

Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use

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PARLIAMENT AND OF THE COUNCIL

of 6 November 2001

on the Community code relating to medicinal products for human use

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission;

Having regard to the opinion of the Economic and Social Committee⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽²⁾,

Whereas:

- (1) Council Directive 65/65/EEC of 26 January 1965 on the approximation of provisions laid down by law, regulation or administrative action relating to medicinal products⁽³⁾, Council Directive 75/318/EEC of 20 May 1975 on the approximation of the laws of Member States relating to analytical, pharmaco-toxicological and clinical standards and protocols in respect of the testing of proprietary medicinal products⁽⁴⁾, Council Directive 75/319/EEC of 20 May 1975 on the approximation of provisions laid down by law, regulation or administrative action relating to proprietary medicinal products⁽⁵⁾, Council Directive 89/342/EEC of 3 May 1989 extending the scope of Directives 65/65/EEC and 75/319/EEC and laying down additional provisions for immunological medicinal products consisting of vaccines, toxins or serums and allergens⁽⁶⁾, Council Directive 89/343/EEC of 3 May 1989 extending the scope of Directives 65/65/EEC and 75/319/EEC and laying down additional provisions for radiopharmaceuticals⁽⁷⁾, Council Directive 89/381/EEC of 14 June 1989 extending the scope of Directives 65/65/EEC and 75/319/EEC on the approximation of provisions laid down by law, regulation or administrative action relating to medicinal products and laying down special provisions for proprietary medicinal products derived from human blood or human plasma⁽⁸⁾, Council Directive 92/25/EEC of 31 March 1992 on the wholesale distribution of medicinal products for human use⁽⁹⁾, Council Directive 92/26/EEC of 31 March 1992 concerning the classification for the supply of medicinal products for human use⁽¹⁰⁾, Council Directive 92/27/EEC of 31 March 1992 on the labelling of medicinal products for human use and on package leaflets⁽¹¹⁾, Council Directive 92/28/EEC of 31 March 1992 on the advertising of medicinal products for human use⁽¹²⁾, Council Directive 92/73/EEC of 22 September 1992 widening the scope of Directives 65/65/EEC and 75/319/EEC on the approximation of provisions laid down by law, regulation or administrative action relating to medicinal products and laying down

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additional provisions on homeopathic medicinal products⁽¹³⁾ have been frequently and substantially amended. In the interests of clarity and rationality, the said Directives should therefore be codified by assembling them in a single text.

- (2) The essential aim of any rules governing the production, distribution and use of medicinal products must be to safeguard public health.
- (3) However, this objective must be attained by means which will not hinder the development of the pharmaceutical industry or trade in medicinal products within the Community.
- (4) Trade in medicinal products within the Community is hindered by disparities between certain national provisions, in particular between provisions relating to medicinal products (excluding substances or combinations of substances which are foods, animal feeding-stuffs or toilet preparations), and such disparities directly affect the functioning of the internal market.
- (5) Such hindrances must accordingly be removed; whereas this entails approximation of the relevant provisions.
- (6) In order to reduce the disparities which remain, rules should be laid down on the control of medicinal products and the duties incumbent upon the Member States' competent authorities should be specified with a view to ensuring compliance with legal requirements.
- (7) The concepts of harmfulness and therapeutic efficacy can only be examined in relation to each other and have only a relative significance depending on the progress of scientific knowledge and the use for which the medicinal product is intended. The particulars and documents which must accompany an application for marketing authorization for a medicinal product demonstrate that potential risks are outweighed by the therapeutic efficacy of the product.
- (8) Standards and protocols for the performance of tests and trials on medicinal products are an effective means of control of these products and hence of protecting public health and can facilitate the movement of these products by laying down uniform rules applicable to tests and trials, the compilation of dossiers and the examination of applications.
- (9) Experience has shown that it is advisable to stipulate more precisely the cases in which the results of toxicological and pharmacological tests or clinical trials do not have to be provided with a view to obtaining authorization for a medicinal product which is essentially similar to an authorized product, while ensuring that innovative firms are not placed at a disadvantage.
- (10) However, there are reasons of public policy for not conducting repetitive tests on humans or animals without over-riding cause.
- (11) The adoption of the same standards and protocols by all the Member States will enable the competent authorities to arrive at their decisions on the basis of uniform tests and by reference to uniform criteria and will therefore help to avoid differences in evaluation.

