

Directive 2014/30/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 electromagnetic compatibility (recast) (Text with EEA relevance)

DIRECTIVE 2014/30/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 electromagnetic compatibility (recast)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

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

Acting in accordance with the ordinary legislative procedure⁽²⁾,

Whereas:

- (1) A number of amendments are to be made to Directive 2004/108/EC of the European Parliament and of the Council of 15 December 2004 on the approximation of the laws of the Member States relating to electromagnetic compatibility and repealing Directive 89/336/EEC⁽³⁾. In the interests of clarity, that Directive should be recast.
- (2) Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products⁽⁴⁾ lays down rules on the accreditation of conformity assessment bodies, provides a framework for the market surveillance of products and for controls on products from third countries, and lays down the general principles of the CE marking.
- (3) Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products⁽⁵⁾, lays down common principles and reference provisions intended to apply across sectoral legislation in order to provide a coherent basis for revision or recasts of that legislation. Directive 2004/108/EC should be adapted to that Decision.
- (4) Member States should be responsible for ensuring that radiocommunications, including radio broadcast reception and the amateur radio service operating in accordance with International Telecommunication Union (ITU) radio regulations, electrical supply

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networks and telecommunications networks, as well as equipment connected thereto, are protected against electromagnetic disturbance.

- (5) Provisions of national law ensuring protection against electromagnetic disturbance need to be harmonised in order to guarantee the free movement of electrical and electronic apparatus without lowering justified levels of protection in the Member States.
- (6) This Directive covers products which are new to the Union market when they are placed on the market; that is to say they are either new products made by a manufacturer established in the Union or products, whether new or second-hand, imported from a third country.
- (7) This Directive should apply to all forms of supply, including distance selling.
- (8) The equipment covered by this Directive should include both apparatus and fixed installations. However, separate provision should be made for each. This is so because, whereas apparatus as such may move freely within the Union, fixed installations on the other hand are installed for permanent use at a predefined location, as assemblies of various types of apparatus and, where appropriate, other devices. The composition and function of such installations correspond in most cases to the particular needs of their operators.
- (9) Where this Directive regulates apparatus, it should apply to finished apparatus placed on the market. Certain components or sub-assemblies should, under certain conditions, be considered to be apparatus if they are made available to the end-user.
- (10) Radio equipment and telecommunications terminal equipment should not be covered by this Directive since they are already regulated by Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity⁽⁶⁾. The electromagnetic compatibility requirements in both Directives achieve the same level of protection.
- (11) Aircraft or equipment intended to be fitted into aircraft should not be covered by this Directive, since they are already subject to special Union or international rules governing electromagnetic compatibility.
- (12) This Directive should not regulate equipment which is inherently benign in terms of electromagnetic compatibility.
- (13) This Directive should not deal with the safety of equipment, since that is dealt with by separate Union or national legislation.
- (14) Manufacturers of equipment intended to be connected to networks should construct such equipment in a way that prevents networks from suffering unacceptable degradation of service when used under normal operating conditions. Network operators should construct their networks in such a way that manufacturers of equipment liable to be connected to networks do not suffer a disproportionate burden in order to prevent networks from suffering an unacceptable degradation of service. The European standardisation organisations should take due account of that objective

