



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs
Single Market Enforcement
Notification of Regulatory Barriers

Message 103

Communication from the Commission - TRIS/(2025) 0374

Directive (EU) 2015/1535

Notification: 2024/0610/AT

Forwarding of the observations of a Member State (Czechia) (article 5, paragraph 2, of Directive (EU) 2015/1535). These observations do not have the effect of extending the standstill period.

MSG: 20250374.EN

1. MSG 103 IND 2024 0610 AT EN 08-05-2025 07-02-2025 CZ COMMS 5.2 08-05-2025

2. Czechia

3A. Úřad pro technickou normalizaci, metrologii a státní zkušebnictví
Biskupský dvůr 1148/5
110 00 Praha 1
tel: 221 802 216
e-mail: eu9834@unmz.cz

3B. Ministerstvo průmyslu a obchodu
Na Františku 32
110 15 Praha 1
email: procop@mpo.cz
tel: +420 224 853 088

4. 2024/0610/AT - X60M - Tobacco

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

6. Observation on Austria's TRIS notification No 2024/0610/AT

On 07/11/2024, a notification from Austria was published in the TRIS database, containing a list of substances or categories of substances currently covered by the statutory prohibitions under the Austrian Tobacco and Non-Smokers Protection Act TNRS (‘the draft list of prohibited substances’).

The proposed national legislation is based on Article 7(6)(e) of the TPD, which states that Member States shall prohibit the placing on the market of tobacco products containing additives that have CMR (carcinogenic, mutagenic or toxic for reproduction) properties in unburnt form.

I.

The Czech Republic considers that the inclusion of glycerol (listed on page 87 of the MAK and BAT 2024 List of Values, to which the draft list of prohibited substances refers in section 5.4) among the substances on the above list, in view of Article 7(6)(e) of the Tobacco Products Directive 2014/40/EU (hereinafter the ‘TPD’), constitutes an unjustified obstacle to the free movement of goods within the meaning of Article 34 of the Treaty on the Functioning of the European Union

II.



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Although Article 7(6)(e) of the TPD allows Member States to prohibit additives that increase the toxicity of tobacco and related products, Article 7(1) must also be taken into account, which provides that Member States are not to prohibit the use of additives essential for the manufacture of tobacco products, subject to the conditions laid down in that paragraph.

It should also be noted that the TPD does not expressly prohibit the use of glycerol. This substance is merely included in the priority list of additives contained in cigarettes and roll-your-own tobacco subject to enhanced reporting obligations under Commission Implementing Decision 2016/787. Substances identified by Austria as having CMR properties are not classified as having CMR properties under Regulation (EC) No 1272/2008 of the European Parliament and of the Council on the classification, labelling and packaging of chemical substances and mixtures.

III.

In light of the above, the Czech Republic considers that the draft legislation contains provisions that may create disproportionate obstacles to the free movement of goods and significantly distort the business environment in the internal market and may thus be contrary to the Kingdom of Belgium's obligations under EU law, as it contains measures that go beyond the TPD Directive and are disproportionate to the objective set out in the TPD Directive.

European Commission

Contact point Directive (EU) 2015/1535

email: grow-dir2015-1535-central@ec.europa.eu