

## **DECISION**

**No. 382. dated 23.7. 2002**

### **FOR THE EXCHANGE OF INFORMATION IN THE AREA OF STANDARDS AND TECHNICAL REGULATIONS**

In support of article 100 of the Constitution and article 17 of the law No. 8464, dated 11.3.1999 "For standardisation", with the proposal of the Deputy-Premier and Minister of Labour and Social Affairs, the Council of Ministers

#### **DECIDED:**

1. Within the concept of this decision, the following terms take on these meanings:  
- With "standard" is meant a technical specification, approved by the national body of standardization for continuous use, its implementation is not compulsory and serves as a document in achieving quality assurance level.

-With "technical regulation" are meant the sub-legal acts of a technical character, which determine the characteristics of products and processes of their production, including administrative actions adopted for infringements. They might contain as well, the requirements concerning terminology, symbols, packing, marketing or labeling, when a product or production process is meant.

- Technical regulations contain:

a) administrative rules from a member-state, which refer to technical specifications and other requirements over services, professional codes, as well as codes of practice refer to technical specifications or other requirements which comply with obligations asset out by the aforementioned administrative rules;

b) volunteer-agreements, in which a public authority is a contracting party, and anticipating to the public interest the compliance with technical specifications or other requirements by excluding specifications of public procurement bidding;

c) " technical specifications" are these provided by a document which offer the required characteristics of a given product, such as: quality level, properties. certainty, dimensions, terminology included, symbols, tests, methods of analyses, packing and labelling of products as well as conformity assessment procedures;

- With "a draft-project" is meant a document containing the technical specifications for a given subject, which could be approved in conformity with national standards procedure, when it circulates for further reviewing and comments.

- With "a technical draft-regulation" is meant the text of a technical specification or of another requirement or rule over services comprising administrative actions which aim at putting it to practise as a technical rule, when the text is under the preparatory phase, hence further substantial improvements could be made.

- With “ standards’ program”, it is meant a work-program of a body officially recognised as a standardization body, which ranks the terms for which the standardisation is being carried out.
- With “product”, it is meant every industrial or agricultural product, including fish products.
- With ‘service”, it is meant any service given towards a fee, at a distance via an electronic media or due to an individual requirement seeking that.
- With “rules on services” are meant the general requirements related to the start and follow up of the activity owing to the above-definitions for those offering this service, those performing it and taking profit of it, by excluding every rule, not aiming in particular at the services as determined by this point.
- With “other requirements” are meant certain requirements in addition to technical specifications, which are determined upon a product on consumer’s protection or environment and which affect the circulation cycle after the product has gone into the market. Such are conditions for use, recycling, reusing or the inclination or when significantly affecting the composition or nature of the product when reaching the market.
- Measure WTO/SPS sanitarian or phyto-sanitary measures according to WTO.
- Measure WTO/TBT measures on trade technical barriers according to WTO.
- A member state-member states, which are part of the agreement as envisaged by the
- World Trade Organization or the country members of EU.

2. Centre of data and standard sales at the General Directorate of Standardisation (GDS) is a reference point for providing information on standards and technical rules. The Centre offers information for membership with full rights or at a lower level of relevant bodies of Albanian state into the regional and international organizations of standardisation and into those of conformity assessment. This centre notifies to the Secretariat of World Trade Organization in Geneva on disagreements (bilateral or multilateral) for standards, technical rules and conformity assessment procedures which are within the framework of agreement with Word Trade Organization, when having tangible effect on trade.

3. The relevant state bodies, when starting preparation of a standard, technical regulation or conformity assessment procedures or sanitary or phyto-sanitary measures, should inform the information centre at the General Directorate of Standardisation through inter-ministerial groups set up at Prime Minister’s order.

1. Notifications according to Agreement WTO/TBT and WTO/SPS.

4. The information should contain:

- legislative framework for preparing a standard, technical regulation, conformity assessment procedure or SPS measure:
- data on European and international standards, technical regulations, guides and references which constitute the basis for the proposed measures.
- data on products and services covered according to measures compiled;
- aims and reasons for preparing these measures
- reasons for any deviation from the above documents;
- An assessment that measures has passed notification in compliance with regulations of WTO and EU. Attached to the information should be a programme of measures to be proposed.

5. Notification of Albanian measures is performed when administrative groups present such a requirement. In this case, the center carries out the notification and at the same time, notifies the relevant state body that has proposed the measure for the period during which the centre can not approve the intended measures.

