

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to making available on the market of pressure equipment'

COM(2013) 471 final — 2013/0221 (COD)

(2014/C 67/20)

Rapporteur working without a study group: **Mr PEZZINI**

On 4 July 2013 the European Parliament, and on 16 July 2013 the Council, decided to consult the European Economic and Social Committee, under Articles 114 and 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Directive of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to making available on the market of pressure equipment (recast)

COM(2013) 471 final — 2013/0221 (COD).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 2 October.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October), the European Economic and Social Committee adopted the following opinion by 142 votes to 2 with 2 abstentions.

1. Conclusions and recommendations

1.1 The European Economic and Social Committee welcomes the work done by the Commission to bring European legislation on pressure equipment into line with international developments and the new internal regulatory framework, in order to improve market effectiveness and efficiency and simplify procedures, by laying down the essential safety requirements with which pressure equipment must comply in order to be placed on the internal market.

1.2 The Committee agrees with the legislative option of recasting, that is "the adoption of a new legal act which incorporates in a single text both the substantive changes it makes to the previous act and the provisions of that act which remain unchanged", in order to bring Directive 97/23/EC (PED) into line with the new regulatory framework.

1.3 The Committee once again reiterates the importance of ensuring due regard for the principle of the free movement of safe and compliant goods, so that products lawfully marketed in one Member State can be marketed without hindrance throughout the EU, guaranteeing the full traceability of products and market surveillance that is uniform, effective and efficient.

1.4 In the Committee's view, all of the obligations and procedures pertaining to the new PED must be applied, while respecting the principle of proportionality in the procedures and certification costs, especially for smaller companies and for non-standard or limited-series products.

1.5 The Committee also considers it important to have more efficient and universal market surveillance and greater

equivalence between the levels of competence of notified bodies for conformity assessment, which must meet stringent mandatory criteria and receive training support.

1.6 Implementation of the new PED should be monitored, and a report should be submitted every two years by independent experts, to the Council, the Parliament and the Committee.

1.7 The Committee considers that more weight should be attached to the indicators collected by RAPEX, which make it possible to monitor the reduction in the number of non-compliant products on the market and improvements in the quality of conformity assessment services provided by notified bodies.

1.8 The powers to implement the new directive conferred on the Commission must have a clear and transparent scope and must, above all, meet the requirements to inform and, where appropriate, consult the Parliament, the Council and the Member States.

2. Main issues surrounding the marketing of pressure equipment

2.1 Legislative harmonisation and pressure equipment

2.1.1 Intra-Community trade in consumer products accounted for around EUR one trillion between 2008 and 2010, and the value of the EU harmonised sectors, for both consumer products and professional use, has been estimated to total more than EUR 2.1 trillion.

2.1.2 The free movement of safe and compliant products is one of the cornerstones of the Union and market surveillance is an essential tool for protecting consumers and users against the placing on the market of dangerous and non-compliant products.

2.1.3 The introduction of Directive 97/23/EC on pressure equipment – the PE directive – has proven extremely important:

— to the operation of the internal market in the sector, in terms of both effectiveness and efficiency,

— to remove a number of trade barriers,

— and to ensure high levels of product safety.

2.1.4 The Committee has welcomed the alignment of the legislative framework with the new regulations on arrangements for the marketing of goods on the internal market⁽¹⁾, endorsing Regulation (EC) No 765/2008⁽²⁾ on accreditation and market surveillance – known as the **NLF Regulation** – and Decision No 768/2008/EC on a common framework for the marketing of products – known as the NLF Decision, as indicated in the Goods Package on which the Committee has issued a favourable opinion⁽³⁾.

2.1.5 The Commission also plans to bring Directive 97/23/EC into line with Regulation (EC) No 1272/2008 of 16 December 2008 – known as the **CLP Regulation** – on the classification, labelling and packaging of substances and mixtures⁽⁴⁾, according to the new classification provided therein, to take account of the hazards arising from the pressure associated with dangerous fluids.

2.2 Alignment with the new regulatory framework and legal consistency

2.2.1 The problem of non-compliance with the PED's requirements is broadly perceived by all economic operators in the sector to be detrimental to the competitiveness of businesses that follow the rules.

2.2.2 This is unfair competition, largely caused by the shortcomings and ineffectiveness of market surveillance mechanisms,

including inefficient traceability of products from third countries, the lack of competence of notified bodies⁽⁵⁾, and the non-direct implementation of the NLF Decision.

2.2.3 The impact assessments also found that economic operators find it difficult to deal with a regulatory environment that has become ever more complex.

2.2.4 Increasingly, a number of regulations apply to the same product, as demonstrated by the CLP Regulation on classification, labelling and packaging of substances and mixtures, which introduces new classes and categories of hazards, corresponding only partially to those currently used and which will become operational in the industry as of 1 June 2015.

