Message 115

Communication from the Commission - TRIS/(2026) 1891

Directive (EU) 2015/1535

Notification: 2026/0223/PL

Forwarding of a detailed opinion received by a Member State (Slovakia) (article 6, paragraph 2, second indent of Directive (EU) 2015/1535). This detailed opinion extends the standstill period until 06-11-2026.

Detailed opinion - Avis circonstancié - Ausführliche Stellungnahme - Подробно становище - Podrobné stanovisko - Udførlig udtalelse - Εμπεριστατωμένη γνώμη - Dictamen circunstanciado - Üksikasjalik arvamus - Yksityiskohtainen lausunto - Detaljno mišljenje - Részletes vélemény - Parere circostanziato - Išsamiai išdėstyta nuomonė - Sīki izstrādāts atzinums - Opinjoni dettaljata - Uitvoerig gemotiveerde mening - Opinia szczegółowa - Parecer circunstanciado - Aviz detaliat - Podrobné stanovisko - Podrobno mnenje - Detaljerat yttrande

Extends the time limit of the status quo until 06-11-2026. - Prolonge le délai de statu quo jusqu'au 06-11-2026.- Die Laufzeit des Status quo wird verlängert bis 06-11-2026.- Удължаване на крайния срок на статуквото до 06-11-2026. - Prodlužuje lhůtu současného stavu do 06-11-2026. - Fristen for status quo forlænges til 06-11-2026. - Παρατείνει την προθεσμία του status quo 06-11-2026. - Amplía el plazo de statu quo hasta 06-11-2026. - Praeguse olukorra tähtaega pikendatakse kuni 06-11-2026. - Jatkaa status quon määräaikaa 06-11-2026 asti. - Produžuje se vremensko ograničenje statusa quo do 06-11-2026. - Meghosszabbítja a korábbi állapot határidejét 06-11-2026-ig. - Proroga il termine dello status quo fino al 06-11-2026. - Status quo terminas pratęsiamas iki 06-11-2026. - Pagarina “status quo” laika periodu līdz 06-11-2026. - Jestendi t-terminu tal-istatus quo sa 06-11-2026. - De status-quoperiode wordt verlengd tot 06-11-2026. - Przedłużenie status quo do 06-11-2026. - Prolonga o prazo do statu quo até 06-11-2026. - Prelungește termenul status quo-ului până la 06-11-2026. - Predlžuje sa lehota súčasného stavu do 06-11-2026. - Podaljša rok nespremenjenega stanja do 06-11-2026. - Förlänger tiden för status quo fram till 06-11-2026.

The Commission received this detailed opinion on the 10-07-2026. - La Commission a reçu cet avis circonstancié le 10-07-2026. - Die Kommission hat diese ausführliche Stellungnahme am 10-07-2026 empfangen. - Комисията получи настоящото подробно становище относно 10-07-2026. - Komise obdržela toto podrobné stanovisko dne 10-07-2026. - Kommissionen modtog denne udførlige udtalelse den 10-07-2026. - Η Επιτροπή έλαβε αυτή την εμπεριστατωμένη γνώμη στις 10-07-2026. - La Comisión recibió el dictamen circunstanciado el 10-07-2026. - Komisjon sai üksikasjaliku arvamuse 10-07-2026. - Komissio sai tämän yksityiskohtaisen lausunnon 10-07-2026. - Komisija je zaprimila ovo detaljno mišljenje dana 10-07-2026. - A Bizottság 10-07-2026-án/-én kapta meg ezt a részletes véleményt. - La Commissione ha ricevuto il parere circostanziato il 10-07-2026. - Komisija gavo šią išsamiai išdėstytą nuomonę 10-07-2026. - Komisija saņēma šo sīki izstrādāto atzinumu 10-07-2026. - Il-Kummissjoni rċeviet din l-opinjoni dettaljata dwar il-10-07-2026. - De Commissie heeft deze uitvoerig gemotiveerde mening op 10-07-2026 ontvangen. - Komisja otrzymała tę opinię szczegółową w dniu 10-07-2026. - A Comissão recebeu o presente parecer circunstanciado em 10-07-2026. - Comisia a primit avizul detaliat privind 10-07-2026. - Komisia dostala toto podrobné stanovisko dňa 10-07-2026. - Komisija je to podrobno mnenje prejela dne 10-07-2026. - Kommissionen mottog detta detaljerade yttrande om 10-07-2026. - Fuair an Coimisiún an tuairim mhionsonraithe sin maidir le 10-07-2026.