- In case of such a requirement, the centre should notify the Secretariat of World Trade Organization in Geneva, through the Resident Mission of United Nations in Albania for the measures to be undertaken. The Centre should receive comments from member-states of World Trade Organization nations in Albania for the measures to be undertaken. The centre should notify the body, which has presented the request for notification that should not adopt the intended measures 60 days after notification-date by the Secretariat of World Trade Organization in Geneva.

- The Center after receiving comments from member-states of World Trade Organization through the Secretariat of World Trade Organization in Geneva delivers them to the body presenting the request for notification.

- The Center should finally ask for a project with reflected comments that should contain, in a clear way, whether the comments have been considered or not, completely or partially as well as the reasons for non-considerations.

The full response should be communicated to the members of World Trade Organization, which have made comments for measures to be undertaken.

6. Notification of external measures is done when:

- the Secretariat of World Trade Organization in Geneva gives to the Missions the notification performed by the other members of World Trade Organization which is obliged to send it immediately to the Center. The Center delivers a notification copy to the inter-ministerial group responsible for the proposed measures.

- When the inter-ministerial group assesses that the adoption of the proposed measures by a member-state of World Trade Organization could set up an unnecessary barrier for the international market, it notifies the centre by offering explanation on the assessment and proposes for changes of measures, and a time-off-period for adopting the intended measure.

- The full information is issued from the centre to the member-state of World Trade Organization, which has sent the notification.

7. All the measures of this decision that are related to the procedure of notification, should, similarly, be adopted for every change or substantial improvements of rules for their deadlines and products' ranking over which it has to be implemented.

II Notification according to regulations of European Union.

8. With the integration of Albania into European Union, the role of Secretary of World Trade in Geneva for accomplishing notification is played by the European Commission.

9. Notification of Albanian national standards according to regulations of EU is performed when the national body of standards, through the centre notifies the European Commission and organizations of standards that it is preparing or improving a national standard, with the exemption when it has to do with the adoption of the same, European or international standard.

In addition to the data of point 3, the notification should state explicitly whether the intended standard:

- shall adopt an international standard not equivalent in value to it;

- shall be a new original, national standard; or,

- shall improve an original, national standard.

10. The National body of standards should notify the European Commission for every measure adopted on the basis of their comments.

At the request of EU countries, the national body of standards, while preparing for a standard, should allow, the participation of an expert from EU. Its level, is useful to be in compliance with the regulations of European bodies of Standardisation.

11. The national body of standards should not publish any standards which has not passed the procedure of notification, in compliance with points of this decision.

This body shall not approve any national standard, which does not comply with any existing European standard .

12. Notification of Albanian technical rules according to EU regulations should not be carried out for those measures, in form of rules, administrative measures or voluntary agreements with which the relevant bodies:

- implement compulsory acts of European Union which result in the approval of technical specifications or rules on services;

- fulfil the obligations deriving from international agreements which result in the approval of common technical specifications or regulations on services within European Union.

- put into effect protective provisions in the compulsory acts of European Union.

- issue authorisations for the approval of extraordinary measures in compliance with harmonized regulations for the general safety of products.

- are obliged to implement a decision of the European Court

- are obliged to improve a technical regulation, in compliance with the request by the Commission, for eliminating trade-barriers or for regulations on services, for avoiding barriers of free movement of services and freedom of creativity of a service-provider.

13. When the relevant state organs compile a technical regulation they should notify through the center, the European Commission. The notification should contain a summary of reasons for drawing out this technical regulation and communicate the text of all laws and basic regulations which make up the legal framework within which the technical draft-regulation has to be adopted; this is commonly necessary for assessing its consequences. If the technical regulation is simply the transfer of a full-text version from an international or European Standard, it is not necessary the aforementioned procedure. The data should be of a confidential nature, only if the body requesting the notification has presented a request, reasoned out for this purpose.

14. When the relevant state organs publish a technical regulation which is subject to be notified by European Commission, this technical regulation should clearly state that all the instruction-requirements determining the procedure of information in the area of standards, technical regulations and rules on the community of information, have been met. On the contrary, it must be accompanied by a relevant publication in an official edition.

15. When a technical regulation aims at restricting going into the market or use of substances of chemical products, by considering public health safety of the consumer and environmental protection; the relevant state bodies proposing this draft-regulation should deliver to the European Commission a summary or references with all the relevant data. In addition to this information, there must be an explanation of consequences affecting public health safety of the consumer and environment protection, for reaching the market of a chemical product.

