

**The Notification Procedure to the European Commission:
an opportunity for any company operating within the Internal Market**

23 September 2021

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The notification procedure of national technical regulations to the European Commission might be one of the most understated pieces of legislation at both domestic and European levels. Even if this process is not well known by most, it is gaining more and more relevance in some sectors, such as digital issues. *How does it work and why is it important?* Lighthouse Europe wants to provide you with some basic elements to help you navigate more efficiently between the legislative processes of the Member States and the EU.

[Why did the EU create the notification procedure?](#)

The purpose of the notification procedure of national technical regulations is to give businesses/third party stakeholders an opportunity to examine these texts and evaluate their impact on the Internal Market before their adoption. This ex-ante control notably makes it possible to verify if the regulation:

- creates an **unreasonable barrier** to the Internal Market;
- sets out **protectionist policies**; and
- complies with existing **EU law**.

The European Commission also uses this procedure to identify the potential needs for harmonisation at the EU level, to open another channel of communication with the Member States, and to receive the contributions of economic actors.

[What is the notification procedure?](#)

The notification procedure was codified in 2015 within [Directive \(EU\) 2015/1535](#), laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society Services. However, the procedure has existed since 1983 and the main changes since then were the progressive extension of its scope.

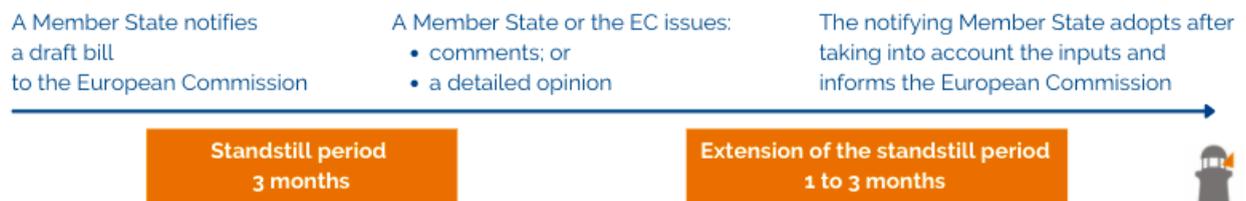
The procedure requires **Member States** to notify the **Technical Regulation Information System (TRIS)**, part of the **Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (DG GROW)**, of any national, technical regulating, meaning:



- technical specifications;
- other requirements, to cover notably the protection of consumers or the environment;
- rules on services, including Information Society services;
- regulations prohibiting the manufacture, importation, marketing or use of a product (including agricultural products) or prohibiting the provision or use of a service, or establishment as a service provider.

The notification procedure however does not apply to standardization rules, nor to radio or television broadcasting services.

Timeline of the notification procedure



Once a Member State has notified one of these rules, the European Commission will first open a page on the [TRIS](#) and **set a three months standstill** period, during which time the Member State cannot definitively pass the new rule. **Stakeholders are invited to send in their contributions as soon as possible in order to inform the European Commission of any obstacle to their business caused by the regulation.**

The Commission reviews the text in order to determine if the rule is compatible with the Internal Market and EU law. One important caveat is that any other Member State can also submit a reaction, based on the same grounds. Four responses are possible at this stage:

- **No response:** the technical regulation did not raise any issue.
- **Comments:** the technical regulation raises questions about details, interpretation and implementation. Comments do not extend the standstill period. The notifying State does not have to respond but shall take the comments into consideration.
- **Detailed opinion:** the technical regulation raises more serious issues, such as creating an undue barrier to the free movement of goods, the freedom to provide services or the freedom of establishment of services operators within the Internal Market. The standstill period is extended for up to six months, depending on the type of regulation. The notifying State has to answer and must take into account the detailed opinion by:
 - amending provisions to make the regulation compatible with EU law
 - justifying maintaining provisions
 - renouncing the regulation
- **Blockage:** Only the European Commission can block a technical regulation, in case it intends to propose a European act covering the same matter, or in case a draft proposal of European

legislation already covers the notified regulation. The standstill period is extended up to 18 months.

Member States should also **renotify** their draft if the text has changed substantially (if amendments to its scope have been made by a National Parliament, for example): a new standstill period will therefore start.

The Commission, the notifying State and the other Member States can continue the dialogue **until the final adoption of the technical regulation**. The notification procedure ends when the notifying Member States adopts and communicates the final text to the Commission.

Why is this procedure important for any stakeholders in the European Union?

The notification procedure may sound like an administrative requirement that helps the Commission assume its implementation and legal roles for the Internal Market. However, this procedure can be surprisingly important for stakeholders following certain topics where the Member States try to expand their influence, in order to:

- Prevent Member States from diverging from EU law;
- Advocate for less fragmentation of the Internal Market;
- Engage in a dialogue with both relevant Ministries at the national level and the European Commission;
- Anticipate legal challenges if a technical regulation was poorly or not even notified.

This last point has been strengthened by the case law of the **Court of Justice of the European Union** (CJEU). Two decisions are particularly useful:

- [Case 'CIA Security International SA v Signalson SA and Securitel SPRL'](#) - judgement of 30 April 1996: a technical regulation that was not notified can be declared inapplicable to individuals by national courts
- [Case 'Unilever Italia SpA v Central Food SpA'](#) - judgement of 26 September 2000: a technical regulation adopted during the standstill period can be declared inapplicable to individuals by national courts

Do you need help navigating national and European public affairs and exploring the notification procedure? Lighthouse Europe maintains a specialist workforce of public affairs consultants specialising in all areas of European law and procedure. For more details, please contact info@lighthouseeurope.com