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

Message 011

Communication from the Commission - TRIS/(2024) 1736

Directive (EU) 2015/1535

Notification: 2024/0317/LT

Refusal by the Commission of urgency request invoked under (article 6, paragraph 7, of Directive (EU) 2015/1535) and the normal time frame for the procedure opened.

The recourse to urgency disputed - Contestation de l'urgence - Ablehnung des Dringlichkeitsverfahrens - \ Отказ на искане за извънредна процедура - Možnost použití zrychleného řízení zpochybněna - Anfægtelse \ af henvisningen til hasteproceduren - Αμφισβήτηση του επειγόντος - Rechazo de urgencia - Kiireloomulistele \ põhjustele tuginemise vaidlustamine - Kiireellisyyden kiistäminen - Osporena je primjena hitnog postupka - \ A sürgősség igénybevétele vitatott - Contestazione dell'urgenza - Ginčijama skubos tvarka - Apstrīdēta \ steidzamība - Ikkontestat ir-rikors għall-urġenza - Betwisting van beroep op dringende redenen - Użycie \ trybu pilnego jest kwestionowane - Contestação da invocação da urgência - Recursul la procedura de urgență \ refuzat - Sporné využitie možnosti z dôvodu naliehavosti - Sklicevanje na nujnost sporno - Bestridande av brådska - \ Dul i muinín na práinne atá faoi dhíospóid

Opening of the standstill period - Ouvre le délai de statu quo - Beginn der Verfahrensfrist - Откриване на периода на прекъсване - Zahájení odkladné lhůty - Fristen for proceduren indledes - Έναρξη της προθεσμίας διαδικασίας - Abre el plazo de statu quo - Ooteaja avamine - Menettelyn määräaika alkaa - Otvaranje razdoblja mirovanja - A halasztási időszak megnyitása - È aperto il termine di procedura - Atidėjimo laikotarpio pradžia - Bezdarbības laikposma sākums - Il-ftuħ tal-perijodu ta' waqfien - Begin van de termijn voor de procedure - Otwarcie okresu odroczenia - Abre o prazo de procedimento - Deschiderea perioadei de stagnare - Začiatok odkladnej lehoty - Uvedba obdobja mirovanja - Inleder förfarandets frist - Oscailt na tréimhse neamhghníomhaíochta

MSG: 20241736.EN

1. MSG 011 IND 2024 0317 LT EN 14-06-2024 02-07-2024 COM CONTURG 14-06-2024

2. Commission

3. DG GROW/E/3 - N105 04/63

4. 2024/0317/LT - X00M - GOODS AND MISCELLANEOUS PRODUCTS

5. article 6, paragraph 7, of Directive (EU) 2015/1535

6. On 13-06-2024, the authorities of the Member State (Lithuania) notified the above-mentioned draft to the Commission, and invoked the urgency laid down in article 6, paragraph 7, of Directive (EU) 2015/1535.

The Commission considers that, in the case in point, the urgency criteria within the meaning of Directive (EU) 2015/1535 have not been met for the following reasons:

In the framework of Directive (EU) 2015/1535, on 13 June 2024, the Lithuanian authorities notified to the Commission the draft "Order of the Director of the State Consumer Rights Protection Authority on the approval of the list of chemical substances authorised for use in the Republic of Lithuania to impart the taste and smell of tobacco to electronic cigarettes and electronic cigarette filler liquids" (hereinafter, 'the notified draft'), and invoked the urgency procedure laid down in Article 6(7) of this Directive.

The notified draft imposes restrictions on the placing on the market of liquids for electronic smoking devices containing flavourings other than tobacco flavours or flavourings and draws up a list of authorised flavouring substances that give the smell or taste of tobacco.
In their justification for the “urgency request”, the Lithuanian authorities highlight that the aim of the draft law is to protect public health interests, especially that of children and young persons, by introducing stricter regulation of nicotine-containing products, reducing their availability and attractiveness. The authorities further cite the results of the study by the World Health Organisation (WHO) about the use of e-cigarettes among young people in Lithuania.

The Commission recalls that Article 6(7) of Directive (EU) 2015/1535 provides that a Member State may invoke the urgency procedure if "for urgent reasons, occasioned by serious and unforeseeable circumstances relating to the protection of public health or safety, the protection of animals or the preservation of plants and, for rules on services, also for public policy, notably the protection of minors, [it] is obliged to prepare technical regulations in a very short space of time in order to enact and introduce them immediately without any consultations being possible; or for urgent reasons occasioned by serious circumstances relating to the protection of the security and the integrity of the financial system, in particular the protection of depositors, investors and insured persons, a Member State is obliged to enact and implement rules on financial services immediately".

It should be recalled that the criteria of “seriousness” and “unforeseeable circumstances” are cumulative.

On the criterion of “seriousness”, the Commission shares the concern of the Lithuanian authorities about the necessity to ensure public health interests, especially that of children and young people. To this end, the Commission concludes that the elements communicated by the Lithuanian authorities could be acknowledged as “serious” circumstances in the light of Article 6(7) of Directive (EU) 2015/1535.

However, the Commission does not consider that the elements communicated by the Lithuanian authorities are sufficient to allow the conclusion that they can be considered as fulfilling the “unforseeability” criterion as laid down by the provision. The Lithuanian authorities do not provide elements or explanations of “unforseeability’’ and thus it cannot be considered as unforeseeable circumstances in the light of Article 6(7) of Directive (EU) 2015/1535.

Therefore, after having carefully examined the request for urgent adoption, the Commission notes that the conditions required by Article 6(7) of Directive (EU) 2015/1535, i.e. the condition of urgent reasons occasioned by serious and unforeseeable circumstances, preventing the Lithuanian authorities from waiting for the status quo of three months as laid down by this Directive, have not been met in this request for the urgency procedure. Consequently, the three months standstill period, laid down in Article 6(1) of Directive (EU) 2015/1535, is opened. This period expires on 16 September 2024.

****
Kerstin Jorna
Director-General
European Commission

Contact point Directive (EU) 2015/1535
email: grow-dir2015-1535-central@ec.europa.eu