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- (including the cumulative effects of the relevant types of electromagnetic phenomena) when developing harmonised standards.
- (15) Protection against electromagnetic disturbance requires obligations to be imposed on the various economic operators. Those obligations should be applied in a fair and effective way in order to achieve such protection.
 - (16) Economic operators should be responsible for the compliance of apparatus with this Directive, in relation to their respective roles in the supply chain, so as to ensure a high level of protection of public interests covered by this Directive, and to guarantee fair competition on the Union market.
 - (17) All economic operators intervening in the supply and distribution chain should take appropriate measures to ensure that they only make available on the market apparatus which are in conformity with this Directive. It is necessary to provide for a clear and proportionate distribution of obligations which correspond to the role of each economic operator in the supply and distribution chain.
 - (18) In order to facilitate communication between economic operators, market surveillance authorities and consumers, Member States should encourage economic operators to include a website address in addition to the postal address.
 - (19) The manufacturer, having detailed knowledge of the design and production process, is best placed to carry out the conformity assessment procedure. Conformity assessment should therefore remain solely the obligation of the manufacturer.
 - (20) It is necessary to ensure that products from third countries entering the Union market comply with this Directive, and in particular that appropriate conformity assessment procedures have been carried out by manufacturers with regard to those apparatus. Provision should therefore be made for importers to make sure that the apparatus they place on the market comply with the requirements of this Directive and that they do not place on the market apparatus which do not comply with such requirements or present a risk. Provision should also be made for importers to make sure that conformity assessment procedures have been carried out and that marking of apparatus and documentation drawn up by manufacturers are available for inspection by the competent national authorities.
 - (21) When placing apparatus on the market, every importer should indicate on the apparatus his name, registered trade name or registered trade mark and the postal address at which he can be contacted. Exceptions should be provided for in cases where the size or nature of the apparatus does not allow it. This includes cases where the importer would have to open the packaging to put his name and address on the apparatus.
 - (22) The distributor makes apparatus available on the market after it has been placed on the market by the manufacturer or the importer and should act with due care to ensure that its handling of the apparatus does not adversely affect the compliance of the apparatus.
 - (23) Any economic operator that either places apparatus on the market under his own name or trade mark or modifies apparatus in such a way that compliance with this Directive

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may be affected should be considered to be the manufacturer and should assume the obligations of the manufacturer.

- (24) Distributors and importers, being close to the market place, should be involved in market surveillance tasks carried out by the competent national authorities, and should be prepared to participate actively, providing those authorities with all necessary information relating to the apparatus concerned.
- (25) Ensuring traceability of apparatus throughout the whole supply chain helps to make market surveillance simpler and more efficient. An efficient traceability system facilitates market surveillance authorities' task of tracing economic operators who made non-compliant apparatus available on the market. When keeping the information required under this Directive for the identification of other economic operators, economic operators should not be required to update such information in respect of other economic operators who have either supplied them with apparatus or to whom they have supplied apparatus.
- (26) Fixed installations, including large machines and networks, may generate electromagnetic disturbance, or be affected by it. There may be an interface between fixed installations and apparatus, and the electromagnetic disturbances produced by fixed installations may affect apparatus, and vice versa. In terms of electromagnetic compatibility, it is irrelevant whether the electromagnetic disturbance is produced by apparatus or by a fixed installation. Accordingly, fixed installations and apparatus should be subject to a coherent and comprehensive regime of essential requirements.
- (27) This Directive should be limited to the expression of the essential requirements. In order to facilitate conformity assessment with those requirements it is necessary to provide for a presumption of conformity for equipment which is in conformity with harmonised standards that are adopted in accordance with Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European Standardisation⁽⁷⁾ for the purpose of expressing detailed technical specifications of those requirements. Harmonised standards reflect the generally acknowledged state of the art as regards electromagnetic compatibility in the Union.
- (28) Regulation (EU) No 1025/2012 provides for a procedure for objections to harmonised standards where those standards do not entirely satisfy the requirements of this Directive.
- (29) In order to enable economic operators to demonstrate and the competent authorities to ensure that apparatus made available on the market conform to the essential requirements, it is necessary to provide for conformity assessment procedures. Decision No 768/2008/EC establishes modules for conformity assessment procedures, which include procedures from the least to the most stringent, in proportion to the level of risk involved. In order to ensure inter-sectoral coherence and to avoid ad-hoc variants, conformity assessment procedures should be chosen from among those modules.
- (30) The conformity assessment obligation should require the manufacturer to perform an electromagnetic compatibility assessment of apparatus, based on relevant phenomena, in order to determine whether or not it meets the essential requirements of this Directive.

