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MEMORIAL A

No. 133 of 15 March 2023

Law of 8 March 2023 on the accessibility requirements for products and services.

We Henri, Grand Duke of Luxembourg, Duke of Nassau,

Having heard Our Council of State;

With the consent of the Chamber of Deputies;

Having regard to the decision of the Chamber of Deputies of 9 February 2023 and that of the Council of State of 28 February 2023 to the effect that there is no need for a second vote;

Have ordered and ordain:

Chapter 1 - General provisions

Art. 1. Scope of application

(1) This law applies to the following products:

1° consumer general purpose computer hardware systems and operating systems for those hardware systems;

2° the following self-service terminals:

a) payment terminals;

b) the following self-service terminals intended for the provision of services covered by this law:

i. automated teller machines;

ii. ticketing machines;

iii. check-in machines;

iv. interactive self-service terminals providing information, excluding terminals installed as integrated parts of vehicles, aircrafts, ships or rolling stock;

3° consumer terminal equipment with interactive computing capability, used for electronic communications services;

4° consumer terminal equipment with interactive computing capability, used for accessing audiovisual media services;

5° e-readers.

(2) This law applies to the following services:

1° electronic communications services, with the exception of transmission services used for the provision of machine-to-machine services;

2° services providing access to audiovisual media services;

3° the following elements of air, rail, and waterborne passenger transport services, [with the exception of urban, suburban and regional transport services](#), for which only the elements referred to in letter e) apply:

a) websites;

b) mobile device-based services including mobile applications;

c) electronic tickets and electronic ticketing services;

d) delivery of transport service information, including real-time travel information. With regard to information screens, this shall be limited to interactive screens located within the territory of the European Union;

e) interactive self-service terminals located within the territory of the Union, except those installed as integrated parts of vehicles, aircrafts, ships and rolling stock used in the provision of any part of such passenger transport services;

4° consumer banking services;

5° e-books and dedicated software;

6° e-commerce.

(3) This law shall apply to answering emergency communications to the single European emergency number "112" or to other national emergency numbers determined by the law of 17 December 2021 on electronic communications networks and services and the regulation made pursuant to Article 124(1) thereof.

(4) This law shall apply to the following content of websites and mobile applications:

1° published pre-recorded time-based media;

2° published office file formats.

(5) This law shall not apply to the following content of websites and mobile applications:

1° maps and online mapping services, if essential information is provided in a digital form that is accessible

with regards to digital maps for navigation;

2° third-party content which is neither financed nor developed by the economic operator concerned, and which is not under the control of that operator;

3° content of websites and mobile applications that are considered as archives, i.e., they only present content that is not updated or modified after the date of entry into force of this law.

(6) This law is without prejudice to Article 10^{ter} of the amended law of 18 April 2001 on copyright, related rights and databases and to Regulation (EU) 2017/1563 of the European Parliament and of the Council of 13 September 2017 on the cross-border exchange, between the Union and third countries, of accessible format copies of certain works and other subject-matter protected by copyright and related rights for the benefit of the blind, visually impaired and persons with other print reading difficulties.

(7) This law does not apply to procurement procedures covered by the amended law of 8 April 2018 on public procurement, as regards enforcement measures and penalties.

Art. 2 Definitions

For the purposes of this law, the following definitions shall apply

1° "electronic ticket" means any system in which a right to travel, in the form of single or multiple tickets, subscriptions or travel credit, is stored in electronic form on a physical transport card or other device, instead of being printed on paper;

2° "interactive computing capability" means a functionality that facilitates interaction between the user and the device and that enables the processing and transmission of data, voice or video or any combination thereof;

3° "emergency call reception centre" or "PSAP" means a physical location where an emergency communication is initially received under the responsibility of a public authority or a recognised private body;

4° "disproportionate burden" means an additional organisational or financial burden, beyond what is reasonable, imposed on an economic operator on the basis of the relevant criteria set out in Annex VI to Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on accessibility requirements for products and services, hereinafter referred to as "Directive (EU) 2019/882", as amended by acts of the European Commission taken in accordance with Article 26 of that Directive, taking into account nevertheless the likely benefit of improved accessibility for persons with disabilities;

5° "emergency communication" means a communication by means of interpersonal communication services between an end user and the PSAP, the purpose of which is to request and receive emergency assistance from emergency services;

- 6° "consumer" means any natural person who is acting for purposes which are outside his trade, business, craft or profession;
- 7° "distributor" means any natural or legal person in the supply chain, other than the manufacturer or importer, who makes a product available on the market;
- 8° "consumer terminal equipment with interactive computing capability used to access audiovisual media services" means any equipment whose main purpose is to provide access to audiovisual media services;
- 9° "manufacturer": any natural or legal person who manufactures a product, or has a product designed or manufactured, and markets it under his own name or trademark;
- 10° "importer": any natural or legal person established in the European Union who places a product from a third country on the European Union market;
- 11° "digital reading device": specialised equipment, comprising both hardware and software, used to access, browse, read and use digital book files;
- 12° "digital book and specialised software": a service consisting of the provision of digital files conveying an electronic version of a book, which the user can access, browse, read and use, as well as the software, including integrated services on mobile devices, including mobile applications, specialised for accessing, browsing, reading and using these digital files, excluding the software referred to in the definition in point 11;
- 13° "authorised representative": any natural or legal person established in the European Union who has received a written mandate from the manufacturer to law on his behalf for the purpose of carrying out specific tasks;
- 14° "micro-enterprise" means an enterprise which employs fewer than ten persons and whose annual turnover does not exceed 2,000,000 euros or whose annual balance sheet total does not exceed 2,000,000 euros;
- 15° "making available on the market": any supply of a product intended for distribution, consumption or use on the European Union market in the course of a commercial activity, whether in return for payment or free of charge;
- 16° "placing on the market": the first making available of a product on the European Union market;
- 17° "harmonised standard": a European standard adopted on the basis of a request made by the European Commission for the application of European Union harmonisation legislation;
- 18° "economic operator": the manufacturer, authorised representative, importer, distributor or service provider;
- 19° "persons with disabilities" means persons who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others;
- 20° "persons with functional limitations": persons with physical, mental, intellectual or sensory disabilities, age-related disabilities or any other permanent or temporary limitation to the performance of the human body, the interaction of which with various obstacles may restrict access to products and services and lead to a situation requiring adaptation of those products and services to their particular needs, such as the elderly, pregnant women and persons travelling with luggage;
- 21° "small and medium-sized enterprises" or "SMEs": enterprises which employ fewer than 250 people and whose annual turnover does not exceed 50,000,000 euros or whose annual balance sheet total does not exceed 43,000,000 euros, excluding micro-enterprises;
- 22° "service provider": any natural or legal person who provides a service on the European Union market or offers to provide a service to consumers in the European Union;
- 23° "product" means a substance, preparation, or good produced through a manufacturing process, other than food, feed, living plants and animals, products of human origin and products of plants and animals relating directly to their future reproduction;
- 24° "most appropriate PSAP": a PSAP established by the competent authorities to handle emergency communications originating from a certain area or emergency communications of a certain type;
- 25° "withdrawal": any measure aimed at preventing a product in the supply chain from being made available on the market;

