



Message 201

Communication from the Commission - TRIS/(2025) 3169

Directive (EU) 2015/1535

Notification: 2025/0387/DK

Forwarding of the response of the Member State notifying a draft (Denmark) to comments (5.2) of Latvia.

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1. MSG 201 IND 2025 0387 DK EN 19-01-2026 07-11-2025 DK ANSWER 19-01-2026

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4. 2025/0387/DK - C00A - AGRICULTURE, FISHING AND FOODSTUFFS

5.

6. Pursuant to Directive 2015/1535, on 18 July 2015, Denmark notified the draft order on food contact materials and on penalties for infringement of related Union acts.

After reviewing the draft, the Latvian authorities issued the following opinion, as stipulated in Article 5.2 of the aforementioned directive: Latvia states that the draft is contrary to the requirements laid down in Article 6 of Regulation (EC) No. 1935/2004 of the European Parliament and of the Council of 27 October 2004, as the draft establishes lower migration limits for lead and cadmium from ceramic articles than those established in Directive 84/500/EEC. In addition, Latvia states that Denmark must respect the principle of mutual recognition between the Member States of the European Union in its national legislation.

Denmark points out that the order applies to food contact materials covered by Regulation (EC) No. 1935/2004 of the European Parliament and of the Council of 27 October 2004 and lays down national specific measures in accordance with Articles 6 and 18, as well as national provisions in accordance with Article 16 of Regulation (EC) No. 1935/2004 of the European Parliament and of the Council of 27 October 2004 for the following:

- 1) Ceramics, enamelled articles and glassware.
- 2) Paper and cardboard.
- 3) Declaration of conformity.



On 22 August 2025, Denmark clarified the notification with a notice stating that the lower migration limit values for lead and cadmium from ceramics are set as a safeguard measure, in accordance with Article 18 of Council Regulation (EC) No. 1935/2004 of the European Parliament and of the Council of 27 October 2004, and are therefore not part of this notification. The notification concerns only the setting of lower migration limits for lead and cadmium from glass and enamelled articles, as well as requirements for declarations of conformity. No specific Union measures for glass and enamelled articles are laid down in accordance with Article 5 of Regulation (EC) No. 1935/2004. The lower migration limits for lead and cadmium from glass and enamelled articles are established on the basis of protection of human health as specific national measures pursuant to Article 6 of Regulation (EC) No. 1935/2004 of the European Parliament and of the Council of 27 October 2004 and requirements for declarations of conformity established as national provisions pursuant to Article 16 of Regulation (EC) No. 1935/2004 of the European Parliament and of the Council of 27 October 2004.

The setting of lower migration limits for lead and cadmium from ceramics is also based on the protection of human health and in accordance with Article 18(1) of Regulation (EC) No. 1935/2004 of the European Parliament and of the Council of 27 October 2004. In accordance with Article 18(1), Denmark will notify the Commission and the other Member States in writing once the order has been adopted at the national level. It follows from Article 18(2) that the commission will assess the case and then issue an opinion on whether action will be taken to amend the specific measures under EU law or whether Denmark should repeal its national specific measures.

Regarding Latvia's comment that Denmark must comply with the principle of mutual recognition, Denmark notes that it follows from Article 36 of the Treaty that Article 34 (on the prohibition of quantitative restrictions on imports) does not preclude restrictions that are justified on grounds of, *inter alia*, the protection of human health. Denmark notes in this regard that the proposed lower migration limits for lead and cadmium do not constitute a means of arbitrary discrimination or a disguised restriction on trade within the territory of the Union.

It is therefore Denmark's assessment that the draft order complies with both the TFEU and Regulation (EC) No. 1935/2004 of the European Parliament and of the Council of 27 October 2004.

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