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- (12) With the exception of those medicinal products which are subject to the centralized Community authorization procedure established by Council Regulation (EEC) No 2309/93 of 22 July 1993 laying down Community procedures for the authorization and supervision of medicinal products for human and veterinary use and establishing a European Agency for the Evaluation of Medicinal Products⁽¹⁴⁾ a marketing authorization for a medicinal product granted by a competent authority in one Member State ought to be recognized by the competent authorities of the other Member States unless there are serious grounds for supposing that the authorization of the medicinal product concerned may present a risk to public health. In the event of a disagreement between Member States about the quality, the safety or the efficacy of a medicinal product, a scientific evaluation of the matter should be undertaken according to a Community standard, leading to a single decision on the area of disagreement binding on the Member States concerned. Whereas this decision should be adopted by a rapid procedure ensuring close cooperation between the Commission and the Member States.
- (13) For this purpose, a Committee for Proprietary Medicinal Products should be set up attached to the European Agency for the Evaluation of Medicinal Products established in the abovementioned Regulation (EEC) No 2309/93.
- (14) This Directive represents an important step towards achievement of the objective of the free movement of medicinal products. Further measures may abolish any remaining barriers to the free movement of proprietary medicinal products will be necessary in the light of experience gained, particularly in the abovementioned Committee for Proprietary Medicinal Products.
- (15) In order better to protect public health and avoid any unnecessary duplication of effort during the examination of application for a marketing authorization for medicinal products, Member States should systematically prepare assessment reports in respect of each medicinal product which is authorized by them, and exchange the reports upon request. Furthermore, a Member State should be able to suspend the examination of an application for authorization to place a medicinal product on the market which is currently under active consideration in another Member State with a view to recognizing the decision reached by the latter Member State.
- (16) Following the establishment of the internal market, specific controls to guarantee the quality of medicinal products imported from third countries can be waived only if appropriate arrangements have been made by the Community to ensure that the necessary controls are carried out in the exporting country.
- (17) It is necessary to adopt specific provisions for immunological medicinal products, homeopathic medicinal products, radiopharmaceuticals, and medicinal products based on human blood or human plasma.
- (18) Any rules governing radiopharmaceuticals must take into account the provisions of Council Directive 84/466/Euratom of 3 September 1984 laying down basic measures for the radiation protection of persons undergoing medical examination or treatment⁽¹⁵⁾. Account should also be taken of Council Directive 80/836/Euratom of 15 July 1980 amending the Directives laying down the basic safety standards for the health protection

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of the general public and workers against the dangers of ionizing radiation⁽¹⁶⁾, the objective of which is to prevent the exposure of workers or patients to excessive or unnecessarily high levels of ionizing radiation, and in particular of Article 5c thereof, which requires prior authorization for the addition of radioactive substances to medicinal products as well as for the importation of such medicinal products.

- (19) The Community entirely supports the efforts of the Council of Europe to promote voluntary unpaid blood and plasma donation to attain self-sufficiency throughout the Community in the supply of blood products, and to ensure respect for ethical principles in trade in therapeutic substances of human origin.
- (20) The rules designed to guarantee the quality, safety and efficacy of medicinal products derived from human blood or human plasma must be applied in the same manner to both public and private establishments, and to blood and plasma imported from third countries.
- (21) Having regard to the particular characteristics of these homeopathic medicinal products, such as the very low level of active principles they contain and the difficulty of applying to them the conventional statistical methods relating to clinical trials, it is desirable to provide a special, simplified registration procedure for those homeopathic medicinal products which are placed on the market without therapeutic indications in a pharmaceutical form and dosage which do not present a risk for the patient.
- (22) The anthroposophic medicinal products described in an official pharmacopoeia and prepared by a homeopathic method are to be treated, as regards registration and marketing authorization, in the same way as homeopathic medicinal products.
- (23) It is desirable in the first instance to provide users of these homeopathic medicinal products with a very clear indication of their homeopathic character and with sufficient guarantees of their quality and safety.
- (24) The rules relating to the manufacture, control and inspection of homeopathic medicinal products must be harmonized to permit the circulation throughout the Community of medicinal products which are safe and of good quality.
- (25) The usual rules governing the authorization to market medicinal products should be applied to homeopathic medicinal products placed on the market with therapeutic indications or in a form which may present risks which must be balanced against the desired therapeutic effect. In particular, those Member States which have a homeopathic tradition should be able to apply particular rules for the evaluation of the results of tests and trials intended to establish the safety and efficacy of these medicinal products provided that they notify them to the Commission.
- (26) In order to facilitate the movement of medicinal products and to prevent the controls carried out in one Member State from being repeated in another, minimum requirements should be laid down for manufacture and imports coming from third countries and for the grant of the authorization relating thereto.