- 26° "service" means any self-employed economic activity normally provided for remuneration, as referred to in Article 57 of the Treaty on the Functioning of the European Union;
- 27° "electronic communications service" means a service normally provided for remuneration via electronic communications networks which, with the exception of services consisting of the provision of content transmitted using electronic communications networks and services or the exercise of editorial responsibility for such content, includes the following types of service:
- a) an internet access service as defined under Article 2, subparagraph 2, point 2 of Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures on access to an open internet and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union;
 - b) an interpersonal communications service;
 - c) services consisting wholly or mainly of the transmission of signals, such as transmission services used for the provision of machine-to-machine services and for broadcasting;
- 28° "total conversation service" means a multimedia real-time conversation service providing symmetrical two-way real-time transmission of animated video, real-time text and voice between users located in two or more different places;
- 29° "consumer banking services": the provision of the following banking and financial services to consumers:
- a) credit agreements: the consumer credit agreements referred to in Book 2, Title 2, Chapter 4 of the Consumer Code and the real estate credit agreements referred to in Book 2, Title 2, Chapter 6 of the said Code;
 - b) electronic money as defined in Article 1, point 29) of the amended Payment Services law of 10 November 2009;
 - c) payment services: any activity carried out on a professional basis listed in the Annex to the amended law of 10 November 2009 on payment services;
 - d) services defined in points 1, 2, 4 and 5 of Section A and points 1, 2, 4 and 5 of Section C of Annex II to the amended law of 5 April 1993 on the financial sector;
 - e) services linked to payment accounts as defined in Article 1, point 26, of the law of 13 June 2017 on payment accounts;
- 30° "e-ticketing services" means any system in which passenger tickets are purchased online, using a device with interactive computing capabilities, and provided to the purchaser in electronic form, to enable them to be printed on paper or displayed during the journey on a mobile device with interactive computing capabilities;
- 31° "e-commerce services" means services provided at a distance, through websites and mobile device-based services by electronic means and at the individual request of a consumer with a view to concluding a consumer contract;
- 32° "audiovisual media services":
- a) a service where the principal purpose of the service itself or of a severable part of that service is the provision of programmes to the general public, under the editorial responsibility of a media service provider, with the aim of informing, entertaining or educating, by means of communications networks; such an audiovisual media service is either a television service or an on-demand audiovisual media service;
 - b) audiovisual commercial communication;
- 33° "air passenger transport services" : a passenger air transport service provided by an air carrier on a scheduled or non-scheduled flight and offered to the general public for remuneration, whether the transport is provided on its own or as part of a package tour, departing from an airport, in transit through an airport or on arrival at an airport when the airport is situated on the territory of a Member State, including flights from an airport situated in a third country to an airport situated on the territory of a Member State when the services are provided by EU air carriers;
- 34° "passenger services by bus" means services covered by Article 2(1) and (2) of Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 on the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004 on the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004, hereinafter "Regulation (EU) No 181/2011";

- 35° "inland waterway passenger services": passenger services falling within the scope of Article 2(1) of Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004, hereinafter "Regulation (EU) No 1177/2010", with the exception of the services referred to in Article 2(2) of that Regulation;
- 36° "rail passenger services" means all rail passenger services referred to in Article 2(1) of Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations, hereinafter "Regulation (EC) No 1371/2007", with the exception of the services referred to in Article 2(2) of that Regulation;
- 37° "regional transport services" means transport services by rail, bus and coach, metro, tram and trolleybus the principal purpose of which is to meet the transport needs of a region, including a cross-border region;
- 38° "urban and suburban transport services" means transport services by rail, bus and coach, metro, tram and trolleybus, the principal purpose of which is to meet the transport needs of an urban centre or conurbation, including a cross-border conurbation, and the transport needs between that centre or conurbation and its suburbs;
- 39° "emergency service": a service, recognised as such by the Member State, which provides immediate and rapid assistance in the event of a direct risk to the life or physical integrity of persons, to public or individual health or safety, to private or public property or to the environment, in accordance with national law;
- 40° "services providing access to audiovisual media services" : services transmitted by means of electronic communications networks which are used to identify and select audiovisual media services, to receive information about these services and to consult these services and all the elements provided, such as subtitling for the deaf or hard of hearing, audio description, audio subtitling and sign language interpretation, resulting from the implementation of the measures intended to make these services accessible provided for in Article 27*quater* of the amended law of 27 July 1991 on the electronic media, and this includes electronic programme guides, hereinafter "EPGs";
- 41° "technical specification" means a document which prescribes the technical requirements to be met by a product, process, service or system and which defines one or more of the following elements:
- a) the characteristics required of a product, including levels of quality, performance, interoperability, environmental protection, health, safety or dimensions, including the requirements applicable to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking or labelling and conformity assessment procedures;
 - b) production methods and processes relating to agricultural products as defined in Article 38(1) of the Treaty on the Functioning of the European Union, products intended for human and animal consumption and medicinal products, as well as production methods and processes relating to other products, insofar as they affect the characteristics of the latter;
 - c) the characteristics required of a service, including levels of quality, performance, interoperability, environmental protection, health or safety, including the requirements applicable to providers concerning the information to be given to the recipient, in accordance with Article 22(1) to (3) of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market;
 - d) methods and criteria for assessing the performance of construction products, as defined in Article 2(1) of Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC, in relation to their essential characteristics;
- 42° "operating system" means software that manages the interface of peripheral hardware, schedules tasks, allocates storage space and presents a default interface to the user when no application program is running, including a graphical user interface, whether that software is an integral part of computer hardware for general use by the general public or is stand-alone software intended to run on computer hardware for general use by the general public, but does not include operating system loaders, basic input/output systems or other firmware required at boot time or during installation of the operating system;

- 43° "computer hardware system for general use by the general public" : the combination of hardware forming a complete computer, which is characterised by its general-purpose nature and its ability to perform, with appropriate software, most of the common computing operations required by consumers and which is intended for use by consumers, including personal computers, in particular desktop computers, portable computers, smartphones and tablets;
- 44° "assistive technologies": any object, piece of equipment, service or system produced, including software, which serves to increase, preserve, replace or improve the functional capabilities of persons with disabilities, or to mitigate and compensate for impairments, activity limitations or participation restrictions;
- 45° "payment terminal": a device whose main purpose is to enable payments to be made using payment instruments, as defined in Article 1, point 26) of the amended law of 10 November 2009 on payment services, in a physical point of sale and not in a virtual environment;
- 46° "real-time text" means a form of point-to-point or multipoint text conversation where the text that is entered is transmitted character by character, so that the communication is perceived by the user as continuous.

Chapter 2 - Office for monitoring the accessibility of products and services

Art. 3 Composition of the Office for monitoring the accessibility of products and services

(1) An administration called the "*Office de la surveillance de l'accessibilité des produits et services*" (Office for monitoring the accessibility of products and services), hereinafter referred to as "the OSAPS", is created and placed under the authority of the Minister responsible for policy on persons with disabilities, hereinafter referred to as the "Minister".

(2) the OSAPS is headed by a director who acts as head of administration.

