

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

TITLE II

SCOPE

[^{F1}Article 2

- 1 This Directive shall apply to medicinal products for human use intended to be placed on the market in Member States and either prepared industrially or manufactured by a method involving an industrial process.
- 2 In cases of doubt, where, taking into account all its characteristics, a product may fall within the definition of a ‘medicinal product’ and within the definition of a product covered by other Community legislation the provisions of this Directive shall apply.
- 3 Notwithstanding paragraph 1 and Article 3(4), Title IV of this Directive shall apply to medicinal products intended only for export and to intermediate products.]

Textual Amendments

- F1** Substituted by [Directive 2004/27/EC of the European Parliament and of the Council of 31 March 2004 amending Directive 2001/83/EC on the Community code relating to medicinal products for human use.](#)

Article 3

This Directive shall not apply to:

1. Any medicinal product prepared in a pharmacy in accordance with a medical prescription for an individual patient (commonly known as the magistral formula).
2. [^{F1}Any medicinal product which is prepared in a pharmacy in accordance with the prescriptions of a pharmacopoeia and is intended to be supplied directly to the patients served by the pharmacy in question (commonly known as the officinal formula).]
3. [^{F1}Medicinal products intended for research and development trials, but without prejudice to the provisions of Directive 2001/20/EC of the European Parliament and of the Council of 4 April 2001 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the implementation of good clinical practice in the conduct of clinical trials on medicinal products for human use⁽¹⁾.]
4. Intermediate products intended for further processing by an authorized manufacturer.
5. Any radionuclides in the form of sealed sources.
6. [^{F1}Whole blood, plasma or blood cells of human origin, except for plasma which is prepared by a method involving an industrial process.]
7. [^{F2}Any advanced therapy medicinal product, as defined in Regulation (EC) No 1394/2007, which is prepared on a non-routine basis according to specific quality standards, and used within the same Member State in a hospital under the exclusive

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professional responsibility of a medical practitioner, in order to comply with an individual medical prescription for a custom-made product for an individual patient.

Manufacturing of these products shall be authorised by the competent authority of the Member State. Member States shall ensure that national traceability and pharmacovigilance requirements as well as the specific quality standards referred to in this paragraph are equivalent to those provided for at Community level in respect of advanced therapy medicinal products for which authorisation is required pursuant to Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency⁽²⁾.]

Textual Amendments

- F1** Substituted by [Directive 2004/27/EC of the European Parliament and of the Council of 31 March 2004 amending Directive 2001/83/EC on the Community code relating to medicinal products for human use](#).
- F2** Inserted by [Regulation \(EC\) No 1394/2007 of the European Parliament and of the Council of 13 November 2007 on advanced therapy medicinal products and amending Directive 2001/83/EC and Regulation \(EC\) No 726/2004 \(Text with EEA relevance\)](#).

Article 4

1 Nothing in this Directive shall in any way derogate from the Community rules for the radiation protection of persons undergoing medical examination or treatment, or from the Community rules laying down the basic safety standards for the health protection of the general public and workers against the dangers of ionizing radiation.

2 This Directive shall be without prejudice to Council Decision 86/346/EEC of 25 June 1986 accepting on behalf of the Community the European Agreement on the Exchange of Therapeutic Substances of Human Origin⁽³⁾.

3 The provisions of this Directive shall not affect the powers of the Member States' authorities either as regards the setting of prices for medicinal products or their inclusion in the scope of national health insurance schemes, on the basis of health, economic and social conditions.

4 This Directive shall not affect the application of national legislation prohibiting or restricting the sale, supply or use of medicinal products as contraceptives or abortifacients. The Member States shall communicate the national legislation concerned to the Commission.

[^{F25} This Directive and all Regulations referred to therein shall not affect the application of national legislation prohibiting or restricting the use of any specific type of human or animal cells, or the sale, supply or use of medicinal products containing, consisting of or derived from these cells, on grounds not dealt with in the aforementioned Community legislation. The Member States shall communicate the national legislation concerned to the Commission. The Commission shall make this information publicly available in a register.]

Textual Amendments

- F2** Inserted by [Regulation \(EC\) No 1394/2007 of the European Parliament and of the Council of 13 November 2007 on advanced therapy medicinal products and amending Directive 2001/83/EC and Regulation \(EC\) No 726/2004 \(Text with EEA relevance\)](#).

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F1 Article 5

1 A Member State may, in accordance with legislation in force and to fulfil special needs, exclude from the provisions of this Directive medicinal products supplied in response to a bona fide unsolicited order, formulated in accordance with the specifications of an authorised health-care professional and for use by an individual patient under his direct personal responsibility.

2 Member States may temporarily authorise the distribution of an unauthorised medicinal product in response to the suspected or confirmed spread of pathogenic agents, toxins, chemical agents or nuclear radiation any of which could cause harm.

3 Without prejudice to paragraph 1, Member States shall lay down provisions in order to ensure that marketing authorisation holders, manufacturers and health professionals are not subject to civil or administrative liability for any consequences resulting from the use of a medicinal product otherwise than for the authorised indications or from the use of an unauthorised medicinal product, when such use is recommended or required by a competent authority in response to the suspected or confirmed spread of pathogenic agents, toxins, chemical agents or nuclear radiation any of which could cause harm. Such provisions shall apply whether or not national or Community authorisation has been granted.

4 Liability for defective products, as provided for by Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States, concerning liability for defective products⁽⁴⁾, shall not be affected by paragraph 3.]

Textual Amendments

F1 Substituted by [Directive 2004/27/EC of the European Parliament and of the Council of 31 March 2004 amending Directive 2001/83/EC on the Community code relating to medicinal products for human use.](#)

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- (1) [^{F1}OJ L 121, 1.5.2001, p. 34.]
- (2) [^{F2}OJ L 136, 30.4.2004, p. 1. Regulation as amended by Regulation (EC) No 1901/2006 (OJ L 378, 27.12.2006, p. 1).]
- (3) OJ L 207, 30.7.1986, p. 1.
- (4) [^{F1}OJ L 210, 7.8.1985, p. 29. Directive as last amended by Directive 1999/34/EC of the European Parliament and of the Council (OJ L 141, 4.6.1999, p. 20).]

Textual Amendments

- F1** Substituted by [Directive 2004/27/EC of the European Parliament and of the Council of 31 March 2004 amending Directive 2001/83/EC on the Community code relating to medicinal products for human use.](#)
- F2** Inserted by [Regulation \(EC\) No 1394/2007 of the European Parliament and of the Council of 13 November 2007 on advanced therapy medicinal products and amending Directive 2001/83/EC and Regulation \(EC\) No 726/2004 \(Text with EEA relevance\).](#)