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- (27) It should be ensured that, in the Member States, the supervision and control of the manufacture of medicinal products is carried out by a person who fulfils minimum conditions of qualification.
- (28) Before an authorization to market an immunological medicinal product or derived from human blood or human plasma can be granted, the manufacturer must demonstrate his ability to attain batch-to-batch consistency. Before an authorization to market a medicinal product derived from human blood or human plasma can be granted, the manufacturer must also demonstrate the absence of specific viral contamination, to the extent that the state of technology permits.
- (29) The conditions governing the supply of medicinal products to the public should be harmonized.
- (30) In this connection persons moving around within the Community have the right to carry a reasonable quantity of medicinal products lawfully obtained for their personal use. It must also be possible for a person established in one Member State to receive from another Member State a reasonable quantity of medicinal products intended for his personal use.
- (31) In addition, by virtue of Regulation (EC) No 2309/93, certain medicinal products are the subject of a Community marketing authorization. In this context, the classification for the supply of medicinal products covered by a Community marketing authorization needs to be established. It is therefore important to set the criteria on the basis of which Community decisions will be taken.
- (32) It is therefore appropriate, as an initial step, to harmonize the basic principles applicable to the classification for the supply of medicinal products in the Community or in the Member State concerned, while taking as a starting point the principles already established on this subject by the Council of Europe as well as the work of harmonization completed within the framework of the United Nations, concerning narcotic and psychotropic substances.
- (33) The provisions dealing with the classification of medicinal products for the purpose of supply do not infringe the national social security arrangements for reimbursement or payment for medicinal products on prescription.
- (34) Many operations involving the wholesale distribution of medicinal products for human use may cover several Member States simultaneously.
- (35) It is necessary to exercise control over the entire chain of distribution of medicinal products, from their manufacture or import into the Community through to supply to the public, so as to guarantee that such products are stored, transported and handled in suitable conditions. The requirements which must be adopted for this purpose will considerably facilitate the withdrawal of defective products from the market and allow more effective efforts against counterfeit products.
- (36) Any person involved in the wholesale distribution of medicinal products should be in possession of a special authorization. Pharmacists and persons authorized to supply medicinal products to the public, and who confine themselves to this activity, should be

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exempt from obtaining this authorization. It is however necessary, in order to control the complete chain of distribution of medicinal products, that pharmacists and persons authorized to supply medicinal products to the public keep records showing transactions in products received.

- (37) Authorization must be subject to certain essential conditions and it is the responsibility of the Member State concerned to ensure that such conditions are met; whereas each Member State must recognize authorizations granted by other Member States.
- (38) Certain Member States impose on wholesalers who supply medicinal products to pharmacists and on persons authorized to supply medicinal products to the public certain public service obligations. Those Member States must be able to continue to impose those obligations on wholesalers established within their territory. They must also be able to impose them on wholesalers in other Member States on condition that they do not impose any obligation more stringent than those which they impose on their own wholesalers and provided that such obligations may be regarded as warranted on grounds of public health protection and are proportionate in relation to the objective of such protection.
- (39) Rules should be laid down as to how the labelling and package leaflets are to be presented.
- (40) The provisions governing the information supplied to users should provide a high degree of consumer protection, in order that medicinal products may be used correctly on the basis of full and comprehensible information.
- (41) The marketing of medicinal products whose labelling and package leaflets comply with this Directive should not be prohibited or impeded on grounds connected with the labelling or package leaflet.
- (42) This Directive is without prejudice to the application of measures adopted pursuant to Council Directive 84/450/EEC of 10 September 1984 relating to the approximation of the laws, regulations and administrative provisions of the Member States concerning misleading advertising⁽¹⁷⁾.
- (43) All Member States have adopted further specific measures concerning the advertising of medicinal products. There are disparities between these measures. These disparities are likely to have an impact on the functioning of the internal market, since advertising disseminated in one Member State is likely to have effects in other Member States.
- (44) Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities⁽¹⁸⁾ prohibits the television advertising of medicinal products which are available only on medical prescription in the Member State within whose jurisdiction the television broadcaster is located. This principle should be made of general application by extending it to other media.
- (45) Advertising to the general public, even of non-prescription medicinal products, could affect public health, were it to be excessive and ill-considered. Advertising of medicinal