16. If the European Commission or any of the member-states present their comments on technical regulations; such comments through the center, pass to the relevant state body that has been proposing the technical regulation, and presumably, such comments should be considered in the further preparation of this technical regulation. The finalized version with reflected comments, is presented to the European Commission through the center.

17. The relevant state bodies should publish a technical draft-regulation only three months after the European Commission has received notification.

18. If the European Commission or any of the member-states have sent within three months from the date of receiving notification comments that the proposed measures, a technical regulations in form of voluntary agreement, or any other technical regulations (with the exemption of those which contain only rules on services), could create barriers for the free movement of commodities in the internal market, then the proposing body shall not approve them prior to a deadline from 4 to 6 months after the date of receiving comments.

19. The relevant state bodies should not approve any technical regulation containing rules on services, unless 4 months have passed from the date of receiving notification from the European Commission, if any of the member states has sent, within three months, comments that the proposed measures could bring forth barriers for the free movements of services in the internal market.

20. The relevant state bodies through the center, should report to the European Commission for the measures they intend to approve according to the received comments. For technical regulations containing rules on services, the body proposing the measures as a rule, should display the reasons of not considering the comments received.

21. The relevant state organs can not publish any technical regulation unless 12 months have passed from the date of receiving notification, provided that European Commission has published:

- its goals to be proposed or implemented a guideline, rule or decision in the same area, in compliance with European Commission (with the exemption of the request for acts containing only rules on services);
- decisions that the technical draft-regulation is related to an already discussible subject according to a draft-instruction, regulation or decision forwarded in the Council of European Union, in compliance with the procedure contained in article 189 of the Agreement of European Commission. If the Council has approved a common attitude, for the period during which could be not adopted the proposed measures, this period is postponed up to 18 months.

22. Obligations deriving from article 189 terminate:

- When the European Commission notifies to the Republic of Albania that are no additional intentions to be proposed or implemented as a compulsory act.
- When the European Commission notifies to the Republic of Albania for the invalidation of the project or its proposal.
- When the European Commission or Council have adopted a compulsory Community act;

23. The rules as envisaged by points 13-23 of this decision are not implemented in cases when:

- for emergency reasons, caused by serious circumstances and unforeseen for the protection of public health or safety, protection of animals or protection of plants, in technical rules on services, and those on protection of minor children; Albania is obliged to compile technical regulations within a relatively brief period of time, to issue and adopt them immediately, without any possible preliminary counsel.

-for emergency reasons, caused by serious circumstances regarding the protection and security of integrity of the financial system, for protection of depositors, investors or ensured persons, Albania is forced to order or implement regulations on financial services. In notification, the relevant state body, proposing the measures, should give reasons on the emergency of the measures taken.

24. The Notification of foreign measures, according to EU regulations is performed according to this procedure. The Center shall treat the notifications taken for the

measures being prepared by other member-states or their standardization bodies with a request, in compliance with point 5 of this decision, with the exemption of measures for prolongation of time during international negotiations. For the preparation of any comments for the measures compiled, should be considered a time-off period of three months. When any other member state determines the notified measures as confidential, then relevant state bodies, by assessing the measure, could include juridical or physical persons from private sector in expertise capacities, only when necessary measures have been undertaken in ensuring confidentiality.

Any comments and technical specifications, other requirements or rules should pertain to only those aspects causing hindrances for the market, whereas any comments for rules on services should pertain to the free movement of services, or freedom of creativity of a service-provider, but not to the fiscal or financial aspect of this measure.

Any comments on technical regulations, containing rules on services should not be implemented in none of the mass cultural policies, particularly in the audio-visual area, which the member-states of European Union approve, in compliance with their own laws, by considering their linguistic differences, national features and regional characteristics.

### III Transitory and finalized measures

15. The Rules as envisaged by points 9 to 25 of this decision start to be implemented on the date of entrance into force of the Membership Agreement of the Republic of Albania into European Union and with entrance into force of any special agreement among the aforementioned parties for procedures of notification in the area of standards and technical regulation, whatever might be the nearest approach in time.

26. The decision No.372, dated 24.08.1999 of the Council of Ministers “For the exchange of information on standards and technical regulations” is invalidated.

This decision enters into effect after publication in the Official Journal.

**PRIME MINISTER**

**Pandeli Majko**