



EUROPEAN COMMISSION

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

Message 115

Communication from the Commission - TRIS/(2025) 1298

Directive (EU) 2015/1535

Notification: 2025/0110/FR

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 25-08-2025.

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 - Opinioni dettaljata - Uitvoerig gemotiveerde mening - Opinia szczegółowa - Parecer circunstanciado - Avis detaliat - Podrobné stanovisko - Podrobno mnenje - Detaljerat yttrande

Extends the time limit of the status quo until 25-08-2025. - Prolonge le délai de statu quo jusqu'au 25-08-2025. - Die Laufzeit des Status quo wird verlängert bis 25-08-2025. - Удължаване на крайния срок на статуквото до 25-08-2025. - Prodłużuje lhůtu současného stavu do 25-08-2025. - Fristen for status quo forlænges til 25-08-2025. - Παρατείνει την προθεσμία του status quo 25-08-2025. - Amplía el plazo de statu quo hasta 25-08-2025. - Praeguse olukorra tähtaega pikendatakse kuni 25-08-2025. - Jatkaa status quon määraaika 25-08-2025 asti. - Produžuje se vremensko ograničenje statusa quo do 25-08-2025. - Meghosszabbítja a korábbi állapot határidejét 25-08-2025-ig. - Proroga il termine dello status quo fino al 25-08-2025. - Status quo terminas pratęsimas iki 25-08-2025. - Pagarina "status quo" laika periodu līdz 25-08-2025. - Jestendi t-terminu tal-istatus quo sa 25-08-2025. - De status-quoperiode wordt verlengd tot 25-08-2025. - Przedłużenie status quo do 25-08-2025. - Prolonga o prazo do statu quo até 25-08-2025. - Prelungește termenul status quo-ului până la 25-08-2025. - Predlžuje sa lehota súčasného stavu do 25-08-2025. - Podaljša rok nespremenjenega stanja do 25-08-2025. - Förlänger tiden för status quo fram till 25-08-2025.

The Commission received this detailed opinion on the 19-05-2025. - La Commission a reçu cet avis circonstancié le 19-05-2025. - Die Kommission hat diese ausführliche Stellungnahme am 19-05-2025 empfangen. - Комисията получи настоящото подробно становище относно 19-05-2025. - Komise obdržela toto podrobné stanovisko dne 19-05-2025. - Kommissionen modtog denne udførlige udtalelse den 19-05-2025. - Η Επιτροπή έλαβε αυτή την εμπεριστατωμένη γνώμη στις 19-05-2025. - La Comisión recibió el dictamen circunstanciado el 19-05-2025. - Komisjon sai üksikasjaliku arvamuse 19-05-2025. - Komissio sai tämän yksityiskohtaisen lausunnon 19-05-2025. - Komisija je zaprimila ovo detaljno mišljenje dana 19-05-2025. - A Bizottság 19-05-2025-án/én kapta meg ezt a részletes véleményt. - La Commissione ha ricevuto il parere circostanziato il 19-05-2025. - Komisija gavo šią išsamiai išdėstytą nuomonę 19-05-2025. - Komisija saņēma šo sīki izstrādāto atzinumu 19-05-2025. - Il-Kummissjoni rċeviet din l-opinioni dettaljata dwar il-19-05-2025. - De Commissie heeft deze uitvoerig gemotiveerde mening op 19-05-2025 ontvangen. - Komisja otrzymała tę opinię szczegółową w dniu 19-05-2025. - A Comissão recebeu o presente parecer circunstanciado em 19-05-2025. - Comisia a primit avizul detaliat privind 19-05-2025. - Komisia dostala toto podrobné stanovisko dňa 19-05-2025. - Komisija je to podrobno mnenje prejela dne 19-05-2025. - Kommissionen mottog detta detaljerade yttrande om 19-05-2025. - Fuair an Coimisiún an tuairim mhionsonraithe sin maidir le 19-05-2025.

