MUTUAL RECOGNITION

According to the principle of Mutual Recognition, goods that do not fall under the harmonized legislation of the Union or are only partially covered by it, which are legally marketable in a Member State of the single European territory, should not be hindered or prohibited in another Member State in accordance with Article 34 of the Treaty establishing the European Community.

Member States can restrict the marketing of goods that have been lawfully marketed in another Member State, where such restrictions are justified based on Article 36 of TFEU or on the basis of other overriding reasons of public interest, recognised by the case-law of the Court of Justice of the European Union, in relation to the free movement of goods.

Regulation (EU) 2019/515 improves the rules and procedures for the application of the principle of mutual recognition and eliminates the malfunctions of the previous Regulation (EC) 764/2008.

In more detail, Regulation (EU) 2019/515:

- applies to goods legally circulating in another member state, including agricultural and fishing products,

- introduces the voluntary **Mutual recognition declaration** to facilitate the proof that a product is already legally marketed in the single market,

- determines the **assessment procedure** by the competent authority of the Member State of destination for the goods subject of the Regulation, to be assessed whether are legally circulating in the market of another member state, and comply with the existing national rules of the destination member state.

- defines a new procedure for resolving issues between economic operators and national authorities for the administrative decisions issued, based on **SOLVIT** procedure. Commission's opinion may be issued on administrative decisions prohibiting, impeding or restricting the handling of products (Article 8 "Problem Solving Procedure").

- provides for the creation and operation of contact points for products in the Member States, for the information of the economic operators, as well as the administrative cooperation and the exchange of information within the framework of the principle of mutual recognition.

It is acknowledged that a prior authorization procedure does not itself constitute a national technical rule for the purposes of the Regulation. However, if there is a decision refusing a prior authorization based on a national technical rule, it will be considered an administrative decision in which the Regulation on Mutual Recognition will be applied (Article 2 "Scope", par. 4).