Commission Implementing Decision (EU) 2018/1892 of 3 December 2018 on a measure taken by Latvia in accordance with Directive 2006/42/EC of the European Parliament and of the Council to prohibit the placing on the market of a lawnmower manufactured by GGP Italy SpA (notified under document C(2018) 7656) (Text with EEA relevance)

COMMISSION IMPLEMENTING DECISION (EU) 2018/1892

of 3 December 2018

on a measure taken by Latvia in accordance with Directive 2006/42/EC of the European Parliament and of the Council to prohibit the placing on the market of a lawnmower manufactured by GGP Italy SpA

(notified under document C(2018) 7656)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC[(1)], and in particular Article 11(3) thereof,

Whereas:

(1) On 1 July 2014, Latvia informed the Commission of a measure to prohibit the placing on the market of a lawnmower of type Stiga Collector 35 EL (C350, 297352654/S13), manufactured by GGP Italy SpA, via del Lavoro 6, 31033 Castelfranco Veneto, Italy.

(2) Latvia took the measure on 3 December 2013 considering that the lawnmower was not conform to the essential health and safety requirements set out in points 1.3.8 and 1.4.1 of Annex I to Directive 2006/42/EC as it failed to conform to harmonised standard EN 60335-2-77:2010.

(3) By means of Commission Implementing Decision (EU) 2015/902[(2)], the Commission found the measure taken by Latvia justified.

(4) By its judgement of 26 January 2017[(3)], the General Court annulled Implementing Decision (EU) 2015/902 on the grounds that the Decision was not based on a clear demonstration of an infringement of the essential health and safety requirements set out in Directive 2006/42/EC but on the mere non-conformity of the lawnmower with harmonised standard EN 60335-2-77:2010 while harmonised standard EN 60335-2-77:2006 still conferred on it a presumption of conformity with those requirements during the period concerned (i.e. from 3 September 2012 until 31 August 2013)[(4)].

(5) In order to fulfil the obligation laid down in Article 266 of the Treaty on the Functioning of the European Union, the Commission is required to take the necessary measures to comply with the judgment of the General Court.

(6) To that end, the Commission consulted the concerned parties.

(7) The manufacturer confirmed that the lawnmower has not been manufactured or placed on the market in any EU Member State since 1 September 2013. The manufacturer confirmed that the lawnmower has been withdrawn from dealers and distributors in Latvia at the beginning of 2014 and provided information claiming that harmonised standard EN 60335-2-77:2006 was correctly applied.

(8) Latvia provided information indicating that its national measure was still in place. It also confirmed that this measure was based on the application of harmonised standard EN 60335-2-77:2010 and assessment under that harmonised standard only. The additional information provided by Latvia was not sufficient to demonstrate an incorrect application of harmonised standard EN 60335-2-77:2006.

(9) In the light of all the information available, and noting, in particular, that the Latvian measure was based on the assessment of conformity with the harmonised standard EN 60335-2-77:2010, while it follows from the judgement of the General Court of 26 January 2017 that harmonised standard EN 60335-2-77:2006 applied to the product during the period concerned, the national measure cannot be considered justified,

HAS ADOPTED THIS DECISION:

Article 1

The measure taken by Latvia to prohibit the placing on the market of lawnmower of type Stiga Collector 35 EL (C 350, 297352654/S13) manufactured by GGP Italy SpA, via del Lavoro 6, 31033 Castelfranco Veneto, Italy, is not justified.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 3 December 2018.

For the Commission

Elżbieta BIEŃKOWSKA

Member of the Commission