

<i>Consumer Law Compendium</i>	<i>Comparative Analysis</i> F. Price Indication Directive (98/6)	581
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F. Price Indication Directive (98/6)

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Executive Summary

1. Transposition deficiencies

All member states have transposed Directive 98/6. The analysis reveals transposition deficiencies mainly in the use of the options provided in Art. 6 (i.e. the option to be exempt from the obligation to indicate the unit price in cases where it constitutes an excessive burden). Primarily, several member states make permanent use of this option whereas Directive 98/6 just allows a temporary exemption.

2. Enhancement of protection

a. Extension of scope

Some national transposition laws provide a wider scope of application in the field of price indication.

- Some member states have broadened the definition of “consumer” (Art. 2 lit. (e)), e.g. by including legal persons.
- Many member states have extended the scope of application to services (whereas Directive 98/6 applies only to products offered by traders, Art. 1).

b. Use of minimum clause

It should be noted that the minimum clause in Art. 10 of Directive 98/6 must be considered as being only declarative, and not constitutive. This means that Directive 98/6 would continue to be just a minimum harmonisation measure even if its Art. 10 was deleted. The reason is that Directive 98/6 has been enacted on the basis of Art. 129 lit. (a) of the EC Treaty, the

<i>Consumer Law Compendium</i>	<i>Comparative Analysis</i> F. Price Indication Directive (98/6)	582
--------------------------------	---	-----

predecessor of Art. 153 of the EC Treaty. With regard to measures enacted on that basis, Art. 153(5) of the EC Treaty allows the member states to maintain or to enact measures which are more favourable to consumers than the Community measures.

Except for some clarifications which could be interpreted as an improvement of the consumer protection level, the member states made practically no use of the minimum clause.

3. Use of options

The majority of the member states used the options provided in Directive 98/6:

- Art. 3 (2) 1st indent (option not to apply Art. 3(1) to products supplied in the course of the provision of a service) has been made use of by more than 23 member states.
- Art. 3(2) 2nd indent (option not to apply Art. 3(1) to sales by auction and sales of works of art and antiques) has also been made use of by more than 23 member states.
- Art. 5 (option to waive obligation to indicate the unit price in certain cases) has been made use of by several member states. Although these exceptions from the obligation to indicate the unit price have the fact that they are mainly related to food in common, the particular products excluded differ throughout the member states.
- Art. 6 (option to exclude the obligations to indicate the unit price in cases where it constitutes an excessive burden) has been made use of by nearly 20 member states.

4. Inconsistencies or ambiguities

The notion of “small retail business” in Art. 6 is very vague.

5. Gaps in Directive 98/6

- No regulation of services.

6. Potential barriers to (cross border) trade

Some of the options, in particular Art. 5 and Art. 6, lead to great differences throughout the member states. In certain cases this may hinder cross-border trade.

<i>Consumer Law Compendium</i>	<i>Comparative Analysis</i> F. Price Indication Directive (98/6)	583
--------------------------------	---	-----

7. Conclusions and recommendations

In order to eliminate potential barriers to trade the following steps could be taken:

- Concretisation of the option provided for in Art. 5 (or changing the option into a general clause).
- Establishing a definition of “small retail businesses” with the aim of achieving more coherent national legislation.

<i>Consumer Law Compendium</i>	<i>Comparative Analysis</i> F. Price Indication Directive (98/6)	584
--------------------------------	---	-----

I. Member state legislation prior to the adoption of the Price Indication Directive 98/6

Prior to the adoption of Directive 98/6 in the EU member states, consumer protection laws in the field of price indication were rather different.

Most of the member states had already enacted legislative acts stipulating price indication in their national laws long before Directive 98/6 came into existence. In the UNITED KINGDOM, the Prices Act was enacted in 1973. Other examples are POLAND with its “Act on Prices of 26 February 1982”, CYPRUS with its “Products and Services (Regulation and Inspection) Law of 1962, L.32/62”, DENMARK with its “Price Labelling Act” of 1977 and MALTA with its “Control on the Sale of Commodities Regulations, 1972”. Contrary to Directive 98/6, these provisions only obliged the traders to indicate the selling price of the products. Only some member states like AUSTRIA, Denmark and GERMANY stated an obligation for traders in their national law to indicate the unit price for certain products. Nevertheless, these provisions had nearly no practical impact because of numerous exemptions. In BELGIUM, the unit price had to be indicated on products sold in bulk and pre-packaged products with a variable quantity.¹ In ROMANIA, the Government Ordinance no. 21/1992 on consumers' protection provided that the consumers have the right to be informed *inter alia* with regard to the price, and also that the price and fees must be placed in a visible place and be provided in an unequivocal and legible manner. In BULGARIAN law there were some administrative orders, which included the seller's duty to indicate the product prices. Also strict sanctions existed, e.g. the revocation of the right to work as a trader.