The Director directs, coordinates and supervises the activities that fall within the remit of the OSAPS and represents it in its relations with national bodies and the public.

The Director is appointed by the Grand Duke on a proposal from the Government in Council.

The Director must meet the diploma requirements for access to functions in salary category A, salary group A1, administrative sub-group of the "General Administration" heading.

(3) The OSAPS staff includes a Director and officials in the various salary categories provided for in the amended law of 25 March 2015 laying down the salary system and the conditions and procedures for the promotion of State officials.

This framework may be supplemented by trainee civil servants, State employees and salaried employees according to the needs of the service and within the limits of the budgetary appropriations.

Art. 4 Tasks of the Office for monitoring the accessibility of products and services

(1) The tasks of the OSAPS consist of:

- 1° monitoring products and the conformity of services on the market on Luxembourg territory, as set out in Article 1, paragraphs 1 and 2, including verification of the conditions for CE marking and the EU declaration of conformity provided for by this law, in relation to the applicable accessibility requirements defined by this law and in collaboration with the authorities with specific responsibilities relating to the products and services referred to in Article 1, paragraphs 1 and 2, and the competent national market surveillance authorities;
- 2° putting in place appropriate control mechanisms to verify that the derogations from the application of accessibility requirements provided for in this law are justified;
- 3° carrying out the tasks set out in Chapters 9, 10, 12 and 13;
- 4° providing guidelines and tools for micro-enterprises as provided for in Article 6, paragraph 5;

- 5° informing and raising public awareness of the existence of the OSAPS, its responsibilities, its decisions, the identity of national market surveillance authorities and how to contact them, and making this information available on request in appropriate formats;
 - 6° collecting, in collaboration with the competent national bodies, the necessary data for statistical studies relating to the needs of people with disabilities and people with functional limitations with regard to the accessibility of the products and services covered by the law, with a view to developing knowledge of the market and being able to meet the needs of the target audience and to promote the implementation of Article 31 of the United Nations Convention on the Rights of Persons with Disabilities;
 - 7° transmitting the necessary information to the market surveillance department of the Luxembourg Institute for Standardisation, Accreditation, Safety and Quality of Products and Services, hereinafter referred to as the "ILNAS", with a view to establishing and updating the general market surveillance programme, which brings together the sectoral market surveillance programmes, provided for in Article 8(1) of the amended law of 4 July 2014 reorganising the ILNAS.
- (2) The OSAPS also consults with the Higher Council for Persons with Disabilities with a view to carrying out its tasks.

Art. 5 Studies and research

Within the framework of the statistical studies referred to in Article 4, paragraph 1, point 6°, the OSAPS may collaborate, by decision of the Minister, with economic and social research centres in Luxembourg and abroad.

With a view to drawing up the statistical studies and collaborations referred to in subparagraph 1, the OSAPS, the competent national market surveillance authorities and the authorities with specific responsibilities relating to the products and services referred to in Article 1, paragraphs 1 and 2, shall exchange anonymised data for statistical purposes, using automated or non-automated procedures. The automated processes shall be carried out by means of data interconnection and with a guarantee of secure, limited and controlled access.

Chapter 3 - Accessibility requirements and free movement

Art. 6 Accessibility requirements

(1) In accordance with paragraphs 2, 3 and 5, and subject to Article 16, economic operators shall only place on the market products and only provide services that comply with the accessibility requirements set out in Annex I. to Directive (EU) 2019/882, as amended by the acts of the European Commission adopted in accordance with Article 26 of that Directive.

(2) All products comply with the accessibility requirements set out in Section I of Annex I to Directive (EU) 2019/882, as amended by the acts of the European Commission adopted in accordance with Article 26 of that Directive.

All products, with the exception of self-service terminals, shall comply with the accessibility requirements set out in Section II of Annex I to Directive (EU) 2019/882, as amended by the acts of the European Commission made in accordance with Article 26 of that Directive.

(3) Without prejudice to paragraph 4, with the exception of urban and suburban transport services and regional transport services, all services shall comply with the accessibility requirements set out in Section III of Annex I to Directive (EU) 2019/882, as amended by acts of the European Commission in conformity with Article 26 of that Directive.

Without prejudice to paragraph 4, all services shall comply with the accessibility requirements set out in Section IV of Annex I to Directive (EU) 2019/882, as amended by the acts of the European Commission adopted in accordance with Article 26 of that Directive.

(4) Micro-enterprises offering services shall be exempt from the obligation to comply with the accessibility requirements, referred to in paragraph 3, and from any obligations relating to compliance with those requirements.

(5) The OSAPS shall provide guidelines and tools for micro-enterprises to facilitate the application of the measures transposing this law. These tools shall be developed in consultation with the authorities with specific responsibilities for the products and services referred to in Article 1, paragraphs 1 and 2.

(6) the OSAPS publishes for economic operators on its dedicated website indicative examples of possible solutions to contribute to compliance with the accessibility requirements set out in Annex I to the Directive (EU) 2019/882, as amended by the acts of the European Commission adopted in accordance with Article 26 of that Directive.

(7) The reception of emergency communications directed to the single European emergency number "112" or to other national emergency numbers determined by the law of 17 December 2021 on Electronic Communications Networks and Services and the Regulation made pursuant to Article 124(1) thereof, by the most appropriate PSAP, complies with the specific accessibility requirements laid down in Section V of Annex I to Directive (EU) 2019/882, as amended by the acts of the European Commission adopted in accordance with Article 26 of that Directive, in the manner best suited to the national organisation of emergency systems.

Art. 7 European Union law in force in the field of passenger transport

Services that comply with the requirements concerning the provision of accessible information and the provision of accessibility information, as laid down in Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91, Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of persons with disabilities and persons with reduced mobility when travelling by air, Regulation (EC) No 1371/2007, Regulation (EU) No 1177/2010 and Regulation (EU) No 181/2011 and the relevant acts adopted on the basis of Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community, shall be deemed to comply with the corresponding requirements laid down in this law. Where this law provides for additional requirements to those provided for in these regulations and acts, they shall apply in full.

Art. 8 Free movement

Any obstacle, for reasons relating to accessibility requirements, to the making available on the market, on Luxembourg territory, of products or to the provision, on Luxembourg territory, of services which comply with this law, is prohibited.

Chapter 4 - Obligations of economic operators in the products sector

Art. 9 Obligations of manufacturers

(1) Manufacturers shall ensure, when they place their products on the market, that they have been designed and manufactured in accordance with all the applicable accessibility requirements laid down by this law.

(2) Manufacturers shall draw up the technical documentation in accordance with Annex I and carry out or have carried out the conformity assessment procedure provided for in that Annex.

Where compliance of a product with the applicable accessibility requirements has been demonstrated by that procedure, manufacturers shall draw up an EU declaration of conformity and affix the CE marking.

(3) Manufacturers shall keep the technical documentation and the EU Declaration of Conformity for five years after the product has been placed on the market.

(4) Manufacturers shall ensure that procedures are in place to guarantee the continued conformity of series production with this law. Due account shall be taken of any change in the design or characteristics of the product and of any change in the harmonised standards, or in the technical specifications, in relation to which the conformity of a product is declared.

