Message 781

Communication from the Commission - TRIS/(2025) 3266

Directive (EU) 2015/1535

Notification: 2025/7022/XI

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

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1. MSG 781 IND 2025 7022 XI EN 18-02-2026 18-11-2025 CZ COMMS 5.2 18-02-2026

2. Czechia

3A. Úřad pro technickou normalizaci, metrologii a státní zkušebnictví
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4. 2025/7022/XI - X60M - Tobacco

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

6. On 14 August 2025, a notification submitted by the United Kingdom/Northern Ireland concerning the Tobacco and Vapes Bill (hereinafter the ‘Bill’) was published in the TRIS database.

One of the objectives of the Bill submitted by the United Kingdom/Northern Ireland is to introduce a so-called generational ban on the sale of tobacco products, namely a ban on the sale to persons born after 1 January 2009. The Bill contains provisions relating to Northern Ireland that will come into force after the Bill becomes law, without the need to adopt further legislation.

I.
The Bill aims to introduce a ban on the sale of tobacco products to persons born on or after 1 January 2009. This is a so-called ‘generational sales ban’, i.e. a measure introducing a permanent sales ban for persons born after a certain date. According to Section 68, it is an offence to sell a tobacco product, a herbal smoking product or cigarette papers to a person born on or after 1 January 2009. According to Section 69, it is an offence for a person aged over 18 to buy, or attempt to buy, a tobacco product, a herbal smoking product or cigarette papers on behalf of a person born on or after 1 January 2009. Both these provisions will come into force on 1 January 2027.
The Czech Republic considers that the proposed restrictive measures contained in Sections 68 and 69 of the Bill will create an unjustified barrier to the free movement of goods within the meaning of Articles 34 to 36 of the Treaty on the Functioning of the European Union and related case-law (Cassis de Dijon, Case 120/78).

II.

If the Bill were to come into force in the territory of Northern Ireland, it could lead to a situation in which products lawfully placed on the market in other EU Member States would not be available in this part of the United Kingdom. The Czech Republic considers that the objectives of the Bill could be achieved by more appropriate and less restrictive measures than a total ban on the marketing of the products concerned for the specified age categories. These include, for example, the introduction of appropriate product regulations, raising the minimum age for the sale of tobacco products to 21, restrictions on nicotine content, labelling and health warnings, and quality and safety requirements.

III.
In the light of the above, the Czech Republic considers that the Bill contains provisions that may create disproportionate obstacles to the free movement of goods and significantly disrupt the business environment in the internal market and may thus be contrary to the obligations of the United Kingdom/Northern Ireland under EU law applicable in the territory of Northern Ireland on the basis of the Protocol on Ireland/Northern Ireland to the Withdrawal Agreement (as amended by the Windsor Framework). Moreover, the aforementioned restrictive measures contained in Sections 68 and 69 of the Bill are disproportionate to the objective pursued by the provisions of the Tobacco Products Directive.

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