Some member states had no comparable protection in the field of price indication before the transposition of Directive 98/6, such as IRELAND, where only a number of specific ministerial orders relating to the indication of prices with regard to specific subject-matters existed (e.g. the Retail Price (Diesel and Petrol) Display Order 1997 or the Retail Price (Beverages in Licensed Premises) Display Order 1999).

In some of the new member states (e.g. the CZECH REPUBLIC, ESTONIA, LATVIA, LITHUANIA and SLOVENIA), no comparable protection existed.

¹ Article 6 and 7 of the Royal Decree of 30 June 1996 Concerning the Price Indication of Products and Services and the Order Form.

<i>Consumer Law Compendium</i>	<i>Comparative Analysis</i> F. Price Indication Directive (98/6)	585
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II. Scope of application

Directive 98/6 stipulates in its Art. 1 the “indication of the selling price and the price per unit of measurement of products offered by traders to consumers (...)”.

1. Consumer

Article 2 lit. (e) of Directive 98/6 defines the notion of ‘consumer’ as “any natural person who buys a product for purposes that do not fall within the sphere of his commercial or professional activity”.

About one third of the member states’ laws provide a ‘consumer’ definition in the context of their specific transposition laws (e.g. CYPRUS², DENMARK³ and GREECE⁴). More than half of the European countries, however, refer to general ‘consumer’ definitions (e.g. BELGIUM⁵, BULGARIA⁶, the CZECH REPUBLIC⁷, ESTONIA⁸, MALTA⁹ and ROMANIA¹⁰), thus maintaining a coherent concept within their legal systems.

No express transposition of the definition exists in GERMANY, FRANCE and POLAND. Nevertheless, German law introduces the term ‘final addressee’ in the regulation covering

² Similar to Directive 98/6: Art. 2, 1st definition: definition of trader; 4th definition: definition of consumer, The Selling and Unit Price Indication Law of 2000, L.112(I)/2000.

³ Corresponding with the Directive: § 2 para 5 (definition of consumer), § 2 para 4 (definition of trader) Executive Order no. 866 of 18 September 2000 on information on sales price and price per unit for consumer goods.

⁴ Article 2(δ) (definition of trader), Art. 2(ε) (definition of consumer) ruling of the Ministry of Economics and Development No Z1-404 -2001 .

⁵ Not the Royal Decree of 30 June 1996 concerning the indication of the price of products and services and the order form but the Trade Practices Act transposes the definitions:

Art. 1 sec. 6, 7 Act of 14 July 1991 on trade practices and consumer information and protection

The general definitions in the Trade Practices Act also serve as the transposition for the terms of consumer and trader of the Doorstep Selling Directive (85/577), the Unfair Contract Terms Directive (93/13) and the Distance Selling Directive (97/7). The Belgian consumer concept extends to legal persons, but applies only to activities engaged in for purposes exclusively outside of the trade or profession.

⁶ Law on Consumer Protection, Additional Provisions § 13(1).

⁷ Consumer Protection Act No. 634/1992.

⁸ § 2(1) (definition of consumer), § 2(2) Consumer Protection Act (definition of trader).

⁹ Article 2 Consumer Affairs Act of 15 October 2002. The definition of consumer is qualified by the Price Indication Regulation including “any final purchaser” in the concept, Reg. 2(2) Consumer Affairs Act (Price Indication) Regulations of 1 October 2002.

Art. 2(3) also implements the concept of consumer defined in the Consumer Sales Directive (99/44) and, additionally, the definition of trader of the Unfair Contract Terms Directive (93/13).