(5) Manufacturers shall ensure that their products bear a type, batch or serial number or any other element allowing their identification or, where the size or nature of the product does not allow it, that the required information is provided on the packaging or in a document accompanying the product.

(6) Manufacturers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the product or, where this is not possible, on its packaging or in a document accompanying the product. The address must specify a single point at which the manufacturer can be contacted. Contact details shall be given in Latin letters and Arabic numerals.

(7) Manufacturers shall ensure that the product is accompanied by instructions and safety information supplied in at least one of the three administrative languages designated in the amended law of 24 February 1984 on the system of languages. These instructions and information, as well as any labelling, shall be clear, comprehensible and intelligible.

(8) Manufacturers who consider or have reason to believe that a product which they have placed on the market does not comply with this law shall immediately take the necessary corrective measures to bring it into compliance or to withdraw it. In addition, where the product does not comply with the accessibility requirements set out in this law, manufacturers shall immediately inform the OSAPS, providing details of the non-compliance and of any corrective measure taken. In such cases, manufacturers shall keep a register of products that do not comply with the applicable accessibility requirements and of complaints relating thereto.

(9) At the reasoned request of the OSAPS, the Customs and Excise Administration or the Grand-Ducal Police, manufacturers shall provide them with all the information and documents necessary to demonstrate the conformity of the product, drawn up in at least one of the three administrative languages designated in the amended law of 24 February 1984 on the language regime or in English. They shall cooperate with the OSAPS, at its request, in any action taken to eliminate non-compliance with the applicable accessibility requirements for the products they have placed on the market, by bringing the products into compliance with the said requirements.

Art. 10 Authorised representatives

(1) The manufacturer may appoint an authorised representative by means of a written mandate.

The obligations laid down in Article 9(1) and the drawing up of technical documentation shall not form part of the authorised representative's mandate.

(2) The authorised representative shall perform the tasks indicated in the mandate received from the manufacturer. The mandate shall at least authorise the authorised representative:

- 1° to keep the EU declaration of conformity and the technical documentation at the disposal of the OSAPS, the Customs and Excise Administration and the Grand-Ducal Police for five years;
- 2° at the reasoned request of the OSAPS, the Customs and Excise Administration and the Grand-Ducal Police, to provide them with all the information and documents necessary to demonstrate the conformity of the product;
- 3° to cooperate with the OSAPS, at the latter's request, in any action taken to eliminate non-compliance with the applicable accessibility requirements for products falling within its remit.

Art. 11 Obligations of importers

(1) Importers shall only place compliant products on the market.

(2) Before placing a product on the market, importers shall ensure that the conformity assessment procedure provided for in Annex I has been implemented by the manufacturer. They shall ensure that the manufacturer has drawn up the technical documentation provided for in that Annex, that the product bears the CE marking, that it is accompanied by the required documents and that the manufacturer has complied with the requirements laid down in Article 9(5) and (6).

(3) Where an importer considers or has reason to believe that a product does not comply with the applicable accessibility requirements set out in this law, the importer shall not place the product on the market until it has been brought into compliance. In addition, where the product does not comply with applicable accessibility requirements, the importer shall inform the manufacturer and the OSAPS.

- (4) Importers shall indicate their name, company name or registered trademark, as well as the address at which they can be contacted, on the product or, where this is not possible, on its packaging or in a document accompanying the product. The contact details are given in Latin letters and Arabic numerals.
- (5) Importers shall ensure that the product is accompanied by instructions and safety information provided in a language easily understood by consumers and other end-users, as determined by the Member State concerned.
- (6) While a product is under their responsibility, importers shall ensure that storage or transport conditions do not jeopardise its compliance with the applicable accessibility requirements.
- (7) For a period of five years, importers shall keep a copy of the EU declaration of conformity at the disposal of the OSAPS and shall ensure that the technical documentation can be provided to the OSAPS on request.
- (8) Importers who consider or have reason to believe that a product they have placed on the market does not comply with this law shall immediately take the necessary corrective measures to bring it into compliance or to withdraw it. In addition, where the product does not comply with the applicable accessibility requirements, importers shall immediately inform the OSAPS, providing details of the non-compliance and any corrective measure taken. In such cases, importers shall keep a register of products that do not comply with the applicable accessibility requirements and of related complaints.
- (9) At the reasoned request of the OSAPS, the Customs and Excise Administration and the Grand Ducal Police, importers shall provide them with all the information and documents necessary to demonstrate the conformity of a product, drawn up in at least one of the three administrative languages designated in the amended law of 24 February 1984 on the language regime or in English. They shall cooperate with the OSAPS, at its request, on any measures taken to eliminate non-compliance with the applicable accessibility requirements of the products they have made available on the market.

Art. 12 Obligations of distributors

- (1) When making a product available on the market, distributors shall act with due diligence with respect to the requirements of this law.
- (2) Before making a product available on the market, distributors shall check that it bears the CE marking, that it is accompanied by the required documents and by instructions and safety information written in at least one of the three administrative languages designated in the amended law of 24 February 1984 on the system of languages and that the manufacturer and the importer have complied with the requirements laid down in Article 9(5) and (6) and Article 11(4) respectively.
- (3) Where a distributor considers or has reason to believe that a product does not comply with the applicable accessibility requirements set out in this law, the distributor shall not make the product available on the market until that product has been brought into compliance. In addition, where the product does not comply with the applicable accessibility requirements, the distributor shall inform the manufacturer or importer and the OSAPS.
- (4) As long as a product is under their responsibility, distributors shall ensure that storage or transport conditions do not compromise its compliance with the applicable accessibility requirements.
- (5) Distributors who consider or have reason to believe that a product which they have made available on the market does not comply with this law shall ensure that the necessary corrective measures are taken to bring it into compliance or to withdraw it. In addition, where the product does not comply with the applicable accessibility requirements, distributors shall immediately inform the OSAPS, providing details of the non-compliance and of any corrective action taken.
- (6) At the reasoned request of the OSAPS, the Customs and Excise Administration and the Grand-Ducal Police, distributors shall provide them with all the information and documents necessary to demonstrate the conformity of a product. They cooperate with the OSAPS, at its request, on any measure taken to eliminate non-compliance with the applicable accessibility requirements for products that they have made available on the market.

Art. 13 Cases in which manufacturers' obligations apply to importers and distributors

An importer or distributor is considered to be a manufacturer for the purposes of this law and is subject to the obligations incumbent on manufacturers under Article 9 when it places a product on the market under its own name or trademark or modifies a product already placed on the market in such a way that compliance with the requirements of this law may be compromised.

Art. 14 Identification of economic operators in the product sector

(1) At the request of the OSAPS, the economic operators referred to in Articles 9 to 12 shall identify:

- 1° any other economic operator who has supplied them with a product;
- 2° any other economic operator to whom they have supplied a product.

(2) The economic operators referred to in Articles 9 to 12 shall be able to communicate the information referred to in paragraph 1 for a period of five years from the date on which the product was supplied to them and for a period of five years from the date on which they supplied the product, subject, for certain products, to a retention obligation for a longer period established by delegated law of the European Commission, in accordance with Articles 12(3) and 26 of Directive (EU) 2019/882.

