

Directive 2014/29/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of simple pressure vessels (recast) (Text with EEA relevance)

CHAPTER 5

UNION MARKET SURVEILLANCE, CONTROL OF VESSELS ENTERING THE UNION MARKET AND UNION SAFEGUARD PROCEDURE

Article 35

Procedure for dealing with vessels presenting a risk at national level

1 Where the market surveillance authorities of one Member State have sufficient reason to believe that a vessel covered by this Directive presents a risk to the health or safety of persons, or to domestic animals or property, they shall carry out an evaluation in relation to the vessel concerned covering all relevant requirements laid down in this Directive. The relevant economic operators shall cooperate as necessary with the market surveillance authorities for that purpose.

Where, in the course of the evaluation referred to in the first subparagraph, the market surveillance authorities find that the vessel does not comply with the requirements laid down in this Directive, they shall without delay require the relevant economic operator to take all appropriate corrective actions to bring the vessel into compliance with those requirements, to withdraw the vessel from the market, or to recall it within a reasonable period, commensurate with the nature of the risk, as they may prescribe.

The market surveillance authorities shall inform the relevant notified body accordingly.

Article 21 of Regulation (EC) No 765/2008 shall apply to the measures referred to in the second subparagraph of this paragraph.

2 Where the market surveillance authorities consider that non-compliance is not restricted to their national territory, they shall inform the Commission and the other Member States of the results of the evaluation and of the actions which they have required the economic operator to take.

3 The economic operator shall ensure that all appropriate corrective action is taken in respect of all the vessels concerned that it has made available on the market throughout the Union.

4 Where the relevant economic operator does not take adequate corrective action within the period referred to in the second subparagraph of paragraph 1, the market surveillance authorities shall take all appropriate provisional measures to prohibit or restrict the vessel's being made available on their national market, to withdraw the vessel from that market or to recall it.

The market surveillance authorities shall inform the Commission and the other Member States, without delay, of those measures.

5 The information referred to in the second subparagraph of paragraph 4 shall include all available details, in particular the data necessary for the identification of the non-compliant vessel, the origin of the vessel, the nature of the non-compliance alleged and the risk involved,

the nature and duration of the national measures taken and the arguments put forward by the relevant economic operator. In particular, the market surveillance authorities shall indicate whether the non-compliance is due to either of the following:

- a failure of the vessel to meet requirements relating to the health or safety of persons, to the protection of domestic animals or property; or
- b shortcomings in the harmonised standards referred to in Article 12 conferring a presumption of conformity.

6 Member States other than the Member State initiating the procedure under this Article shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the vessel concerned, and, in the event of disagreement with the adopted national measure, of their objections.

7 Where, within three months of receipt of the information referred to in the second subparagraph of paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified.

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