

Commission Implementing Regulation (EU) 2020/2035 of 7 December 2020 amending Implementing Regulation (EU) No 1352/2013 as regards the application for action form provided for in Regulation (EU) No 608/2013 of the European Parliament and of the Council, in order to introduce the possibility to request the taking of action in Northern Ireland

COMMISSION IMPLEMENTING REGULATION (EU) 2020/2035

of 7 December 2020

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003⁽¹⁾, and in particular Article 6(1) thereof,

After consulting the Customs Code Committee,

Whereas:

- (1) Commission Implementing Regulation (EU) No 1352/2013⁽²⁾ establishes, in its Annex I, the form to be used to submit an application requesting that customs authorities take action with respect to goods suspected of infringing an intellectual property right, referred to in Article 6 of Regulation (EU) No 608/2013 ('the application for action form').
- (2) Since 1 February 2020, the United Kingdom has withdrawn from the European Union and has become a 'third country'. The Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (Withdrawal Agreement)⁽³⁾ provides for a transition period ending on 31 December 2020. Until that date, Union law in its entirety applies to and in the United Kingdom.
- (3) After the end of the transition period, the Protocol on Ireland/Northern Ireland ('IE/Ni Protocol'), which forms an integral part of the Withdrawal Agreement, applies. The IE/Ni Protocol makes certain provisions of Union law applicable under certain conditions also to and in the United Kingdom in respect of Northern Ireland⁽⁴⁾.
- (4) The IE/Ni Protocol provides that the regulations listed in its Annex 2 under point 45 (Regulation (EU) No 1151/2012 of the European Parliament and of the Council⁽⁵⁾; Regulation (EU) 2019/787 of the European Parliament and of the Council⁽⁶⁾; Regulation (EU) No 251/2014 of the European Parliament and of the Council⁽⁷⁾; Regulation (EU) No 1308/2013 of the European Parliament and of the Council⁽⁸⁾, Sections 2 and 3 of

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2020/2035. (See end of Document for details)

Chapter I of Title II of Part II and Regulation (EU) No 608/2013) apply to and in the United Kingdom in respect of Northern Ireland.

- (5) Hence, a right holder should be able to request a customs action in a Member State for protection in Northern Ireland of those intellectual property rights, by submitting a Union application.
- (6) More specifically, a right holder should be able to request that the procedure for the destruction of goods in small consignments, set out in Article 26 Regulation (EU) No 608/2013 be used for goods whose geographical indication has been infringed, as these goods are included in the definition of counterfeit goods in point 5 of Article 2 of Regulation (EU) No 608/2013.
- (7) Therefore, the application for action form needs to be adapted by introducing in the box '6. Member State or, in the case of a Union application, Member States in which customs action is requested' and in box '10. I request the use of the procedure of Article 26 of Regulation (EU) No 608/2013 (small consignments) in the following Member State(s) and, where requested by the customs authorities, agree to cover the costs related to the destruction of goods under this procedure' a new tick box called 'XI' for Northern Ireland.
- (8) In the same fields, the tick box for UK should be deleted to reflect the end of the transition period provided for in the Withdrawal Agreement.
- (9) The notes on completion of Annex I to Implementing Regulation (EU) No 1352/2013, which are set out in Annex III to that Regulation should be amended to clarify that action in Northern Ireland can only be asked for intellectual property rights which are protected in Northern Ireland by virtue of the IE/Ni Protocol.
- (10) Implementing Regulation (EU) No 1352/2013 should therefore be amended accordingly.
- (11) This Regulation should start applying on the day following that on which the transition period provided for in the Withdrawal Agreement is to end,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) No 1352/2013 is amended as follows:

- (1) Annex I is replaced by the text set out in Annex I to this Regulation;
- (2) Annex III is amended in accordance with Annex II to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2021.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 7 December 2020.

For the Commission

The President

Ursula VON DER LEYEN

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Commission Implementing Regulation (EU) 2020/2035. (See end of Document for details)

ANNEX I

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2020/2035. (See end of Document for details)

