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# Extension of the RAPEX procedure to normalized professional products

The **Rapid Exchange of Information System** (**RAPEX**) is a system for the immediate exchange of information between the European Commission, the Member States of the European Union and the Member States of the European Free Trade Association Iceland, Norway and Lichtenstein, for unsafe consumer products and consumer protection. It was introduced by article 12 of the Directive 2001/95/EC on general product safety (GPSD). The Directive contains the general obligation for economic operators to market only products that are safe, and in case of the opposite assumption, to take all remedial action necessary. The rapid alert system permits the national authorities to share all available information on any action taken, so that a dangerous product, that is being considered a risk can be withdrawn from the market. It gives access to national alert updates which are automatically translated into 25 languages to assure that immediate actions are taken. In France, the General Directorate for Competition Policy, Consumer Affairs and Fraud Control (Direction générale de la concurrence, de la consommation et de la répression des fraudes, DGCCRF) is the contact point for the RAPEX System.

To facilitate the functioning of the RAPEX System, the Commission has established specific guidelines allowing the harmonization of the system. These guidelines aim to specify the notification criteria as well as their content, the appropriate measures to be taken by a Member State following the reception of a notification and the underlying standards for the identification of serious risks.

Outdated, the guidelines established by the Decision 2010/15/EU of 16th December 2009 were abrogated by the new **Implementing Decision 2019/417/EU of 8th November 2018** defining new guidelines for the RAPEX system regarding product safety and the notification procedure first established by the Directive 2001/95/EC.

The amendments introduced by the Implementing Decision of 8th November 2018 concern notably the terms and references and the means of communication between the Commission and the national authorities which had somehow become obsolete. The Implementing Decision further modifies the RAPEX notification criteria.

However, upon reading the decision it is surprising to note that reference is made regarding professional products in addition to consumer products. Thus, the new guidelines do cover both, products falling under the GPSD and those falling under the Regulation 765/2008/EC applicable to consumer and professional products. In other words, the risks related to the health and security of consumers as well as the risks relating to environmental safety are covered.

Also, only the products covered by Regulation 765/2008/EC benefit from the free movement of goods. However, Regulation 765/2008/EC defines the term “product” as *“a substance, preparation or good produced through a manufacturing process […] covered by community harmonization legislation”.* The definition of the term “product” may then seem imprecise.

The scope of application of the new Implementing Decision of 8th November 2018 seems to have extended. It seems that the new guidelines for the management of the European Union

Rapid Information System 'RAPEX' have expanded its scope of application. The Implementing Decision of November 8th, 2018 explicitly relates to products covered by the GPSD as well as to products covered by Regulation (EC) No 765/2008. Thus, products in light of these guidelines are now those *"intended for consumers"* or those *"designed and manufactured for professionals, which are likely, however, under reasonably foreseeable conditions, to be used by consumers" as stated by* Article 2(a) of the GPSD, as well as *"professional products covered by EU harmonization"* presenting general risks for safety and environment mentioned by Resolution 765/2008/EC.

**In conclusion** companies must be vigilant. They must create new monitoring systems for products that are not already covered by the RAPEX system, while adopting those already established under the new guidelines.

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