2.2.5 The Committee, in its opinion⁽⁶⁾ concerning the regulation and the NLF Decision, had already pointed out that "reinforcement and updating of the requirements for the marketing of safe, high-quality products are key factors for consumers, businesses and European citizens".

2.2.6 The EESC therefore supports bringing the PE Directive into line with the NLF Decision, to ensure the highest legal clarity by means of the legislative technique of recasting, through "the adoption of a new legal act which incorporates in a single text both the substantive amendments which it makes to an earlier act and the unchanged provisions of that act. The new legal act replaces and repeals the earlier act"⁽⁷⁾.

2.2.7 Similarly, the Committee welcomes the alignment of Directive 97/23/EC with the CLP Regulation, to ensure legal consistency in the classification of pressure equipment based on the fluid it contains, with effect from 1 June 2015, when Directive 67/548/EEC will be repealed. This alignment within the EU implements the Globally Harmonised System of Classification and Labelling of Chemicals, which has been adopted at the international level under the auspices of the United Nations (UN).

2.3 The obligations of economic operators and traceability requirements

2.3.1 Of particular relevance to the Committee are the requirements for product traceability and the obligations of economic operators, in particular:

— the obligation for importers, authorised representatives and distributors to check that products bear the CE mark and are accompanied by the required documents and information on traceability,

⁽¹⁾ OJ C 120, 16.5.2008, p. 1.

⁽²⁾ OJ L 218, 13.8.2008, p. 30; OJ C 120, 16.5.2008, p. 1.

⁽³⁾ OJ C 181, 21.6.2012, p. 105.

⁽⁴⁾ OJ L 353, 31.12.2008, p. 1.

⁽⁵⁾ Notified bodies are the bodies (notified by the Member States to the Commission) responsible for assessing conformity that test, examine and certify products.

⁽⁶⁾ OJ C 120, 16.5.2008, p. 1.

⁽⁷⁾ OJ C 181, 21.6.2012, p. 105.

- the obligation for manufacturers to provide instructions and safety information in a language that can be easily understood by consumers and end-users,
- traceability throughout the supply chain, covering manufacturers, authorised representatives and importers, and
- for all economic operators, the obligation to inform the authorities of who has purchased the product and who has supplied it.

2.3.2 Such guarantees of traceability for any pressure equipment placed on the market should be fully implemented, in line with the principle of proportionality with regard to procedures and certification costs, especially for smaller companies and for non-standard or limited series.

2.3.3 It is equally important for there to be more efficient market surveillance and a greater equivalence between the levels of competence of notified conformity assessment bodies, with appropriate mandatory requirements for all, in order to ensure the utmost impartiality and effectiveness throughout the EU and fair competition among all manufacturers.

2.3.4 Indicators to monitor the reduction in the number of non-compliant products on the market and improvements in the quality of assessment services should be based on information obtained through the RAPEX system and the notification procedures for the safeguard clause, established in accordance with the directive, and on the NANDO ⁽⁸⁾ database.

2.3.5 The Committee believes that, if the implementing powers of the new recast directive are conferred on the Commission in accordance with Regulation (EU) No 182/2011

of 16 February 2011, this must be done with due regard for the guarantees of information for the Council and Parliament and, where appropriate, for the Member State concerned.

3. General comments

3.1 The Committee welcomes the recasting of the 1997 PED and values the work done by the Commission to bring European legislation on pressure equipment into line with international developments and the new internal regulatory framework.

3.2 The Committee reiterates the importance of ensuring due regard for the principle of the free movement of safe and compliant goods, so that products lawfully marketed in one Member State can be marketed without hindrance throughout the EU by guaranteeing full product traceability, in conjunction with market surveillance that is applied in a uniform, effective and efficient manner.

3.3 Greater account should be taken of the principle of proportionality in procedures and certification costs, especially for smaller companies and for non-standard or limited series products: the EESC considers that a revision of the legislation, such as that proposed, would need a specific impact statement for SMEs, in addition to the impact assessments and consultations that are carried out.

3.4 More efficient and widespread market surveillance and greater equivalence between the levels of competence of notified conformity assessment bodies should be achieved not only through sanction mechanisms, but also – and above all – through support for targeted European training measures.

3.5 The new revised legislation should be subject to regular checks and reports to the Community institutions, corroborated by RAPEX indicators on compliance infringements and the general safety of pressure equipment placed on the market.

Brussels, 16 October 2013.

The President
of the European Economic and Social Committee
Henri MALOSSE

⁽⁸⁾ See: <http://ec.europa.eu/enterprise/newapproach/nando/>.