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- products to the general public, where it is permitted, ought therefore to satisfy certain essential criteria which ought to be defined.
- (46) Furthermore, distribution of samples free of charge to the general public for promotional ends must be prohibited.
- (47) The advertising of medicinal products to persons qualified to prescribe or supply them contributes to the information available to such persons. Nevertheless, this advertising should be subject to strict conditions and effective monitoring, referring in particular to the work carried out within the framework of the Council of Europe.
- (48) Advertising of medicinal products should be subject to effective, adequate monitoring. Reference in this regard should be made to the monitoring mechanisms set up by Directive 84/450/EEC.
- (49) Medical sales representatives have an important role in the promotion of medicinal products. Therefore, certain obligations should be imposed upon them, in particular the obligation to supply the person visited with a summary of product characteristics.
- (50) Persons qualified to prescribe medicinal products must be able to carry out these functions objectively without being influenced by direct or indirect financial inducements.
- (51) It should be possible within certain restrictive conditions to provide samples of medicinal products free of charge to persons qualified to prescribe or supply them so that they can familiarize themselves with new products and acquire experience in dealing with them.
- (52) Persons qualified to prescribe or supply medicinal products must have access to a neutral, objective source of information about products available on the market. Whereas it is nevertheless for the Member States to take all measures necessary to this end, in the light of their own particular situation.
- (53) Each undertaking which manufactures or imports medicinal products should set up a mechanism to ensure that all information supplied about a medicinal product conforms with the approved conditions of use.
- (54) In order to ensure the continued safety of medicinal products in use, it is necessary to ensure that pharmacovigilance systems in the Community are continually adapted to take account of scientific and technical progress.
- (55) It is necessary to take account of changes arising as a result of international harmonisation of definitions, terminology and technological developments in the field of pharmacovigilance.
- (56) The increasing use of electronic networks for communication of information on adverse reactions to medicinal products marketed in the Community is intended to allow competent authorities to share the information at the same time.
- (57) It is the interest of the Community to ensure that the pharmacovigilance systems for centrally authorised medicinal products and those authorised by other procedures are consistent.

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- (58) Holders of marketing authorisations should be proactively responsible for on-going pharmacovigilance of the medicinal products they place on the market.
- (59) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽¹⁹⁾.
- (60) The Commission should be empowered to adopt any necessary changes to Annex I in order to take into account scientific and technical progress.
- (61) This Directive should be without prejudice to the obligations of the Member States concerning the time-limits for transposition of the Directives set out in Annex II, Part B.

HAVE ADOPTED THIS DIRECTIVE:

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- (1) [OJ C 368, 20.12.1999, p. 3.](#)
- (2) Opinion of the European Parliament of 3 July 2001 (not yet published in the Official Journal) and Council Decision of 27 September 2001.
- (3) [OJ 22, 9.2.1965, p. 369/65.](#) Directive as last amended by Directive 93/39/EEC ([OJ L 214, 24.8.1993, p. 22](#)).
- (4) [OJ L 147, 9.6.1975, p. 1.](#) Directive as last amended by Commission Directive 1999/83/EC ([OJ L 243, 15.9.1999, p. 9](#)).
- (5) [OJ L 147, 9.6.1975, p. 13.](#) Directive as last amended by Commission Directive 2000/38/EC ([OJ L 139, 10.6.2000, p. 28](#)).
- (6) [OJ L 142, 25.5.1989, p. 14.](#)
- (7) [OJ L 142, 25.5.1989, p. 16.](#)
- (8) [OJ L 181, 28.6.1989, p. 44.](#)
- (9) [OJ L 113, 30.4.1992, p. 1.](#)
- (10) [OJ L 113, 30.4.1992, p. 5.](#)
- (11) [OJ L 113, 30.4.1992, p. 8.](#)
- (12) [OJ L 113, 30.4.1992, p. 13.](#)
- (13) [OJ L 297, 13.10.1992, p. 8.](#)
- (14) [OJ L 214, 24.8.1993, p. 1.](#) Regulation as amended by Commission Regulation (EC) No 649/98 ([OJ L 88, 24.3.1998, p. 7](#)).
- (15) [OJ L 265, 5.10.1984, p. 1.](#) Directive repealed with effect from 13 May 2000 by Directive 97/43/Euratom ([OJ L 180, 9.7.1997, p. 22](#)).
- (16) [OJ L 246, 17.9.1980, p. 1.](#) Directive as amended by Directive 84/467/Euratom ([OJ L 265, 5.10.1984, p. 4](#)), repealed with effect from 13 May 2000 by Directive 96/29/Euratom ([OJ L 314, 4.12.1996, p. 20](#)).
- (17) [OJ L 250, 19.9.1984, p. 17.](#) Directive as amended by Directive 97/55/EC ([OJ L 290, 23.10.1997, p. 18](#)).
- (18) [OJ L 298, 17.10.1989, p. 23.](#) Directive as amended by Directive 97/36/EC ([OJ L 202, 30.7.1997, p. 60](#)).
- (19) [OJ L 184, 17.7.1999, p. 23.](#)