MSG: 20251298.EN

1. MSG 115 IND 2025 0110 FR EN 25-08-2025 19-05-2025 SK DO 6.2(2) 25-08-2025

2. Slovakia

3A. Úrad pre normalizáciu, metrológiu a skúšobníctvo SR
Odbor skúšobníctva a európskych záležitostí



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4. 2025/0110/FR - X00M - GOODS AND MISCELLANEOUS PRODUCTS

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

6. The Ministry of Economy of the Slovak Republic files a detailed opinion on the legislative proposal of France, which prohibits products for oral use containing nicotine (2025/0110/FR submitted on 24 February 2025) – further as the draft Decree.

The prohibition on oral nicotine pouch products contravenes the principle of free movement of goods enshrined in Articles 34-35 of the Treaty on the Functioning of the European Union (TFEU). Article 34 TFEU stipulates that "quantitative restrictions on imports and all measures having equivalent effect shall be prohibited between Member States." Similarly, Article 35 TFEU prohibits national measures that affect exports. It is indisputable that the prohibition of products constitutes a measure having equivalent effect to quantitative restrictions within the meaning of Articles 34-35 TFEU and represents the most restrictive barrier to trade in terms of the free movement of goods. The Court of Justice of the EU, in its *Cassis de Dijon* ruling (CJEU C-120/78), affirmed that a Member State may not prohibit or restrict the sale of a product legally manufactured and sold in another Member State, provided that the product has not been harmonized at the EU level. This ruling established the principle of mutual recognition. Should the draft French Decree be adopted, it would prevent products legally manufactured and sold in other Member States in accordance with their respective applicable laws from being sold in France. Currently, products such as nicotine pouches are specifically regulated and may be legally marketed in certain Member States, including Slovakia. Therefore, the draft Decree would create a barrier to the free movement of goods within the EU single market and violate Articles 34-35 TFEU.

Furthermore, a complete ban on the marketing of nicotine pouches cannot be justified under Article 36 TFEU. Although restrictions on the free movement of goods may be justified on the grounds of public interests listed in Article 36 TFEU, such as the protection of health and life, Member States are required to demonstrate, based on scientific evidence, that the proposed legislation is necessary for the effective protection of these interests (C 663/18 Court of Justice of the EU). Moreover, it must not constitute "a means of arbitrary discrimination," as stated in Article 36 TFEU. We understand the necessity to protect public health. Slovakia is on track as well to protect public health from the negative effects of nicotine, adopting restrictive measures in legislation, including nicotine pouches. But we question the approach to ban a whole category of oral nicotine products without evidence and credible data that oral nicotine products pose an increased risk to public health compared to other nicotine products already on the market. Having stated this, the draft Decree goes against the principle of free movement of goods as it has not shown that its implementation can be justified on public interest grounds under Article 36 TFEU.

Finally, the draft Decree is contrary to the general principle of proportionality under EU law and would violate the general EU principle of equal treatment. When restricting freedoms such as the free movement of goods, Member States must ensure that any restrictive measure is proportionate, regardless of its justification. The burden of proof regarding the justification of the restriction lies with the Member State proposing the measure. According to the CJEU, "the reasons given by the Member State as justification must therefore be accompanied by an analysis of the suitability and proportionality of the measure taken by that State and specific evidence supporting its arguments" (C-456/10 Court of



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Justice of the EU). Therefore, it is necessary to fully document that the proposed ban on the marketing of products is the only means of effectively protecting the declared interests. We understand the aims of the draft Decree, but it has not been demonstrated that these goals can only be achieved by a complete ban.

In view of the above mentioned, Slovakia is convinced that with the legislative proposal France creates obstacles to the smooth functioning of the internal market, restricts the free movement of goods, does not scientifically demonstrate that the proposed legislation is necessary and it is in contrary to the general principle of proportionality and equal treatment under EU law.

European Commission

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