



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP  
AND SMES  
Single Market Policy, Regulation and Implementation  
**Prevention of Technical Barriers**

Brussels, 27.09.2019  
GROW.B.2/ (2019)6674169



**Subject: Your complaints CHAP (2019) 1109 of 12 April 2019 and CHAP (2019) 1715 of 19 June 2019 against Greece**

Dear [REDACTED]

I refer to your complaints of 12 April 2019 and of 19 June 2019, on behalf of [REDACTED], registered under numbers CHAP (2019) 1109 and CHAP (2019) 1715, and to our correspondence dated 25 July 2019.

The Commission services have completed their examination of your complaints. On the basis of the information you supplied, we are not planning to propose that the Commission initiates infringement procedures for failure to comply with Union law by Greece. The reasons underpinning this decision are outlined as follows.

Your complaints relate to the *Amendments to Law 4419/2016 (Government Gazette 174/A) - Article 96 – Harmonisation of Greek law with Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations, and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products*, notified by Greece pursuant to Directive (EU) 2015/1535<sup>1</sup> (notifications 2019/80/GR and 2019/94/GR). In your complaints, you claim that by adopting the said amendments before the end of the 3 months standstill period provided for by Article 6(1) of the Directive, Greece has failed to fulfil its obligations under that Directive. You state that “*the Commission should immediately declare article 96 of the Greek Law 4600/2019 inapplicable*”.

We would like to recall that the aim of the procedure set up by Directive (EU) 2015/1535 is to prevent upfront, unjustified barriers to trade of goods and to the free movement of information society services. In your letter, you do not refer to any breach of EU law. In

<sup>1</sup> Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).

the absence of substantive issues in that respect, the Commission services do not intend to proceed with the aspects relating to the notification procedure.

We also would like to underline that the Commission does not have the competence to declare a national act inapplicable for breach of the provisions of Directive (EU) 2015/1535.

However, in accordance with the case law of the Court of Justice of the EU, the failure to respect the standstill period provided for by Directive (EU) 2015/1535 is a procedural defect rendering the technical regulation at issue inapplicable and unenforceable against individuals. Individuals may rely on the provisions of the Directive before the national court which must decline to apply the technical regulation concerned (judgment of the Court of Justice of 16 July 2015 in Case C-95/14, *UNIC and Uni.co.pel*, EU:C:2015:492, paragraphs 29-30).

I therefore wish to inform you that it is intended to close your complaints. However, should you have any new information that might be relevant for the re-assessment of the case, I invite you to contact us within four weeks of this letter, after which date the complaints might be closed.

Yours sincerely,

A large black rectangular box redacting the signature of the Head of Unit.

Head of Unit