¹⁰ Article 2(1) 2nd indent of the Government Ordinance no. 21/1992 regarding the consumers’ protection.

price information without further concretising it.¹¹ It is commonly accepted that the notion of ‘final addressee’ encompasses persons not passing on goods or services to another user but rather for their own use.¹² In contrast to the general ‘consumer’ definition in the German CC¹³ or the UWG (Act against Unfair Competition)¹⁴, in addition to individual consumers, buyers working in an independent commercial or business capacity as well as in public institutions can also be final addressees. However, in case of offers or advertisements vis-à-vis, final addressees who use the good or service within their professional or official capacity, not all provisions on price indication apply.¹⁵

Whereas the POLISH transposition Act, despite its lack of definition for consumer, only excludes C2C situations from its scope of application¹⁶, FRENCH case-law determines the consumer as a person concluding a contract which does not have a direct connection with his commercial activity.¹⁷ The ruling of the French Cass. Civ. has been further clarified, including in the ambit of the definition, professionals who conclude a contract which does not constitute a direct connection with their professional activity.¹⁸

Table: Legislative techniques

Special definition in transposition law	CY, DK, EL, IE, LU, NL, SE, UK (8)
Reference to a more general definition	AT ¹⁹ , BE, BG, CZ, EE, ES, FI, HU, IT, LT, LV, MT ²⁰ , PT, RO, SK, SL (16)
No specific definition	DE, FR, PL (3)

The majority of the national definitions substantively mirror the content of the Directive’s definition with only some minor differences in wording or style. For instance, the AUSTRIAN legislator has negatively described the notion of ‘consumer’ as the person not fulfilling the

¹¹ § 1(1), sent. 1 of the Price Indication Regulation.

¹² BGH, GRUR 1974, 477; GRUR 1977, 264.

¹³ CC § 13.

¹⁴ § 2(2) of the Act against Unfair Competition.

¹⁵ § 9(1)(1) Price Indication Regulation.

¹⁶ Article 1.2(1) of the Act on prices of 5 July 2001.

¹⁷ Cour de Cassation, Civ. 1ère 3 January 1996 ; 30 January 1996; 10 July 1996.

¹⁸ Cour de Cassation, Civ. 1ère 17 July 1996 ; 25 November 2002.

¹⁹ Indirectly transposed in § 1 Consumer Protection Act.

²⁰ In the context of the Price Indication Regulations 2002, the term ‘consumer’ has to be interpreted according to the definition in Art. 2 Consumer Affairs Act.

requirements for being a trader.²¹ The LITHUANIAN legislation prescribes a “consumer” definition similar to Directive 98/6 in the general CC²² and recapitulates it in the implementing Law on Consumer Protection.²³

For a group of member states it can be perceived as an extension of the scope of application to legal persons in case they act outside their professional activity. The PORTUGUESE definition, in contrast to the restriction to natural persons in Directive 98/6, only states “persons”, thus allowing the inclusion of natural and legal persons into its concept. Similarly, in MALTA, the term ‘consumer’ includes any final purchaser, which means that legal entities can also be considered as consumers.²⁴ Explicitly mentioned are legal persons in SPANISH²⁵ law.

Further variations exist in Maltese law as other individuals, not being the immediate purchaser or beneficiary who has been authorised by the consumer, are regarded as ‘consumers’.²⁶ The Romanian definition of consumer also includes groups of associated natural persons.²⁷ Similarly in SLOVAKIA, according to § 2(1) lit. a of Consumer Protection Act, the consumer is a natural person “that buys products or uses services for direct personal use by natural persons, especially for himself and members of his household”.

In Spain, the person has to be the final addressee of the good or service without “the aim of integrating them in production, transformation, commercialization processes”.²⁸ No explicit reference is made to “purposes outside his trade or profession”.²⁹

Table: General overview of transposition

Substantially equivalent to Directive 98/6	BG, CY, DK, EE, EL, FI, HU*, IE, IT, LT, LU, LV ³⁰ , NL, SE, SL, UK (<i>16</i>)
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²¹ § 1 of the Consumer Protection Act.

²² CC Art. 6350(1).

²³ CC Art 2(1).

²⁴ Regulation 2 (2) of the Price Indication Regulations.

²⁵ Article 1 of the Law 26/1984 of July 19 on Consumer Protection.

²⁶ Article 2 of the Consumer Affairs Act (Price Indication) Regulations .

²⁷ Article 2(1) 2nd indent of the Government Ordinance no. 21/1992 regarding the consumers protection.

²⁸ Article 1(3) of the Law 26/1984 of July 19 on Consumer Protection.

