

## Harmonisation of Laws

### Harmonised Standards

There are harmonised laws on standards and requirements for many products in the EU. In the absence of harmonisation, individual EU states can regulate products and insist that national rules be applied, provided the national rules can be justified by reference to requirements which are strictly necessary and are reasonable and proportionate. That is to say, there has to be good justification and the rules must be no more than necessary to give effect to the justifiable reasons for the rules.

The potential justifications for differing national rules and procedures include such matters as tax supervision, public health, defence of the consumer, protection of the environment, working conditions and protection of fundamental rights. However, EU law is strict in ensuring that member States do not use these potential justifications as a hidden method of discrimination.

### 1992 and the Single European Market

In order to make a genuinely free trading area for goods, the EU commenced the process of harmonising standards for goods and services throughout the EU. This process was accelerated greatly in the early 1990s. This process involved setting out common EU standards so that once goods or services were lawfully produced in one State they could be exported into any other State on the basis that they conformed with the home country's rules and standards.

The EU has made common rules in several hundred areas which were identified as being barriers to trade. In the late 1980s the Single European Act was passed to facilitate the creation of a single market by streamlining the method by which

harmonisation laws were made. These laws were designed to complete the single market by the end of 1992. Prior to 1993, over 300 measures were passed into law. Harmonisation has continued since that time.

Generally the European Union harmonises laws as standard by issuing Directives. Directives set out the standards and objectives that must be realised. Member States are obliged to implement Directives within certain time limits.

The general principle of mutual recognition requires that products and services put on the member market in one state should be allowed access to other states provided they have satisfied the home state standard. This requires regulators in member states to assess the equivalent regulatory systems of other states. While the principle is attractive and continues to be a key requirement, the practical limitations on it have meant that harmonisation legislation has been necessary.

## **Types of Harmonisation**

There are a number of different methods by which harmonisation takes place. In certain fields, full harmonisation occurs. The diverse national rules are replaced by a single EU rule leaving no room for member states to take action. The Directives impose a two fold obligation on states. The Member States must permit goods complying with the directive to be freely imported and marketed and must prohibit the sale of goods not complying with the Directive.

There are many examples of completely harmonised standards. Areas covered by harmonised standards include banking financial services, insurance of motor vehicles, cosmetics, fertilizers, numerous types of equipment, transport, telecommunications, etc.

An alternative approach is minimum harmonisation. The EU sets minimum standards but member states are free to impose higher standards on their goods and services. Minimum standards provide a floor below which national standards cannot fall. Member

States are free to choose more stringent measures than those resulting from EU law. Goods meeting the minimum standards may be marketed in any member state.

A simpler method of harmonisation has been commonly used in recent times to fast track the completion of the internal EU market. Directives set out broad principles rather than detailed rules and rely on private bodies to set voluntary standards. The EU rules deal with the essential safety standards of a product. Once goods conform to those standards and a CE marking is placed they must enjoy free movement throughout the EU.

The task of drawing up technical specifications is entrusted to specialist standard organisations. Manufacturers are entitled to produce in accordance with the standards set by the voluntary bodies or according to other standards which conform with the essential requirements. Products manufactured in conformity with the harmonised standards are presumed to conform with the essential requirements. Member States must take appropriate enforcement action, including market surveillance, to ensure that non conforming products are withdrawn.

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