Chapter 5 - Obligations of service providers**Art. 15. Obligations of service providers**

(1) Service providers shall ensure that they design and provide services in accordance with the accessibility requirements set out in this law.

(2) Service providers shall draw up the necessary information in accordance with Annex II and explain how the services meet the applicable accessibility requirements. The information shall be made available to the public in written and oral form, including in a manner accessible persons with disabilities. Service providers shall keep this information for as long as the service is available.

(3) Without prejudice to Article 34, service providers shall ensure that procedures are in place to ensure that the provision of services continues to comply with applicable accessibility requirements. Any changes to the characteristics of the service provision, to the applicable accessibility requirements and to the harmonised standards or technical specifications against which compliance of a service with accessibility requirements is declared, shall be duly taken into account by service providers.

(4) In the event of non-compliance, service providers shall take the necessary corrective measures to bring the service into conformity with the applicable accessibility requirements. In addition, where the service does not comply with the applicable accessibility requirements, service providers shall immediately inform the OSAPS, providing details of the non-compliance and of any corrective measure taken.

(5) At the reasoned request of the OSAPS, service providers shall provide it with all the information necessary to demonstrate compliance of the service with the applicable accessibility requirements. They shall cooperate with the OSAPS, at its request, on any measures taken to bring the service into conformity with these requirements.

Chapter 6 - Fundamental modification of products or services and disproportionate burden on economic operators

Art. 16 Fundamental modification and disproportionate burden

(1) The accessibility requirements referred to in Article 6 shall apply only insofar as compliance:

1° does not require significant modification of a product or service which entails a fundamental change in its nature;

2° does not result in a disproportionate burden being imposed on the economic operators concerned.

(2) Economic operators shall carry out an assessment to determine whether compliance with the accessibility requirements referred to in Article 6 would introduce a fundamental change or, on the basis of the relevant criteria set out in Annex VI to Directive (EU) 2019/882, as amended by acts of the European Commission taken in accordance with Article 26 of that Directive, impose a disproportionate burden, in accordance with paragraph 1.

(3) Economic operators shall provide evidence to support the assessment referred to in paragraph 2. Economic operators shall keep all relevant results for a period of five years from the date on which a product was last made available on the market or a service was last provided, as the case may be. At the request of the OSAPS, economic operators shall provide the OSAPS with a copy of the assessment referred to in paragraph 2.

(4) By way of derogation from paragraph 3, micro-enterprises operating in the field of products shall be exempt from the obligation to provide evidence in support of their assessment. However, if requested by the OSAPS, micro-enterprises operating in the field of products which have chosen to invoke paragraph 1 shall provide the OSAPS with the facts relevant to the assessment referred to in paragraph 2.

(5) Service providers who invoke point 2 of paragraph 1 shall, for each category or type of service, repeat the assessment of whether the burden is disproportionate:

1° when the service offered is modified; or

2° at the request of the OSAPS; and

3° in any event, at least every five years.

(6) Where, for the purposes of improving accessibility, economic operators receive funding from sources other than their own resources, whether public or private, they may not invoke paragraph 1, point 2.

(7) Where economic operators invoke paragraph 1 for a specific product or service, they shall inform the market surveillance authorities or the authorities responsible for monitoring the conformity of services of the Member State in which the specific product is placed on the market or in which the specific service is provided.

Subparagraph 1 shall not apply to micro-enterprises.

Chapter 7 - Harmonised standards and technical specifications for products and services

Art. 17 Presumption of conformity

(1) Products and services which are in conformity with harmonised standards or parts thereof, the references of which have been published in the Official Journal of the European Union, shall be presumed to be in conformity with the accessibility requirements set out in this law, insofar as those standards or parts thereof cover those requirements.

(2) Products and services that comply with technical specifications or parts of technical specifications adopted by the European Commission in accordance with the examination procedure referred to in Article 27(2) of Directive (EU) 2019/882 shall be presumed to comply with the accessibility requirements set out in this law insofar as those technical specifications or parts of technical specifications cover those requirements.

Chapter 8 - Product conformity and CE marking

Art. 18. EU declaration of conformity of products

(1) The EU Declaration of Conformity shall state that compliance with the applicable accessibility requirements has been demonstrated. Where, exceptionally, Article 16 has been applied, the EU Declaration of Conformity shall specify the accessibility requirements concerned by this exception.

(2) The EU Declaration of Conformity shall be drawn up in accordance with the model set out in Annex III to Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC. It shall contain the elements specified in Annex I to this law and shall be updated on an ongoing basis. The requirements concerning technical documentation shall avoid imposing an undue burden on micro-enterprises and SMEs. This documentation is translated into one of the three administrative languages designated in the amended law of 24 February 1984 on the language regime or into English.

(3) When a product is covered by several European Union acts requiring an EU declaration of conformity, a single EU declaration of conformity is drawn up for all these acts. The declaration shall mention the titles of the relevant European Union acts, as well as the publication references.

(4) By drawing up the EU declaration of conformity, the manufacturer assumes responsibility for the conformity of the product with the requirements of this law.

Art. 19. General principles of CE marking of products

The products covered by this law shall bear the CE marking in accordance with the general principles set out in Article 30 of Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Council Regulation (EEC) No 339/93, hereinafter "Regulation (EC) No 765/2008".

Art. 20 Rules and conditions for affixing the CE marking

(1) The CE marking must be affixed visibly, legibly and indelibly to the product or to its data plate. Where this is not possible or justified by the nature of the product, it shall be affixed to its packaging and to the accompanying documents.

(2) The CE marking is affixed before the product is placed on the market.

Chapter 9 - Market surveillance for products and the European Union's safeguard procedure

Art. 21 - Market surveillance for products

(1) Article 2(3), Article 10(1), (2), (5) and (6) and Article 11 shall apply to products, paragraphs 2, 3, 5, and paragraph 7, letters a) and b), Article 13, Article 14, paragraphs 1, 2 and paragraph 4, letters a), b), e) and j), Article 16, paragraph 3, letter g) and paragraph 5, Article 17, Article 18, Article 22, paragraphs 1 to 5, Article 25, paragraphs 2 to 4, Article 26, paragraphs 1 and 2, Article 27, subparagraph 1, letters a) and b), Article 28, paragraphs 2 and 3, Article 31, paragraph 2, letters f), g), m) and o), Article 33, paragraph 1, letters i) and k) and Article 34, paragraphs 1, 3, letter a), and paragraph 4 of Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and product conformity and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011, hereinafter "Regulation (EU) 2019/1020".

(2) When carrying out surveillance of a product on the market and where the economic operator has invoked Article 16, the OSAPS:

1° checks whether the assessment referred to in Article 16 has been carried out by the economic operator;

2° examines this assessment and its results, including the correct use of the criteria set out in Annex VI to Directive (EU) 2019/882, as amended by the acts of the European Commission adopted in accordance with Article 26 of that Directive;

3° checks compliance with the applicable accessibility requirements.

(3) The information held by the OSAPS regarding the compliance of economic operators with the applicable accessibility requirements set out in this law and the assessment provided for in Article 16 shall be made available to consumers, upon request, in an accessible format, except where such information cannot be provided for reasons of confidentiality in accordance with the provisions of Article 17 of Regulation (EU) 2019/1020.