²⁹ In the context of the implementation of the Unfair Contract Terms Directive, an explanatory note has been introduced in the Law 7/1998 of April 13 on Standard Terms in Contracts, being a non binding part of (any) law, repeating the formulation, thus serving as an interpretation guideline for the legal “consumer” definition. It is debated whether to protect persons acting outside their business without being the final addressees.

Extension to legal persons	AT, BE, CZ, ES*, MT ^{31*} , PT (6)
Final addressee	DE, ES* (compulsory requirement), MT*(3)
Extension to addressee of information or offer related to goods or services	HU* (1)
No mention of purposes outside trade or profession	ES* (1)

* *more than once*

2. Trader

In Art. 2 lit. (d) of Directive 98/6, ‘trader’ is defined as “any natural or legal person who sells or offers for sale products which fall within his commercial or professional activity”.

Some of the member states directly introduce the definitions into their transposition laws (e.g. CYPRUS³², DENMARK³³ and the UNITED KINGDOM³⁴). But the majority of national legislators have opted for the use of a more general definition of ‘trader’, thus maintaining a coherent scope of application in consumer law. In FRANCE³⁵ and SWEDEN, the notion of ‘trader’ has not been specifically transposed.

In France, as the transposition text does not provide any definition, it is deemed that, following Art. L. 113-3 of the Consumer Protection Act³⁶, the obliged party should be sellers and service providers. In Swedish law, no direct definition has been given but it is generally stated that the regulations apply when a trader is supplying goods or services in his business to a consumer.³⁷

³⁰ Definition of “Consumer“ has been changed since 27 October 2005 when a legal person was excluded from the scope of a consumer by adopting changes in the Consumer Rights Protection Law

³¹ The Minister responsible for consumer affairs may designate persons as “consumers” for the purpose(s) of the Consumer Affairs Act after having consulted the Consumer Affairs Council.

³² Article 2, 1st definition Selling and Unit Price Indication Law of 2000, L.112(I)/2000 as amended by Law 119(I)/2005 and Law136(I)/2005.

³³ § 2(4) of the Executive Order no. 866 of 18 September 2000 on information on sales price and price per unit for consumer goods.

³⁴ Regulation 1(2) The Price Marking Order 2004.

³⁵ Article 1(3) of the Decree of 16 November 1999 uses the term “trader” (“*commerçant*”) without defining it.

³⁶ Code de la Consommation.

³⁷ § 2 of the Price Information Act 1991:601.

Table: Legislative technique

Special definition in transposition law	CY, DE, DK, EL, ES, IE, LU, NL, UK (9)
Reference to a more general definition	AT, BE, BG, CZ, EE, FI, HU, IT, LT, LV, MT, PL, PT, RO, SK, SL (16)
Not specifically transposed	FR, SE (2)

About half of the member states' legislations substantively mirror the content of the Directive's definition of 'trader'. However, variations exist in some countries, extending the scope of application to persons providing services (e.g. LUXEMBOURG³⁸) or explicitly including persons dealing with agricultural production as regards plants and animals, gardening, vegetable cultivation, forestry and fishery (not sea fishery).³⁹ A deviation in the use of terms, such as 'seller' (e.g. the CZECH REPUBLIC, LATVIA, LITHUANIA) or 'professional' (e.g. ITALY, Luxembourg) could also be detected. HUNGARIAN law makes use of the terms 'distributor' and 'manufacturer'.⁴⁰ The 'distributor' is considered as "the economic organization marketing merchandise or services to consumers". In case the manufacturer's main office is not located in the territory of the Republic of Hungary, the importer of the goods shall be considered to be the 'manufacturer'. In POLAND, the obligations of Directive 98/6 are imposed upon producers as well as sellers.

According to Art. 1(6) of the BELGIAN Trade Practices Act, liberal professions fall outside the scope of the trader concept. Furthermore, the definition of services in Art. 1(2) of the TPA requires the pursuit of commercial activities as defined in Art. 2 and 3 of the Commercial Code.

In MALTESE law, the Minister responsible for consumer affairs may, in co-operation with the Consumer Affairs Council, designate any category or class of persons as a "trader" for the purposes of the transposition law. Moreover, the Maltese law also includes professionals who exercise acts of trade in their own name or in that of any commercial partnership.

³⁸ Article 1(1) of the Decree of 7 September 2001 on price indication.

³⁹ Article 4(1), Art. 3(1)(8) of the Act on the Freedom of Economic Activity.

