

Agoria position on TRIS notifications 2018/467/F and 2018/469/F

On 18th and 20th September 2018, France notified following draft legislations to the EU according to the procedure established by directive (EU) 2015/1535 :

- 2018/467/F : Order amending the Order of 25 June 1980 approving general fire safety and anti-panic regulations in establishments open to the public (ERPs)
- 2018/469/F : Order amending the Order of 30 December 2011 regulating safety in the construction of
 - high-rise buildings and their protection against the risks of fire and panic.

Agoria would like to raise concerns that the 2 proposed Orders are in conflict with the EU internal market principle, in particular for CE marked equipment that complies with the Low Voltage Directive 2014/35/EU or the Machinery Directive 2006/42/EC. For the same reason the 2 Orders also create a conflict with the French implementation of the Low Voltage Directive and Machinery Directive, namely the “Décret 2015-1083 du 27 août 2015 relatif à la mise à disposition sur le marché du matériel électrique destiné à être employé dans certaines limites de tension » and the “Décret 2008-1156 du 7 novembre 2008 relatif aux équipements de travail et aux équipements de protection individuelle”.

To avoid potential conflicts between the 2 proposed Orders and the Low Voltage Directive or Machinery Directive, Agoria requests that equipment bearing a CE marking and complying with Low Voltage Directive or Machinery Directive are exempted from the 2 Orders.

The consequences of maintaining the 2 proposed Orders is that manufacturers would have to produce equipment specific for the French market rather than for the European market.

Background explanation :

- The Low Voltage Directive (LVD) and Machinery Directive (MD) require that equipment in scope are safe. This includes electrical safety, mechanical as well as fire safety. Therefore, equipment with a CE marking and declaration of conformity to LVD and MD are already compliant to fire safety requirements, regardless whether they are installed in private, public or high rise buildings.
- Notification 2018/467/F regarding fire safety in public buildings includes requirements which would require modifications to already CE marked equipment. This is not in line with the EU internal market principle (*). Examples of such required modifications are :
 - Technical prescriptive requirements on the insulation material of indoor units (article 2, paragraph 3 : “les calorifuges utilisés pour l’isolation des unités intérieures contenant des fluides frigorigènes inflammables sont réalisés en matériau classé M1 ou B-s3,do”
 - Installation requirements imposing a parameter between units and ignition sources, which would imply also potential conflicts to installation manuals needed for LVD and MD (article 2, paragraph 3 a) Zone d’exclusion)

- Technical prescriptive requirements on safety measures which are more severe than the harmonised standards that may be used for compliance with LVD or MD. Example : standards allow higher refrigerant charges when shut off valves OR ventilation systems are used, but the French order requires that both shut off valves AND ventilation systems are used (article 2, paragraph 3 b) quantité de charge maximale autorisée).

The French building code for public buildings does make an exemption for “hermetically sealed” equipment with a CE marking, which is positive (article 2, paragraph 3 : “les dispositions du paragraphe 3 ne s’appliquent pas aux équipements hermétiquement scellés qui font l’objet d’un marquage CE”). However also CE marking equipment that fulfils LVD or MD is fire safe and should therefore be exempted.

- Notification 2018/469/F for fire safety in high rise buildings does not allow the use of flammable refrigerants, and therefore does not accept equipment with CE marking that are already fire safe according to LVD and MD requirements. Also here equipment with a CE marking that complies with LVD or MD should be exempted.

(*) See reference to the EU commission “Blue Guide” which states the following :

“Member states can introduce national provisions regarding the putting into service, installation or use, of products which are intended for the protection of workers or other users, or other products, provided that these national provisions “do not require modifications of a product manufactured in accordance with the provisions of the applicable Union harmonisation legislation”.