be in a language easily understood by end-users and market surveillance authorities. The instructions and safety information should be in a language which can be easily understood by end-users, as determined by the Member State concerned.

Economic operators who consider or have reason to believe that instruments which they have placed on the market is not in conformity with this Directive shall immediately take the corrective measures necessary to bring them into conformity, to withdraw or recall them, if appropriate.

EU declaration of conformity: the manufacturer shall establish an EU declaration of conformity according to the model structure set out in Annex XIII of the Directive. In order to reduce the administrative burden on economic operators, that single EU declaration of conformity may be a dossier made up of relevant individual declarations of conformity.

Rules and conditions for affixing the CE marking and the supplementary metrology marking: the Directive states that the CE marking and the supplementary metrology marking shall be affixed visibly, legibly and indelibly to the measuring instrument or to its data plate. Where that is not possible or not warranted on account of the nature of the measuring instrument, they shall be affixed to the accompanying documents and to the packaging, if any. As requested by the European Parliament, Member States shall build upon existing mechanisms to ensure correct application of the regime governing the CE marking and shall take appropriate action in the event of improper use of that marking.

Notified bodies: the Directive reinforces the notification criteria for notified bodies. It clarifies that subsidiaries or subcontractors must also comply with the notification requirements. Specific requirements for notifying authorities are introduced, and the procedure for notification of notified bodies is revised. The competence of a notified body must be demonstrated by an accreditation certificate. A conformity assessment body shall be a third-party body independent of the organisation or the instrument it assesses. The impartiality of the conformity assessment bodies, their top level management and of the personnel responsible for carrying out the conformity assessment tasks shall be guaranteed.

Market surveillance and the safeguard clause procedure: the Directive revises the existing safeguard clause procedure. It introduces a phase of information exchange between Member States, and specifies the steps to be taken by the authorities concerned, when a non-compliant article is found. Member States should take all appropriate measures to ensure that instruments may be placed on the market only if, when properly stored and used for their intended purpose, or under conditions of use which can be reasonably foreseen, they do not endanger the health and safety of persons.

Restrictive measures in case of non-compliance: appropriate restrictive measures, such as withdrawal of the instrument concerned from the market should be taken in respect of the instrument concerned without delay.

Rules on penalties applicable to infringements by economic operators could include criminal penalties for serious infringements. The penalties provided for should be effective, proportionate and dissuasive.

Transitional provisions/products in stock: distributors should therefore be able to supply instruments that have been placed on the market, namely stock that is already in the distribution chain, before the 20 April 2016.

ENTRY INTO FORCE: 18/04/2014.

TRANSPPOSITION: 19/04/2016. Measures shall apply from 20.04.2016.