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- (31) Where apparatus is capable of taking different configurations, the electromagnetic compatibility assessment should confirm whether the apparatus meets the essential requirements in the configurations foreseeable by the manufacturer as representative of normal use in the intended applications. In such cases it should be sufficient to perform an assessment on the basis of the configuration most likely to cause maximum disturbance and the configuration most susceptible to disturbance.
- (32) It is not appropriate to carry out the conformity assessment of apparatus placed on the market for incorporation into a given fixed installation, and otherwise not made available on the market, in isolation from the fixed installation into which it is to be incorporated. Such apparatus should therefore be exempted from the conformity assessment procedures normally applicable to apparatus. However, such apparatus should not be permitted to compromise the conformity of the fixed installation into which it is incorporated. Should apparatus be incorporated into more than one identical fixed installation, identifying the electromagnetic compatibility characteristics of these installations should be sufficient to ensure exemption from the conformity assessment procedure.
- (33) Manufacturers should draw up an EU declaration of conformity to provide information required under this Directive on the conformity of an apparatus with this Directive and with other relevant Union harmonisation legislation.
- (34) To ensure effective access to information for market surveillance purposes, the information required to identify all applicable Union acts should be available in a single 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.
- (35) The CE marking, indicating the conformity of apparatus, is the visible consequence of a whole process comprising conformity assessment in a broad sense. General principles governing the CE marking are set out in Regulation (EC) No 765/2008. Rules governing the affixing of the CE marking should be laid down in this Directive.
- (36) Due to their specific characteristics, fixed installations need not be subject to the affixing of the CE marking or to the EU declaration of conformity.
- (37) One of the conformity assessment procedures set out in this Directive requires the intervention of conformity assessment bodies, which are notified by the Member States to the Commission.
- (38) Experience has shown that the criteria set out in Directive 2004/108/EC that conformity assessment bodies have to fulfil to be notified to the Commission are not sufficient to ensure a uniformly high level of performance of notified bodies throughout the Union. It is, however, essential that all notified bodies perform their functions to the same level and under conditions of fair competition. That requires the setting of obligatory requirements for conformity assessment bodies wishing to be notified in order to provide conformity assessment services.

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- (39) If a conformity assessment body demonstrates conformity with the criteria laid down in harmonised standards, it should be presumed to comply with the corresponding requirements set out in this Directive.
- (40) In order to ensure a consistent level of conformity assessment quality it is also necessary to set requirements for notifying authorities and other bodies involved in the assessment, notification and monitoring of notified bodies.
- (41) The system set out in this Directive should be complemented by the accreditation system provided for in Regulation (EC) No 765/2008. Since accreditation is an essential means of verifying the competence of conformity assessment bodies, it should also be used for the purposes of notification.
- (42) Transparent accreditation as provided for in Regulation (EC) No 765/2008, ensuring the necessary level of confidence in certificates, should be considered by the national public authorities throughout the Union as the preferred means of demonstrating the technical competence of conformity assessment bodies. However, national authorities may consider that they possess the appropriate means of carrying out that evaluation themselves. In such cases, in order to ensure the appropriate level of credibility of evaluations carried out by other national authorities, they should provide the Commission and the other Member States with the necessary documentary evidence demonstrating the compliance of the conformity assessment bodies evaluated with the relevant regulatory requirements.
- (43) Conformity assessment bodies frequently subcontract parts of their activities linked to the assessment of conformity or have recourse to a subsidiary. In order to safeguard the level of protection required for the apparatus to be placed on the Union market, it is essential that conformity assessment subcontractors and subsidiaries fulfil the same requirements as notified bodies in relation to the performance of conformity assessment tasks. Therefore, it is important that the assessment of the competence and the performance of bodies to be notified and the monitoring of bodies already notified cover also activities carried out by subcontractors and subsidiaries.
- (44) It is necessary to increase the efficiency and transparency of the notification procedure and, in particular, to adapt it to new technologies so as to enable online notification.
- (45) Since notified bodies may offer their services throughout the Union, it is appropriate to give the other Member States and the Commission the opportunity to raise objections concerning a notified body. It is therefore important to provide for a period during which any doubts or concerns as to the competence of conformity assessment bodies can be clarified before they start operating as notified bodies.
- (46) In the interests of competitiveness, it is crucial that notified bodies apply the conformity assessment procedures without creating unnecessary burdens for economic operators. For the same reason, and to ensure equal treatment of economic operators, consistency in the technical application of the conformity assessment procedures needs to be ensured. That can best be achieved through appropriate coordination and cooperation between notified bodies.