MSG: 20261891.EN

1. MSG 115 IND 2026 0223 PL EN 06-11-2026 10-07-2026 SK DO 6.2(2) 06-11-2026

2. Slovakia

3A. Úrad pre normalizáciu, metrológiu a skúšobníctvo SR
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4. 2026/0223/PL - S00S - HEALTH, MEDICAL EQUIPMENT

5. article 6, paragraph 2, second indent of Directive (EU) 2015/1535

6. The Slovak Republic is submitting a detailed opinion, pursuant to Directive (EU) 2015/1535, on the draft Polish legislation notified under reference number 2026/0223/PL.

The Slovak Republic takes the view that the draft in question raises serious doubts as to its compatibility with European Union law, in particular Articles 34 and 36 TFEU, and constitutes a disproportionate restriction on the free movement of goods.

In particular, the notified proposal introduces a ban on flavours in nicotine pouches (excluding tobacco) and introduces a ban on the placing on the market of all nicotine-containing products other than tobacco products or related products within the meaning of Directive 2014/40/EU, leading to a de facto blanket exclusion of all nicotine products outside the harmonised EU framework, in particular new nicotine products. The Slovak Republic takes the view that the measures in question constitute measures having an effect equivalent to quantitative restrictions within the meaning of Article 34 TFEU.

The proposed bans significantly restrict market access for products lawfully placed on the market in other Member States. If flavourings are banned, this could lead to the de facto exclusion of an entire product category, as it would eliminate the most popular consumer options. The draft also aims at de facto exclusion from the market of nicotine products other than tobacco and related products. The proposed ban is of a general and indiscriminate nature, as it applies to the whole category of products without an individual assessment of their risk profile. In accordance with the case-law of the Court of Justice of the European Union (e.g. C-110/05 Commission v. Italy, C-142/05 Mickelsson and Roos), such measures fall within the scope of Article 34 TFEU.

Slovakia acknowledges that the protection of public health constitutes a legitimate objective under Article 36 TFEU. However, the measures must comply with the principle of proportionality, which requires that they be suitable for achieving the intended objective, necessary and proportionate.

According to the established case-law of the Court of Justice (e.g. C-170/04 Rosengren, C-333/14 Scotch Whisky Association), a Member State is obliged to demonstrate that there are no less restrictive measures capable of achieving the same objective. Measures such as age restrictions, labelling and warning requirements, and restrictions on marketing and distribution may be regarded as potentially less restrictive. The proposed legislation leads to a situation where certain nicotine-containing products are regulated, while other comparable products are prohibited. This inconsistency undermines the public health argument and runs counter to the requirement for coherence, which is supposed to form part of the proportionality test.

The Slovak Republic emphasises that the measures in question create significant barriers to trade between Member States, unduly distort competition, have a negative impact on smaller and new market participants in particular, and reduce consumer choice. Such effects cannot be considered proportionate to the objective pursued.

In view of the above, the Slovak Republic takes the view that the draft constitutes a measure having equivalent effect within the meaning of Article 34 TFEU; it is not sufficiently justified under Article 36 TFEU; it fails to meet the requirements of the principle of proportionality, as it does not demonstrate the necessity of the measures adopted; it does not take into account less restrictive alternatives, and undermines the functioning of the internal market and the uniformity of the regulatory environment in the European Union.

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