⁴⁰ § 2 lit. j, lit. k of the Act CLV of 1997 on Consumer Protection.

In Lithuania, the concept of ‘trader’ includes the definitions of ‘seller’ and ‘service provider’. The first definition identifies the difference that any person selling the goods on the premises intended for business purposes, or outside them, shall be regarded as a ‘seller’.⁴¹

GERMANY has extended the scope of its transposition law considerably by applying it to everyone, who professionally or regularly (in any other manner) offers goods or services or, as offeree of goods or services, advertises goods or services vis-à-vis the final addressee.⁴²

Table: Transposition method

Substantively equivalent to Directive 98/6	AT, CY, DK, EL, ES, FI, IE, MT, NL, RO, SL, UK (13)
No explicit mention of ‘natural or legal person’	EE, LU, UK (3)
Different use of terms	BE, CZ, DE, IT, LT, LU, LV, NL, SK (9)
Inclusion of the intermediary	BE, BG, IT, MT (4)
Explicit inclusion of persons dealing with agricultural products	PL (1)
No mention of “within commercial or professional activity”	CZ, LT ⁴³ , LU (3)

3. Situations falling in the scope of application

Article 1 of Directive 98/6 states that the regulations only apply to products offered by ‘traders’ to ‘consumers’. Many of the member states have, nevertheless, extended the scope of application to services: BELGIUM⁴⁴, BULGARIA⁴⁵, the CZECH REPUBLIC⁴⁶, DENMARK⁴⁷,

⁴¹ Article 2(2) of the Consumer Protection Law.

⁴² § 1(1), sent. 1 of the Price Indication Regulation.

⁴³ Only with respect to the definition of ‘seller’. See above.

⁴⁴ Article 1 no. 6, 7 of the Act of 14 July 1991 on trade practices and consumer information and protection.

⁴⁵ Law on Consumer Protection, Additional Provisions, § 13 no. (2).

⁴⁶ Article 2 of the Consumer Protection Act No. 634/1992.

⁴⁷ Effective from 1 July 2006 the price indication rules were transferred to the Marketing Practices Act (re Act No 1389 of 21 December 2005) and the Price Indication Act (re Consolidated Act No 209 of 28 March 2000)

ESTONIA⁴⁸, FINLAND, FRANCE⁴⁹, GERMANY⁵⁰, HUNGARY⁵¹, LATVIA⁵², LITHUANIA⁵³, LUXEMBOURG⁵⁴, POLAND, PORTUGAL⁵⁵, SLOVAKIA⁵⁶ and SWEDEN⁵⁷. In SPAIN⁵⁸, the general consumer definition introduces service offers and provisions.

As to the option of the member states to exempt products supplied in the course of the provision of a service from the indication duty (Art. 3(2) 1st indent), c.f. IV. 1.

Table: Extension to services

Extension to service providers	BE, BG, CZ, DE, DK, EE, FI, FR, HU ⁵⁹ , LT, LU, LV, PL, PT, SE, SK, SL (<i>17</i>)
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4. Selling price

In Art. 2 lit. (a) of Directive 98/6, ‘selling price’ is defined as the “final price for a unit of the product, or a given quantity of the product, including VAT and all other taxes”.

The majority of the member states have transposed this term in accordance with the definition contained in the Price Indication Directive. In some member states however, the implementation law slightly differs from the Directive’s regulations. In MALTA, POLAND and SLOVAKIA, only the term ‘price’ and not ‘selling price’ is used. Whereas in Malta, it is regulated that the price must be the ‘final retail or unit price’ and has to include the value

was repealed. Pursuant to the Marketing Practices Act § 13(2), the scope of the price indication rules is extended to services, including electronic services (e.g. on the internet) if the consumer is able to place an order electronically.

⁴⁸ § 2 no. 1, 2 of the Consumer Protection Act.

⁴⁹ Although not specifically transposed, it is assumed that the obliged party shall be ‘sellers’ and ‘service providers’. See above.

⁵⁰ § 1(1), sent. 1 of the Price Indication regulation.

⁵¹ § 2(e) of the Act CLV of 1997 on Consumer Protection.

⁵² Article 1(1) section 3, 4-5 Consumer Rights Protection Law.

⁵³ Article 2(1) of the Law on consumer protection.

⁵⁴ Article 1(1) and (2) of the Decree of 7 September 2001 on price indication.

⁵⁵ Article 10 of the Decree Law 130/90, of April 26.