Art. 22. Procedure applicable at national level to products that do not comply with the applicable accessibility requirements

(1) Where the Customs and Excise Administration or the Grand-Ducal Police have sufficient reason to believe that a product covered by this law does not comply with the applicable accessibility requirements, they shall report this to the OSAPS. Any natural or legal person may also report the non-compliance of a product to the OSAPS. The OSAPS will carry out an assessment of the product concerned, taking into account all the requirements set out in this law. To this end, the economic operators concerned shall cooperate fully with the OSAPS. In accordance with the tasks of the OSAPS set out in Article 4(1), the OSAPS may act on its own initiative.

Where, in the course of the assessment referred to in subparagraph 1, the OSAPS finds that the product does not comply with the requirements set out in this law, it shall without delay require the economic operator concerned to take all appropriate corrective measures to bring the product into compliance with those requirements within such reasonable timeframe, proportionate to the nature of the non-compliance, as it may prescribe.

the OSAPS shall require the economic operator concerned to withdraw the product from the market, within a reasonable additional period, only if the said economic operator has not taken adequate corrective measures within the timeframe referred to in subparagraph 2.

Article 18 of Regulation (EU) No 2019/1020 shall apply to the measures referred to in subparagraphs 2 and 3 of this paragraph.

(2) Where the OSAPS considers that the non-compliance is not limited to the national territory, it shall inform the European Commission and the competent authorities of the other Member States of the European Union of the results of the assessment and of the measures which it has prescribed for the economic operator.

(3) The economic operator shall ensure that all appropriate corrective measures are taken for all the products concerned which it has made available on the market throughout the European Union.

(4) Where the economic operator concerned does not take adequate corrective measures within the period referred to in paragraph 1, subparagraph 3, the OSAPS shall take all appropriate provisional measures to prohibit or restrict the making available of the product on the Luxembourg market or to withdraw it from that market.

The OSAPS shall inform the European Commission and the other Member States of the European Union without delay.

(5) The information referred to in the second subparagraph of paragraph 4 shall contain all available details, including the data needed to identify the non-compliant product, its origin, the nature of the alleged non-compliance and the accessibility requirements with which the product does not comply, as well as the nature and duration of the national measures taken and the arguments put forward by the economic operator in question. In particular, the OSAPS shall indicate whether the non-compliance is attributable to any of the following:

1° non-conformity of the product with the applicable accessibility requirements;

2° shortcomings in the harmonised standards or in the technical specifications referred to in Article 17, which confer a presumption of conformity.

(6) Where the procedure applicable at national level to products which do not comply with the applicable accessibility requirements has been initiated by the competent authorities of another Member State of the European Union, the OSAPS shall without delay inform the European Commission and the competent authorities of the other Member States of any measure taken and of any additional information it has concerning the non-compliance of the product concerned and, in the event that it opposes the notified national measure, of its objections.

(7) Where, within three months of receipt of the information referred to in the second subparagraph of paragraph 4, no objection has been raised by the competent authorities of a Member State of the European Union or by the European Commission to the provisional measure adopted by the OSAPS, that measure shall be deemed to be justified.

European Union or by the European Commission against the provisional measure adopted by the OSAPS, this measure shall be deemed justified.

Art. 23. European Union safeguard procedure

In the event that a competent authority of a Member State of the European Union takes a national measure referred to in Article 21(1) of Directive (EU) 2019/882 under the procedure referred to in Article 22(3) and (4) of that Directive and where that national measure is considered justified, the OSAPS shall take the necessary measures to ensure the withdrawal of the non-compliant product from the Luxembourg market and shall inform the European Commission thereof. Where a measure taken by the OSAPS under the procedure referred to in Article 22(3) and (4) is considered by the European Commission to be unjustified, the OSAPS shall withdraw it.

Art. 24 Formal non-compliance

(1) Without prejudice to Article 22, where the OSAPS, the Customs and Excise Administration or the Grand-Ducal Police make one of the following findings, the OSAPS shall request the economic operator in question to put an end to the non-compliance in question:

- 1° the CE marking has been affixed in breach of Article 30 of Regulation (EC) No 765/2008 or Article 20 of this law;
- 2° the CE marking has not been affixed;
- 3° the EU declaration of conformity has not been drawn up;
- 4° the EU declaration of conformity has not been drawn up correctly;
- 5° the technical documentation is not available or is incomplete;
- 6° the information referred to in Article 9(6) or Article 11(4) is missing, false or incomplete; or
- 7° another administrative obligation provided for in Article 9 or Article 11 is not complied with.

(2) Where the non-compliance referred to in paragraph 1 persists, the OSAPS shall immediately inform the entity competent in the matter and shall decide on all appropriate measures to restrict or prohibit the making available of the product on the market or to ensure that it is withdrawn from the market, in accordance with Articles 28 to 30, if necessary, in conjunction with the Customs and Excise Administration.

Chapter 10 - Compliance of services

Art. 25. Compliance of services

(1) the OSAPS, in collaboration with the authorities with specific responsibilities for the services referred to in Article 1(2), shall establish, apply and regularly update appropriate procedures, in accordance with Articles 28 to 30, with a view to:

- 1° verifying the conformity of services with the requirements of this law, including the assessment referred to in Article 16, to which Article 21(2) applies *mutatis mutandis*;
- 2° following up complaints or reports on aspects relating to the non-compliance of services with the accessibility requirements set out in this law;
- 3° verifying that the economic operator has taken the necessary corrective measures.

(2) Any natural or legal person may report the non-compliance of a service to the OSAPS.

(3) Where the economic operator has not taken the necessary corrective measures referred to in paragraph 1, point 3°, and the non-compliance of the service persists, the OSAPS shall inform the competent entity without delay and shall decide on all appropriate measures to restrict or prohibit the provision of the service, in accordance with Articles 28 to 30.

Chapter 11 - Accessibility requirements in other European Union acts

Art. 26. Accessibility requirements set out in other acts of the European Union

(1) With regard to the products and services referred to in Article 1 of this law, the accessibility requirements set out in Annex I to Directive (EU) 2019/882, as amended by the acts of the European Commission adopted in accordance with Article 26 of that Directive, shall constitute binding accessibility requirements within the meaning of the amended law of 8 April 2018 on public procurement and the regulation adopted in implementation of Article 36(1) thereof.

(2) Any product or service whose characteristics, elements or functions comply with the accessibility requirements set out in Section VI of Annex I to Directive (EU) 2019/882, as amended by the acts of the European Commission adopted in accordance with Article 26 of that Directive, shall be presumed to comply with the relevant accessibility obligations set out in acts of the European Union other than Directive (EU) 2019/882, in respect of those characteristics, elements or functions, unless otherwise stated in those other acts.

Art. 27. Harmonised standards and technical specifications for other acts of the European Union

Compliance with harmonised standards and technical specifications or with parts of harmonised standards and technical specifications provided for in Article 17 establishes a presumption of compliance with Article 26 insofar as these standards and technical specifications or these parts of standards and technical specifications meet the accessibility requirements set out in this law.