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- (47) In order to ensure legal certainty, it is necessary to clarify that rules on Union market surveillance and control of products entering the Union market provided for in Regulation (EC) No 765/2008 apply to apparatus covered by this Directive. This Directive should not prevent Member States from choosing the competent authorities to carry out those tasks.
- (48) Directive 2004/108/EC already provides for a safeguard procedure. In order to increase transparency and to reduce processing time, it is necessary to improve the existing safeguard procedure, with a view to making it more efficient and drawing on the expertise available in Member States.
- (49) The existing system should be supplemented by a procedure under which interested parties are informed of measures intended to be taken with regard to apparatus presenting a risk to aspects of public interest protection covered by this Directive. It should also allow market surveillance authorities, in cooperation with the relevant economic operators, to act at an earlier stage in respect of such apparatus.
- (50) Where the Member States and the Commission agree as to the justification of a measure taken by a Member State, no further involvement of the Commission should be required, except where non-compliance can be attributed to shortcomings of a harmonised standard.
- (51) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers⁽⁸⁾.
- (52) The advisory procedure should be used for the adoption of implementing acts requesting the notifying Member State to take the necessary corrective measures in respect of notified bodies that do not meet or no longer meet the requirements for their notification.
- (53) In line with established practice, the committee set up by this Directive can play a useful role in examining matters concerning the application of this Directive raised either by its chair or by a representative of a Member State in accordance with its rules of procedure
- (54) 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 in line with existing practice receive full information and documentation and, where appropriate, an invitation to attend such meetings.
- (55) The Commission should, by means of implementing acts and, given their special nature, acting without the application of Regulation (EU) No 182/2011, determine whether measures taken by Member States in respect of non-compliant apparatus are justified or not.
- (56) Member States should lay down rules on penalties applicable to infringements of the provisions of national law adopted pursuant to this Directive and ensure that those

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rules are enforced. The penalties provided for should be effective, proportionate and dissuasive.

- (57) It is necessary to provide for reasonable transitional arrangements that allow the making available on the market and putting into service, without the need to comply with further product requirements, of apparatus that has already been placed on the market in accordance with Directive 2004/108/EC before the date of application of national measures transposing this Directive. Distributors should therefore be able to supply apparatus that has 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.
- (58) Since the objective of this Directive, namely to ensure the functioning of the internal market by requiring equipment to comply with an adequate level of electromagnetic compatibility, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (59) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive amendment as compared to the earlier Directive. The obligation to transpose the provisions which are unchanged arises under the earlier Directive.
- (60) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and the dates of application of the Directive set out in Annex V,

HAVE ADOPTED THIS DIRECTIVE:

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- (1) [OJ C 181, 21.6.2012, p. 105.](#)
- (2) Position of the European Parliament of 5 February 2014 (not yet published in the Official Journal) and decision of the Council of 20 February 2014.
- (3) [OJ L 390, 31.12.2004, p. 24.](#)
- (4) [OJ L 218, 13.8.2008, p. 30.](#)
- (5) [OJ L 218, 13.8.2008, p. 82.](#)
- (6) [OJ L 91, 7.4.1999, p. 10.](#)
- (7) [OJ L 316, 14.11.2012, p. 12.](#)
- (8) [OJ L 55, 28.2.2011, p. 13.](#)