⁵⁶ § 2(1) lit. a, b of the Act No. 634/1992 on Consumer Protection.

⁵⁷ § 2 of the Price Information Act 1991:601, amended by Act 2004:347.

⁵⁸ Article 1(2) of the Law 26/1984 of July 19 on Consumer Protection.

⁵⁹ With regard to the ‘distributor’. See above.

added tax and all other taxes, in Poland, it is only stated in the legal text that this price needs to include the value added tax. In the CZECH REPUBLIC, the selling price is the same price as the packaged product.⁶⁰ In LATVIA, no taxes other than the value added tax have to be included in the selling price. Finally, FRANCE did not transpose the definition of ‘selling price’, but there exist provisions in French law obliging the indication of price, including all taxes.⁶¹

Table: Transposition method

Substantively equivalent to Directive 98/6	AT, BE, BG, CY, DE, DK, EE, EL, ES, FI, HU, IE ⁶² , IT, LT, LU, NL, PT, RO, SE, SL, UK (21)
Variations	FR, CZ, LV, MT, PL, SK (6)

5. Unit price

Article 2 lit. (b) of Directive 98/6 defines the ‘unit price’ as the “final price including VAT and all other taxes, for one kilogramme, one litre, one metre, one square metre or one cubic metre of the product or a different single unit of quantity, which is widely and customarily used in the member state concerned in the marketing of specific products”.

Out of the 25 member states, BELGIAN, DANISH, DUTCH, ROMANIAN, ESTONIAN, ITALIAN, IRISH, SLOVAKIAN, SLOVENIAN and SPANISH law does not substantively deviate from the definition in the sense of Directive 98/6. In most member states, the implementation laws vary from the definition.

In AUSTRIA, the value added tax and all other taxes do not necessarily have to be included in the unit price. Furthermore, in ESTONIA and likewise in SWEDEN, the provision concerning the single different unit of quantity has not been transposed in conformity with Directive 98/6. Besides the specified units, namely kilogramme, litre, metre, square metre and cubic metre, not only one, but any different unit of quantity can be used. However, the requirement, that

⁶⁰ Article 13(3)(a) of the Act on Prices No. 526/1990.

⁶¹ Decree of 3 December 1987 on price indication.

⁶² The selling price needs to be indicated in ‘Euros’.

this different unit of quantity needs to be widely and customarily used in the member state concerned in the marketing of specific goods, is still upheld.

In CYPRUS, FINLAND, GREECE, LATVIA, LUXEMBOURG and the UNITED KINGDOM, the possible indication of the price for one “different single unit of quantity which is widely and customarily used in the member state concerned in the marketing of specific products” is not envisaged at all.

Regarding the transposition law in the UNITED KINGDOM, however, the price for certain products must be indicated by quantities which are different from the ones listed in Directive 98/6. The price for products which are indicated in Schedule 1 of the Price Marking Order 2004 (e.g. food colouring, spices, coffee, fruit juices and soft drinks) must be indicated by a specified amount of grams concerning products sold by weight or for a specified amount of millilitres concerning products sold by volume. Furthermore, in respect of products which are sold by number, the price must be indicated for an individual item of that particular product. Similar provisions exist in CYPRUS.

Regarding the possibility to indicate the price for one different unit of quantity, the HUNGARIAN legislator limited this possibility in such a way that this can only be done for products which are sold by number and where, therefore, the price can be indicated individually for each individual piece of that product.

In LATVIA, the possibility to indicate the price for a unit other than the ones indicated by Directive 98/6 is widened insofar as the requirement, that this different unit has to be widely and customarily used in the marketing of that specific product, has not been implemented.

In MALTA, only the term price, but not the more specific term unit price has been legislatively regulated. However, it has been laid down that the price must be the final retail or unit price which has to include the value added tax as well as all other taxes.

The PORTUGUESE legislator has not directly implemented the definition of the term ‘unit price’ as stipulated in Directive 98/6 either. In fact, in Portugal, the unit price has been defined as the price applicable to a quantity of 1 kilogramme or 1 litre of foodstuff and 1 kilogramme, 1 litre, 1 metre, 1 square metre, 1 cubic metre, or 1 ton of non-food product.

Besides these variations from the regulation laid down in Directive 98/6, the possibility to indicate the price for a different unit quantity has not been laid down.