Chapter 12 - Powers of investigation

Art. 28. Administrative measures in the context of market surveillance for products and in the context of the conformity of services

(1) the OSAPS, the Customs and Excise Administration and the Grand-Ducal Police are responsible for checking compliance with the applicable accessibility requirements for products, as provided for in Article 1, paragraph 1, even after they have been placed or made available on the market.

Following these checks, the OSAPS:

- 1° prohibits or restricts the making available on the market of a product which does not comply with the conditions laid down in this law, and take the accompanying measures required to ensure compliance with this prohibition;
- 2° temporarily prohibits, for the period required for the various checks, the supply, offer to supply or display of a product where there are clear and consistent indications that it does not comply with the legal provisions referred to in subparagraph 1;
- 3° orders, coordinates or organises with economic operators the recall, withdrawal or modification of a non-compliant product from the Luxembourg market or from consumers and its destruction under appropriate conditions;
- 4° prohibits offering for sale a product or providing a service that misleads or is likely to mislead as to its actual characteristics.

(2) The OSAPS and the Grand-Ducal Police are responsible for checking compliance with the requirements applicable to the accessibility of the services provided for in Article 1(2), in collaboration with the authorities with specific responsibilities relating to services and the competent national market surveillance authorities:

Following these checks, the OSAPS:

- 1° prohibits or restricts the provision of a service which does not comply with the conditions laid down in this law, and takes the accompanying measures required to ensure compliance with this prohibition;

2° temporarily prohibits, for the period required for the various checks, the provision of or offer to provide a service where there are specific and converging indications of non-compliance with the legal provisions referred to in subparagraph 1;

3° orders, coordinates or organises with economic operators the recall, withdrawal or modification of the product used in the provision of a non-compliant service on the Luxembourg market or to consumers and its destruction under appropriate conditions.

(3) Decisions taken pursuant to paragraphs 1 and 2 shall be addressed as appropriate to: 1° the

manufacturer or his authorised representative;

2° the importer;

3° the service provider;

4° within the limits of their respective activities, to distributors, including the person responsible for the first distribution on the Luxembourg market;

5° any other person or authority, where necessary, with a view to cooperating in actions taken to avoid risks arising from a product.

(4) As soon as it has been established that the economic operator has remedied the non-conformities that were the subject of the decisions provided for in paragraphs 1 and 2 within the time limit set by the OSAPS, the latter shall be lifted by the OSAPS.

(5) Decisions taken under the terms of paragraphs 1 and 2 may be challenged before the administrative court within three months of their notification.

Art. 29. Persons responsible for investigations in connection with market surveillance of products and compliance of services

Without prejudice to Article 10 of the Code of Criminal Procedure, offences relating to the application of accessibility requirements for products and services, as provided for in Article 1, paragraphs 1 and 2, shall be investigated by the OSAPS officials in processing categories A and B of the "General Administration" section, in accordance with the powers laid down in Article 28, paragraphs 1 and 2, and by officials of the Customs and Excise Administration from the grade of brigadier principal, in accordance with the powers laid down in Article 28, paragraph 1.

The civil servants referred to in subparagraph 1 must have undergone special professional training relating to the investigation and recording of offences, as well as the criminal provisions of this law. The programme and duration of the training, as well as the procedures for testing knowledge, are laid down by Grand-Ducal regulation.

In the performance of their duties, the persons referred to in subparagraph 1 have the status of judicial police officers. They shall record offences in official reports, which shall be deemed authentic until proven otherwise. Their jurisdiction extends to the entire territory of the Grand Duchy of Luxembourg.

Before taking up their duties, they take the following oath before the Luxembourg District Court, sitting in civil matters: "I swear to perform my duties with integrity, accuracy and impartiality".

Article 458 of the Criminal Code shall apply to them.

Art. 30. Inspection procedures

(1) The members of the Grand-Ducal Police referred to in article 10 of the Code of Criminal Procedure and the persons referred to in article 29 have access to the premises, installations, sites and means of transport subject to the present law and the regulations adopted in its implementation. They may enter the premises, installations, sites and means of transport referred to above, day and night, where there are serious indications of an infringement of this law and its implementing regulations. They shall report their presence to the head of the premises, installation or site or to the person replacing them. The latter has the right to accompany them during the visit.

However, and without prejudice to article 33 of the Code of Criminal Procedure, if there are serious indications for presuming that the origin of the offence is to be found in premises intended for accommodation, a home search may be carried out between half past six AM and eight PM by a judicial police officer, a member of the Grand Ducal Police, who may be accompanied by an agent of the Customs and Excise Administration, who may or may not be a judicial police officer, acting pursuant to a warrant from the investigating judge.

(2) Under the same conditions, the members of the Grand-Ducal Police referred to in Article 10 of the Code of Criminal Procedure and the persons referred to in Article 29 are authorised to:

1° carry out or have carried out tests on apparatus or devices of products or products used in the provision of services which may involve non-compliance with the provisions of this law;

2° request communication of all books, registers and files relating to an installation, activity, product or service within the meaning of this law, with a view to verifying compliance, and to copy them or draw up extracts;

3° take or have taken, for the purposes of examination or analysis, samples of products, materials or substances manufactured, used, handled, stored, deposited or extracted, involving or likely to involve non-compliance with the provisions of this law;

4° seize and, if necessary, sequester any equipment, devices, products, materials or substances that are likely to be non-compliant with the provisions of this law.

Samples taken in accordance with point 3° will be handed over or a record will be made of the samples taken. A sample, sealed and stamped, is given to the economic operator concerned, unless the latter is not present or expressly waives this right, or unless technical reasons prevent this.

(3) The members of the Grand-Ducal Police referred to in Article 10 of the Code of Criminal Procedure and the persons referred to in Article 29 are not required to report their presence during checks carried out in parts of a sales establishment that are freely accessible to the public, when:

1° searching for non-compliant products or services;

2° checking the markings on the products or their packaging, without unpacking them;

3° checking, with the naked eye, easily perceptible conformity criteria without altering, destroying or dismantling the product.

When the results of the checks give rise to at least one remark, they draw up a report on the checks and controls carried out. A copy of this report is given to the economic operator concerned by the installations, premises, land, documents, equipment, devices, products, services, materials or substances inspected or to his representative or, in his absence, to the person in charge of the premises, installation or site or to the person replacing them.

(4) Economic operators and their agents, the owners or holders of installations, apparatus, devices, premises, land, products, services, materials or substances, as well as any person responsible for any work or activity whatsoever which may be subject to the provisions of this law or its implementing regulations, are required, at the request of the officials responsible for inspection, not to hinder the operations carried out by the latter pursuant to this law.

(5) In the event of a finding of non-compliance with the provisions of this law, the costs of market surveillance or verification of the conformity of the services which led to the finding of non-compliance shall be borne by the manufacturer or their authorised representative. If the manufacturer or authorised representative is not established in the European Union, these costs shall be borne by the importer into the European Union or, failing this, by the reseller.

(6) The OSAPS officials referred to in Article 29, notwithstanding the powers conferred on them by paragraph 2, may take all the decisions listed in Article 28, paragraphs 1 and 2.

