



EUROPEAN COMMISSION

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

Message 201

Communication from the Commission - TRIS/(2025) 3170

Directive (EU) 2015/1535

Notification: 2025/0387/DK

Forwarding of the response of the Member State notifying a draft (Denmark) to of Spain.

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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, Denmark notified the draft order on food contact materials and on penalties for infringements of related EU legal acts on 18 July 2025.

Following a review of the draft, the Spanish authorities have issued the following reasoned opinion, as established in Article 6(2) of the aforementioned directive. Spain considers that the draft constitutes a clear obstacle to the free movement of goods in breach of Article 34 of the Treaty on the Functioning of the European Union (TFEU) and is contrary to relevant provisions of EU law.

Emphasis has been placed on the fact that:

- these proposed migration limits for ceramic materials are significantly lower than those established in Council Directive 84/500/EEC of 15 October 1984 on the approximation of the laws of the Member States relating to ceramic articles intended to come into contact with foodstuffs and which have been transposed into the national law of the Member States.
- the strong discrepancy between the proposed migration limits for lead and cadmium and those already established in European legislation could pose a problem for products placed on the Danish market as of the entry into force of the draft order. This would particularly affect those ceramic materials intended to come into contact with food that, while complying with EU regulations, do not comply with the provisions of the draft notified by Denmark. This would constitute a barrier to the free movement of goods within the territory of the Union.



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On the other hand, Spain points out that, as this is a safeguard measure under Article 18 of Regulation (EC) No. 1935/2004, the Member State should have duly informed the other Member States and the Commission, explaining the reasons for the measure to be taken and, where appropriate, the Commission should have proposed measures to amend the current specific measures in Directive 84/500/EEC in order to resolve the difficulties referred to by Denmark and thereby ensure the protection of human health. Denmark has not carried out this necessary process.

In this regard, 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 notification 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. The lower migration limits for lead and cadmium from glass and enamelled articles are established on the grounds of the protection of human health as national specific 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 are established as a national provision 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 measures will be taken to amend the special measures under EU law or whether Denmark should repeal its national special measure.

In relation to Spain's observation that the proposed lower migration limits for lead and cadmium would constitute an unlawful obstacle to the free movement of goods within the territory of the Union, pursuant to Article 34 of the Treaty on the Functioning of the European Union (TFEU), Denmark notes that it follows from Article 36 of the Treaty that Article 34 does not preclude restrictions justified, inter alia, on grounds of 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. Furthermore, Denmark does not consider that the necessary procedural steps have been disregarded in relation to the introduction of a national protective measure pursuant to Article 18 of Regulation (EC) No. 1935/2004 of the European Parliament and of the Council of 27 October 2004.

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