ANNEX EUROPEAN UNION – APPLICATION FOR ACTION

COPY FOR THE COMPETENT CUSTOMS DEPARTMENT	1	1. Applicant Name*: EORI-No*: Address*: Town*: Postal Code: Country*: TIN No: National registration No: Telephone: (+) Mobile: (+) Fax: (+) Email*: Website:	For official use Date of receipt Registration number of application
			INTELLECTUAL PROPERTY RIGHTS APPLICATION FOR ACTION BY CUSTOMS AUTHORITIES under Article 6 of Regulation (EU) No 608/2013
			2*. Union application <input type="checkbox"/> National application <input type="checkbox"/> National application (cf. Article 5(3)) <input type="checkbox"/>
		3*. Status of applicant <input type="checkbox"/> Right-holder <input type="checkbox"/> Person or entity authorised to use the IP right <input type="checkbox"/> IP collective rights management body <input type="checkbox"/> Professional defence body 4. Representative submitting the application in the name of the applicant Company: Name*: EORI-No*: Address*: Town*: Postal Code: Country*: Telephone: (+) Mobile: (+)	<input type="checkbox"/> Group of producers of products with a Geographical Indication or representative of such group <input type="checkbox"/> Operator entitled to use a Geographical Indication <input type="checkbox"/> Inspection body or authority competent for a Geographical Indication <input type="checkbox"/> Exclusive license holder covering two or more Member States <input type="checkbox"/> Evidence of the representatives power to act is enclosed Fax: (+) Email*: Website:
	1	5*. Type of right to which the application refers <input type="checkbox"/> National trademark (NTM) <input type="checkbox"/> European Union trademark (EUTM) <input type="checkbox"/> International registered trademark (ITM) <input type="checkbox"/> Registered national design (ND) <input type="checkbox"/> Registered Community design (CDR) <input type="checkbox"/> International registered design (ICD) <input type="checkbox"/> Unregistered Community design (CDU) <input type="checkbox"/> Copyright and related right (NCPR) <input type="checkbox"/> Trade name (NTN) <input type="checkbox"/> Topography of semiconductor product (NTSP) <input type="checkbox"/> Patent as provided for by national law (NPT) <input type="checkbox"/> Patent as provided for by Union law (UPT) <input type="checkbox"/> Utility model (NUM) 6*. Member State or, in the case of a Union application, Member States in which customs action is requested <input type="checkbox"/> ALL MEMBER STATES <input type="checkbox"/> BE <input type="checkbox"/> BG <input type="checkbox"/> CZ <input type="checkbox"/> DK <input type="checkbox"/> DE <input type="checkbox"/> EE <input type="checkbox"/> IE <input type="checkbox"/> EL <input type="checkbox"/> ES <input type="checkbox"/> FR <input type="checkbox"/> HR <input type="checkbox"/> IT <input type="checkbox"/> CY <input type="checkbox"/> LV <input type="checkbox"/> LT <input type="checkbox"/> LU <input type="checkbox"/> HU <input type="checkbox"/> MT <input type="checkbox"/> NL <input type="checkbox"/> AT <input type="checkbox"/> PL <input type="checkbox"/> PT <input type="checkbox"/> RO <input type="checkbox"/> SI <input type="checkbox"/> SK <input type="checkbox"/> FI <input type="checkbox"/> SE <input type="checkbox"/> XI	Geographical Indication/Designation of origin: <input type="checkbox"/> for agricultural products and foodstuff (CGIP) <input type="checkbox"/> for wine (CGIW) <input type="checkbox"/> for aromatised drinks based on wine products (CGIA) <input type="checkbox"/> for spirit drinks (CGIS) <input type="checkbox"/> for other products (NGI) <input type="checkbox"/> as listed in Agreements between the Union and third countries (CGIL) Plant variety right: <input type="checkbox"/> national (NPVR) <input type="checkbox"/> Community (CPVR) Supplementary protection certificate: <input type="checkbox"/> for medicinal products (SPCM) <input type="checkbox"/> for plant protection products (SPCP)
		7. Representative for legal matters Company: Name*: Address*: Town*: Postal Code: Country*: Telephone: (+) Fax: (+) Mobile: (+) Email*: Website:	8. Representative for technical matters Company: Name*: Address*: Town*: Postal Code: Country*: Telephone: (+) Fax: (+) Mobile: (+) Email*: Website:
		9. In case of a Union application, the details of the designated representatives for legal and technical matters are included in annex no	
		10. I request the use of the procedure of Article 26 of Regulation (EU) No 608/2013 (small consignments) in the following Member State(s) and, where requested by the customs authorities, agree to cover the costs related to the destruction of goods under this procedure. <input type="checkbox"/> ALL MEMBER STATES <input type="checkbox"/> BE <input type="checkbox"/> BG <input type="checkbox"/> CZ <input type="checkbox"/> DK <input type="checkbox"/> DE <input type="checkbox"/> EE <input type="checkbox"/> IE <input type="checkbox"/> EL <input type="checkbox"/> ES <input type="checkbox"/> FR <input type="checkbox"/> HR <input type="checkbox"/> IT <input type="checkbox"/> CY <input type="checkbox"/> LV <input type="checkbox"/> LT <input type="checkbox"/> LU <input type="checkbox"/> HU <input type="checkbox"/> MT <input type="checkbox"/> NL <input type="checkbox"/> AT <input type="checkbox"/> PL <input type="checkbox"/> PT <input type="checkbox"/> RO <input type="checkbox"/> SI <input type="checkbox"/> SK <input type="checkbox"/> FI <input type="checkbox"/> SE <input type="checkbox"/> XI	

* these are mandatory fields and shall be filled in

1

(+) at least one of these fields shall be filled in