



**The notification procedure laid down by
the Single Market Transparency Directive
(SMTD)
(EU) 2015/1535**

Introduction

*The **Internal Market** is a space without frontier where people, goods, services and capital can circulate freely.*

Introduction

The free movement of goods and services (within the MS) is based on various rules:

- ***The Treaty on the functioning of the EU provisions aiming at banning any national measure which could affect intra EU trade (Art 34 to 36, 49 and 56 Treaty on the Functioning of the European Union, TFEU);***
- ***The secondary European Union law, when the Treaty is not 'sufficient' (Regulations, Directives and Decisions);***
- ***Rules aiming at preventing the creation of new obstacles to trade (Communications etc.).***

Introduction

Improving day-to-day functioning of the Single Market by building on a new compliance culture within the regulatory cycle

Ex ante: prevention of obstacles to the smooth functioning of the internal market before they appear (ensuring compliance of draft national legislation with TFEU and EU secondary legislation)

Ex post: market surveillance, infringement proceedings (checking compliance of national legislation already in force with TFEU and EU secondary legislation)

WHAT IS THE SMTD?

Directive (EU) 2015/1535 (antechamber of the internal market).

*The Commission receives national legislation at a draft stage sent by the MS through the databases "**TRIS**" (Technical Regulations Information System).*

Video



<https://www.youtube.com/watch?v=ziuAklSfNKdI>

Objectives of the Directive

Smooth functioning of the Internal Market

Transparency

All participants in the notification procedure are informed

Prevention

Avoiding barriers to trade before they even appear

Subsidiarity

Detecting those cases where EU intervention appears most appropriate

- + Better Regulation
- + Benchmarking
- + Instrument for industrial policy

What needs to be notified

- **Technical regulations:**
 - Technical specifications (products)
 - Other requirements (products)
 - legislation prohibiting the manufacture, importation, marketing or use of a product or prohibiting the provision or use of a service or establishment as a service provider
 - Rules on information society services

- ***De facto* technical regulations:**
 - Referring to rules conferring a presumption of conformity
 - Fiscal or financial measures affecting the consumption of products or services
 - Voluntary agreements

- **Exceptions:**
 - Article 7 of the Directive (general exceptions)
 - Radio and TV services (covered by the Audiovisual Media Services Directive)
 - Telecommunication services (if EU rules)
 - financial services (if EU rules) and regulated markets

Standards vs Technical regulations

- **Standards are voluntary by nature, unlike technical regulations**
- **If standards are mandatory (this should be avoided!): standards become technical regulations and shall be notified under Directive (EU) 2015/1535**

Actors of the procedure

Notifying Member State

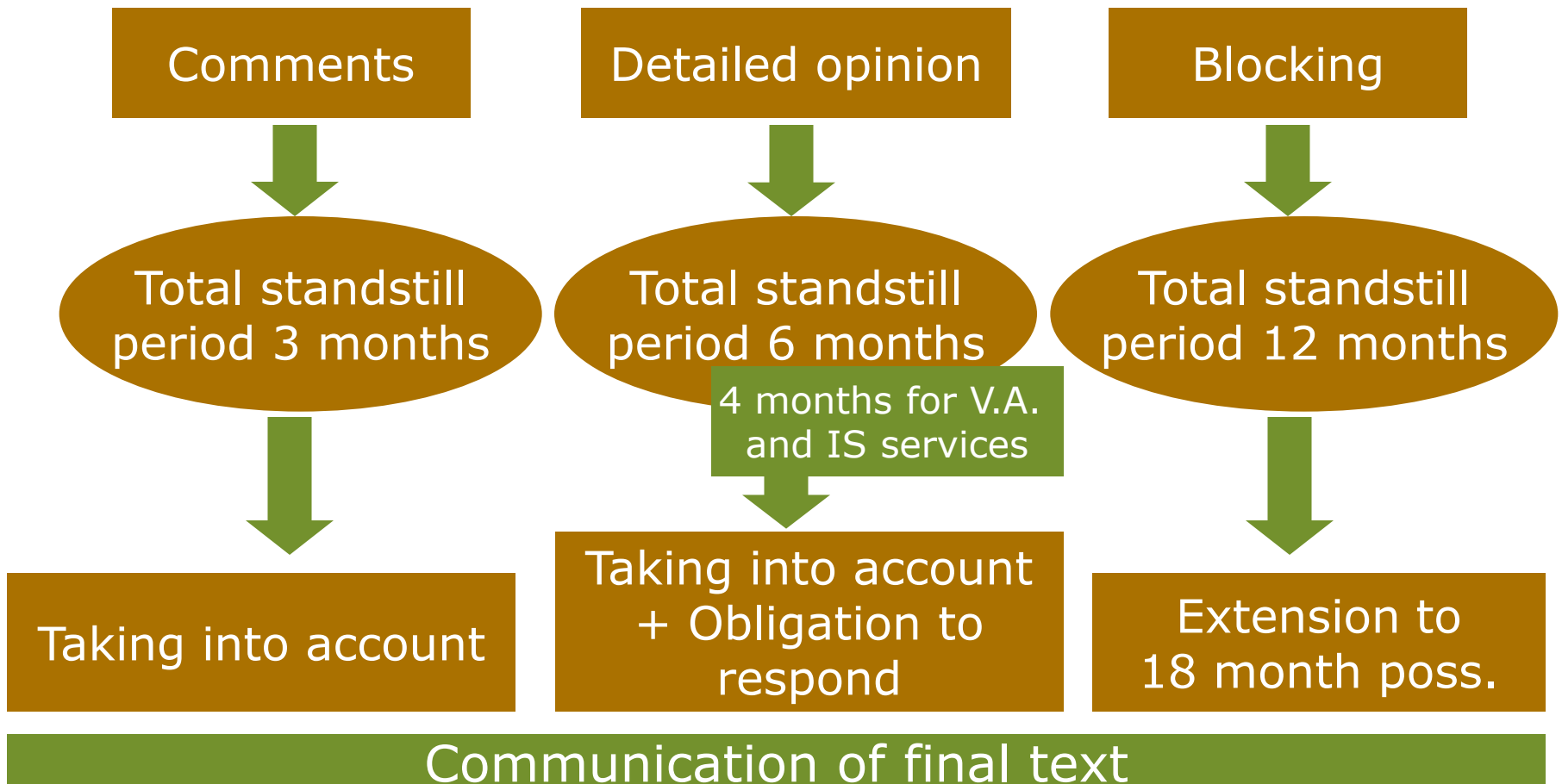


COM and other Member States: assessment of the notified draft and reaction



Stakeholders: can send their position to COM and other Member States

Reactions from Commission and Member States



Legal consequences of non-notification

Principle of unenforceability

CIA Security (C-194/94)

Non-notified technical regulations

Unilever (C-443/98)

Standstill period not respected



ECJ confirmed this principle through its well established case-law



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