

Regulation (EU) 2019/515 on the Mutual Recognition of Goods Lawfully Marketed in Another Member State

Dr. Irene Flouda

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Why do we need a Regulation on the Mutual Recognition of Goods Lawfully Marketed in Another Member State ?

Single Market

EU harmonisation legislation sets out common requirements on how a product has to be manufactured (i.e. characteristics , size, composition, etc).

AIM

Elimination of barriers and the free movement of goods in the single market

Ensuring that only safe and compliant products find their way into the EU market

1) honest economic operators can benefit 2) effective protection of EU consumers and professional users and 3) a competitive single market.

Single Market

Non harmonized area: Member States remain free to adopt **national technical rules** laying down requirements to be met by those products, (including labelling or packaging).

TFEU Art. 34 and 36: prohibit quantitative restrictions or measures having equivalent effect, and to the principle of mutual recognition.

These rules need to be notified (Directive (EU) 2015/1535) to ensure that no unjustified barriers to the Single Market are allowed.

A product that is lawfully sold in one Member State, in compliance with the applicable national technical rules of that Member State, it should be sold in other Member States without having to be adapted to the national rules of that Member State

Single Market

- Articles 34 to 36 of the Treaty on the Functioning of the European Union (TFEU):

Article 34

Quantitative restrictions on imports and all measures having equivalent effect shall be prohibited between Member States.

Article 35

Quantitative restrictions on exports, and all measures having equivalent effect, shall be prohibited between Member States.

Article 36

The provisions of Articles 34 and 35 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.

Single Market

Barriers to free movement which result from differences in national legislation may only be accepted if the national measures concern:

- protection of public morality or public security and
- protection of the health and life of humans, animals or plants

The main objectives of the principle are to ensure the free movement of goods within the internal market, to lower remaining trade barriers and to promote trade in goods among EU Member States.

Timeline of the EU legislation



Decision No 3052/95/EC established a procedure for the exchange of information on national measures derogating from the principle of the free movement of goods within the Community



Regulation (EC) 764/2008 laying down procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State

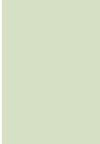


Regulation 515/2019 to include all goods which are not subject to more detailed harmonisation legal acts and eliminate technical barriers imposed in the past by national authorities

Regulation (EC) 764/2008: Main implementation problems



Unclear scope (which products are covered);




difficulties in demonstrating that the product was lawfully marketed in a given Member State;



national administrations favouring their own rules;



difficulties with challenging authorities' decisions;



insufficient communication among all actors (inside and among national administrations, as well as with the Commission, national contact points and companies)

Evaluation of Regulation (EC) 764/2008



Evaluation of Regulation (EC) 764/2008

The majority of companies adapted products to the national rules of the country in which they want to market their product.

More than half of businesses tried to use the principle when entering a new market, with half of them having their access denied and only 2 % managing to successfully overturn that decision.

The lack of rapid remedies for challenging national authorities and insufficient communication among authorities were identified as the biggest obstacles.

The majority of respondents did not see an improvement in placing their products on foreign markets in the period since the regulation entered into force.

Regulation (EU) 2019/515

Aim

Make the EU internal market function better by eliminating, as far as possible all technical barriers to trade, by setting rules for the correct application of the principle of mutual recognition of goods which have been already assessed to the rules existing in one Member State

Applies to: (Scope)

- all type of goods, including agricultural products
- to administrative decisions, having as a basis a national technical rule, that have been taken or are to be taken by a competent authority of a Member State of destination in relation to any such goods that are lawfully marketed in another Member State,

INTERNATIONAL KNOWLEDGE TRANSFER

SOLVIT- Internal Market Problem Solving Network

Product contact points

A 'product contact point' has been set up in every EU country, as required by Regulation 2019/515 on the mutual recognition of goods. The contact points provide free of charge information within 15 days in response to queries related to the regulation.

The product contact points (PCPs) have to provide the following information online, related to the territory in which they operate

- information on the principle of mutual recognition and the application of Regulation 2019/515
- direct contact details for the competent authorities
- the remedies and procedures available in the event of a dispute between the competent authority and a business, including the problem solving procedure provided by the [SOLVIT](#) service

PCPs are also obliged to provide at the request of a business or a competent authority of another EU member country

- any useful information, such as electronic copies of, or online access to, the national technical rules and national administrative procedures applicable to specific goods, or goods of a specific type, in the territory in which the PCP is established

https://ec.europa.eu/growth/single-market/goods/free-movement-sectors/mutual-recognition/contacts-list_en

SOLVIT-Internal Market Problem Solving Network

What is SOLVIT?

SOLVIT is a service provided by the **national administration** in each EU country and in Iceland, Liechtenstein and Norway. SOLVIT is **free of charge**.

It is **mainly an online** service. Although there is a SOLVIT centre in each country, the best way to contact them is via this website.

SOLVIT aims to find solutions within **10 weeks** – starting on the day your case is taken on by the SOLVIT centre in the country where the problem occurred.

When can SOLVIT help?

SOLVIT can help you when:

- your [EU rights as a citizen](#) or as [a business](#) are breached by public authorities in another EU country and
- you have not (yet) taken your case to court (*although we can help if you've just made an administrative appeal*).

https://ec.europa.eu/solvit/what-is-solvit/index_en.htm

<https://www.youtube.com/watch?v=7BeEqT6oy-g>

To start with...

A competent authority of the Member State of destination (MS-2) intends to assess goods subject to this Regulation to establish whether the goods or goods of that type are lawfully marketed in another Member State (MS-1), and, if so, whether the legitimate public interests covered by the applicable national technical rule of the MS2 are adequately protected, having regard to the characteristics of the goods in question.

Steps of procedure

1. The competent authority of the MS-2 contacts the economic operator concerned (**The economic operator shall be allowed to make the goods available on the market during the assessment**)



2a. If a mutual recognition declaration is supplied,

- the declaration + any necessary supporting evidence shall be accepted by the competent authority as sufficient .
- No other information or documentation shall be requested from any economic operator



2b. If a mutual recognition declaration is not supplied then the competent authority may request:

- the characteristics of the goods; and
- lawful marketing of the goods in another Member State. This information shall be provided within 15 days

Steps of procedure

3. the competent authority of the MS-2 may contact the competent authorities or the Product Contact Points of the MS-1, if verification of information is needed.

Test reports or certificates that were issued by a CAB accredited for the appropriate field in accordance with Regulation (EC) No 765/2008 are accepted as evidence.



4. Once the decision is taken, the competent authority of the MS-2 informs:

- The economic operator
- The Commission
- The other MSs

Temporarily suspension

Temporarily suspension of making available goods on the market in the MS-2 only if:

(a) the goods pose a serious risk to safety or health of persons or to the environment, which requires rapid intervention by the competent authority;

(b) on grounds of public morality or public security.



The competent authority of the Member State shall immediately notify the economic operator concerned, the Commission and the other Member States

Thank you for your attention!

PTB project team:

PTB Project Coordinator

Moritz Ackermann

moritz.ackermann@ptb.de

Key expert

Dr. Irene Flouda

flouda@eim.gr

PTB contact person in Ukraine

Iuliia Bliusovych

julia.bliusovych@gmail.com