

LEGAL ALERT

ON THE IMPLEMENTATION IN PORTUGAL OF EU DIRECTIVE RELATING TO ELECTROMAGNETIC COMPATIBILITY

On February 26, 2014, Directive 2014/30/EU of The European Parliament and of the Council of 26 February 2014 (“Directive”) was published in the Official Journal of the European Union. The Directive regulates the electromagnetic compatibility of equipment (apparatus and fixed installations), requiring equipment to comply with an adequate level of electromagnetic compatibility. The Directive does not apply to radio equipment and telecommunications terminal equipment since such devices are governed by Directive 2014/53/EC of the European Parliament and of the Council of 16 April 2014, which has not been implemented yet.

On March 22, 2017, the Directive was implemented in Portugal through Decree-Law no. 31/2017, March 22 (“Decree-Law”), which revoked Decree-Law 325/2007, September 28. The Decree-Law results from the alignment with the new European legal framework, which, in its turn, results from, on the one side, Regulation (EC) 765/2008 of the European Parliament and of the Council of July 9, 2008, which provided for the requirements for accreditation and market surveillance relating to the marketing of products and, on the other side, Decision 768/2008 / EC of the European Parliament and of the Council of July 9, 2008, which established a common framework for the marketing of products but preserved the essential requirements for equipment.

The duties of the economic operators set forth in the Directive were implemented in Portugal through the Decree-Law. Without claiming to be exhaustive, economic operators’ duties are:

- Manufacturers shall ensure that apparatus that are being placed on the market:
 - have been designed and manufactured in accordance with the essential requirements set out in Annex I (which corresponds entirely to Annex I of the Directive);

- are accompanied by instructions, information and labelling in Portuguese and shall be clear, understandable and intelligible; and
 - carry out the relevant conformity assessment procedure.
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- Importers shall only place on market apparatus that are compliant with the terms set forth in Decree-Law. Importers shall make sure that:
 - manufacturers carried out the relevant conformity assessment procedure;
 - the apparatus carries the EC marking; and
 - the apparatus is accompanied by the instructions and information on any specific precautions that must be taken when the apparatus is assembled, installed, maintained or used, which must be provided in Portuguese.
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- Distributors who make apparatus available on market shall:
 - confirm that the apparatus carries the EC marking;
 - confirm that the apparatus is accompanied by the instructions and information on any specific precautions, written in Portuguese.

The manufacturers, importers and distributors shall provide to the relevant national authority (i.e. Authority for Economic and Food Safety or National Communications Authority, for electronic communication equipment), upon a reasoned request, all the information and documentation in paper or, preferably, electronic form, necessary to demonstrate the conformity of the apparatus with the Directive, in Portuguese or in a language which can be easily understood by that authority – duty that is also imposed to the other two economic operators.

The Decree-Law enters into force today: March 23, 2017.

Diana Ribeiro Duarte | drd@mlgts.pt
Rute Carvalho da Silva | rctsilva@mlgts.pt

www.mlgts.pt