Art. 31. International cooperation

To the extent necessary for the performance of its statutory duties, the OSAPS shall cooperate with international and European bodies, institutions and agencies, as well as with the competent authorities of the other Member States of the European Union and those of third countries which have signed a cooperation agreement with the Grand Duchy of Luxembourg in one or more of the matters referred to in this law and shall exchange information and documentation useful for the required investigations carried out on its own initiative or initiated by an international or European body, institution or agency or a competent foreign authority.

Chapter 13 - Penalties

Art. 32. Administrative sanctions

(1) the OSAPS may impose a fine of between 250 euros and 15,000 euros on any economic operator who:

1° refuses to provide the documents and information or other particulars requested in connection with market surveillance and the conformity of services;

2° obstructs the exercise of market surveillance and compliance of services.

(2) the OSAPS may impose a fine of between EUR 250 and EUR 15 000 on any economic operator who fails to comply with its decisions taken pursuant to Article 24(2) and Article 25(3).

(3) Fines shall be payable within thirty days of notification of the written decision, notwithstanding the exercise of any right of appeal.

Decisions to impose an administrative fine under this article may be challenged before the administrative court within three months of notification.

(4) The fines are recovered by the *Administration de l'enregistrement, des domaines et de la TVA* in the same way as for registration.

Art. 33. Criminal penalties

(1) With the exception of the cases referred to in Article 6(4) and Article 16(1), any economic operator who contravenes the provisions of Article 6(1), (2), (3), (5), (6) and (7) and Articles 9, 11, 12, 13 and 15 shall be liable to a fine of between EUR 251 and EUR 500,000.

This fine shall be proportionate to the extent and gravity of the non-compliance, the number of units of non-compliant products or services and the number of persons concerned.

(2) Any economic operator that has been sentenced to a fine as provided for in paragraph 1 shall be sentenced to a fine of between 500 euros and 1,000,000 euros for repeated offences.

(3) Final convictions handed down in a Member State of the European Union shall be taken into account for the purposes of establishing recidivism insofar as the offences which gave rise to these convictions are also punishable in accordance with the provisions of Directive (EU) 2019/882 as transposed by the Member State of the European Union concerned.

(4) The courts may order the confiscation and destruction of property used in the offence and the confiscation of illicit profits.

Chapter 14 - Final provisions

Art. 34 - Transitional provisions

(1) This law shall apply to the products and services provided for in Article 1, paragraphs 1, 2, 3 and 4, which are respectively placed on the market or supplied to consumers after the date of entry into force of this law.

(2) By way of derogation from paragraph 1, for a transitional period ending on 28 June 2030, service providers may continue to provide their services using products which they were lawfully using to provide similar services prior to that date.

Service contracts agreed before the date of entry into force of this law may continue unchanged until they expire, but not more than five years from that date.

(3) By way of derogation from paragraphs 1 and 2, subparagraph 2, self-service terminals lawfully used by service providers to provide services prior to the date of entry into force of this law may continue to be used to provide similar services until the end of their economically useful life, which may not exceed twenty years after they were put into service.

Art. 35. Dynamic transposition measures

(1) The amendments to Annexes I and VI of Directive (EU) 2019/882 apply with effect from the date of entry into force of the relevant amending acts of the European Union.

(2) The Minister will publish a notice in the Official Journal of the Grand Duchy of Luxembourg, providing information on the amendments thus made, with a reference to the law published in the Official Journal of the European Union.

Art. 36. Entry into force

This law shall enter into force on 28 June 2025.

Mandate and order that this law be inserted in the Official Journal of the Grand Duchy of Luxembourg to be executed and observed by all those concerned by the matter.

*Minister of Family
Affairs and Integration,*
Corinne Cahen

Palais de Luxembourg, 8 March 2023.
Henri

Parl. doc 7975; Ord. sess. 2021-2022 and 2022-2023; Dir. (EU) 2019/882.

ANNEX I

CONFORMITY ASSESSMENT PROCEDURES - PRODUCTS

(1) Internal production control

Internal production control is the conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in points 2, 3 and 4 of this Annex, and ensures and declares on its sole responsibility that the products concerned satisfy the applicable requirements of this law.

(2) Technical documentation

The technical documentation shall be drawn up by the manufacturer. It shall make it possible to assess the conformity of the product with the accessibility requirements referred to in Article 6 and, where the manufacturer has relied on Article 15, to demonstrate that conformity with the accessibility requirements would introduce a fundamental change or impose a disproportionate burden. The technical documentation shall specify only the applicable requirements and shall cover, to the extent necessary for assessment, the design, manufacture and operation of the product.

The technical documentation shall include at least the following elements:

1° a general description of the product;

2° a list of the harmonised standards and technical specifications, the references of which have been published in the Official Journal of the European Union, and which have been applied in full or in part, together with a description of the solutions adopted to meet the accessibility requirements referred to in Article 6 where these harmonised standards or technical specifications have not been applied. Where harmonised standards or technical specifications have been applied in part, the technical documentation shall specify which parts have been applied.

(3) Manufacturing

The manufacturer shall take all measures necessary to ensure that the manufacturing process and its monitoring ensure compliance of the products with the technical documentation referred to in paragraph 2 of this Annex and with the accessibility requirements set out in this law.

(4) CE marking and EU declaration of conformity

The manufacturer shall affix the CE marking referred to in this law to each product that complies with the applicable requirements of this law.

The manufacturer shall draw up a written EU declaration of conformity for a product model. The EU declaration of conformity shall specify the product for which it has been drawn up.

A copy of the EU declaration of conformity shall be made available to the competent authorities on request.

(5) Authorised representative

The manufacturer's obligations set out in paragraph 4 may be fulfilled by his authorised representative, on their behalf and under their responsibility, provided that they are specified in the mandate.

ANNEX II**INFORMATION ON ACCESSIBILITY COMPLIANT
SERVICES**

(1) The service provider shall include information assessing how the service complies with the accessibility requirements referred to in Article 6 in the standard terms and conditions or in an equivalent document. This information shall describe the applicable requirements and cover, to the extent necessary for the assessment, the design and operation of the service. In addition to the consumer information required under the amended law of 2 April 2014 amending 1. the Consumer Code, - the amended law of 14 August 2000 on electronic commerce, - the amended law of 30 May 2005 on specific provisions for the protection of individuals with regard to the processing of personal data in the electronic communications sector and amending Articles 88-2 and 88-4 of the Code of Criminal Procedure, - the amended law of 8 April 2011 introducing a Consumer Code; 2. repeal of the amended law of 16 July 1987 concerning hawking, itinerant sales, the display of goods and the solicitation of orders, this documentation comprises the following elements :

1° a general description of the service in accessible formats;

2° the descriptions and explanations needed to understand how the service works;

3° a description of how the accessibility requirements set out in Annex I to Directive (EU) 2019/882, as amended by the acts of the European Commission adopted in accordance with Article 26 of that Directive, are met by the service.

(2) To meet the requirements of paragraph 1 of this Annex, the service provider may apply in full or in part the harmonised standards and technical specifications whose references have been published in the Official Journal of the European Union.

(3) The service provider shall provide information demonstrating that the process by which the service is provided and monitored ensures compliance with paragraph 1 of this Annex and with the applicable requirements of this law.

