COMMISSION DECISION

of 29 October 2014

on a measure taken by Germany in accordance with Article 7 of Council Directive 89/686/EEC withdrawing from the market and prohibiting the placing on the market of heat protection suits 'Hitzeschutzanzug FW Typ 3'

(notified under document C(2014) 7977)

(2014/760/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 89/686/EEC of 21 December 1989 on the approximation of the laws of the Member States Relating to personal protective equipment [1], and in particular Article 7 thereof,

Whereas:

(1) In January 2014, the German authorities notified to the Commission a measure of withdrawal from the market and prohibition of placing on the market of a heat protection suit model 'Hitzeschutzanzug FW Typ 3' manufactured by KONTEX Textile Hitze- und Isolierprodukte GmbH, Olgastrasse 46-48, 73614 Schorndorf (Germany). The products bore CE marking, according to Directive 89/686/EEC on personal protective equipment, having been tested and type-examined according to harmonised standard EN 1486:2007 *Protective clothing for fire-fighters — Test method and requirements for reflective clothing for specialised fire-fighting*.

(2) Protective clothing for fire-fighters is personal protective equipment (PPE) classified as Certification Category III. PPE of this kind, which is designed to protect against fatal hazards or serious and irreversible risks to health, the direct effect of which the manufacturer assumes that users will be unable to recognise in time, are subject to an EC type-approval examination and an EC quality assurance check by the notified body commissioned by the manufacturer.

(3) The audit carried out by the Institut für Arbeitsschutz der Deutschen Gesetzlichen Unfallversicherung (IFA — *Institute for Occupational Health and Safety of the German Statutory Accident Insurance Fund*) in St Augustin (test ref. 2013 22805, 7 August 2013) showed that the values for heat transfer (radiant heat) under Section 6.2 and heat transfer (convective heat) under Section 6.3 of the above mentioned harmonised standard are not met. Therefore, the following basic health and safety requirements set out in Annex II to Directive 89/686/EEC were not met:

— 3.6.1 PPE constituent materials and other components,

— 3.6.2 Complete PPE ready for use.

(4) As a consequence, the heat protection suit presents the risk of transferring heat during fire-fighting, so that fire-fighters are exposed to life-threatening burns or the risk of being burned to death.

(5) In the opinion of the German authorities, since the relevant basic requirements concerning health and safety protections are not met and no valid EC type-examination certificate has been presented, the heat protection suit cannot be placed on the market. In fact, the heat protection suit does not meet the requirements of the German Order on the placing on the market of personal protective equipment (8th ProdSV) and its use endangers the safety, health and lives of fire-fighters and others.

(6) The Commission wrote to the manufacturer inviting him to communicate his observations on the measures taken by the German authorities. No answer has been received until the date.

(7) In light of the documentation available, the Commission considers that the heat protection suit Hitzeschutzanzug FW Typ 3 failed to comply with clauses § 6.2 and § 6.3 of the harmonised standard EN 1486:2007 referred to the basic health and safety requirements 3.6.1 PPE constituent materials and other components and 3.6.2 Complete PPE ready for use set out in Annex II to Directive 89/686/EEC,

[1] OJ L 399, 30.12.1989, p. 18.

HAS ADOPTED THIS DECISION:

Article 1

The measure taken by the German authorities, consisting of withdrawal from the market and prohibition of placing on the market of heat protection suits Hitzeschutzanzug FW Typ 3 manufactured by KONTEX Textile Hitze- und Isolierprodukte GmbH, is justified.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 29 October 2014.

For the Commission
Ferdinando NELLI FEROCI
Member of the Commission