The POLISH legislator only defined the unit price as a price for a unit of specified goods. The amount or number of these goods has to be expressed in units of certain measurements which have to be in accordance with the provisions on measures. Hence, neither the measurements specified by Directive 98/6, nor the option to apply one different unit quantity, nor the requirement to include all kinds of taxes in the price have been legislatively regulated. FRANCE has not directly transposed a definition of the term unit price.⁶³

Table: Transposition method

Substantively equivalent to Directive 98/6	BE ⁶⁴ , BG, DK, EE, ES, IE, IT, NL, RO, SK, SL (<i>11</i>)
Variations	AT, CY, CZ, DE, FI, FR, EL, HU, LT, LU, LV, MT, PL, PT, SE, UK (<i>16</i>)

6. Products sold in bulk

Article 2 lit. (c) of Directive 98/6 specifies ‘products sold in bulk’ as “products which are not pre-packaged and are measured in the presence of the consumer”.

Again, more than half of the member states have transposed the term ‘products sold in bulk’ substantively mirroring the Directive’s content. In MALTA and the UNITED KINGDOM, the definition is slightly different. Their legislation prescribes that the consumer does not necessarily have to be present when the non-pre-packaged products are measured since the implementation law only states that the product has to be measured at the request of the consumer. Similarly, in GERMANY, the products have to be measured alternatively either in the presence of the consumer or at his request. LATVIAN law does not provide a direct

⁶³ Article 1(1) of the Regulatory Act of 16 November 1999 on consumer protection in the indication of the prices contains: “le prix de vente au kilogramme, à l’hectogramme, au litre, au décilitre, au mètre, au mètre carré ou au mètre cube » .

⁶⁴ Article 1 of the Royal Decree of 30 June 1996 concerning the indication of the price of products and services and the order form which provides a definition of ‘unit price’ does not expressly mention VAT and all other taxes to be included in the unit price. However, the Royal Decree must be read in conjunction with the Trade Practices Act which lays down the general obligation that advertised prices should include all taxes (cf. Art. 3 TPA).

definition of the term ‘product sold in bulk’, but lays down the regulation that only the ‘unit price’ needs to be indicated concerning ‘products sold in bulk’ or products which are measured in the presence of the consumer. In SLOVENIA, the definition is substantially equivalent with a slight variation: the presence of the consumer is needed “as long as this is allowed by the nature of the product”.⁶⁵ Likewise, in SWEDEN, it is determined that only the ‘unit price’ needs to be given when the product is not pre-packaged, but measured out in front of the consumer.

In LITHUANIA, although there is no legislative regulation which would be comparable to that in LATVIA or SWEDEN, the term ‘products sold in bulk’ is understood as laid down in Directive 98/6. Finally, in FRANCE, POLAND and Sweden, the law neither provides any definition, nor does any seemingly common understanding of the term exist.

Table: Transposition method

Substantively equivalent to Directive 98/6	AT, BE ⁶⁶ , BG, CY, DE, DK, EE, EL, ES, FI, HU, IE, IT, LU, NL, PT, RO, SK (18)
Variations	LV, MT, SL, UK (4)
No specific legislative definition	CZ, FR, LT, PL, SE (5)

III. Consumer protection instruments

1. Formal requirements (transparency) Art. 4

Article 4 para. 1, sent. 1 of Directive 98/6 states that the selling price and the unit price must be unambiguous, easily identifiable and clearly legible.

The national legislators of AUSTRIA, BELGIUM, BULGARIA, the CZECH REPUBLIC, DENMARK, ESTONIA, GERMANY, GREECE, HUNGARY, IRELAND, ITALY, LATVIA, LITHUANIA, LUXEMBOURG, MALTA, the NETHERLANDS, POLAND, PORTUGAL, ROMANIA, SLOVAKIA,

⁶⁵ Article 2(2) of the Rules on Price Indication for Goods and Services.

⁶⁶ The TPA contains a similar definition (Art. 7 of the TPA, under the Section dedicated to the indication of quantities on the packaging of products), but not within the scope of the price indication section as such.

SLOVENIA⁶⁷ and the UNITED KINGDOM have faithfully transposed this provision of the Directive. Most member states therefore used the copy and paste technique.

Some member states have implemented even stricter provisions. In FINLAND⁶⁸ and SWEDEN⁶⁹, both the selling and the unit price have to be indicated in a clear and individualised way to avoid any confusion. In CYPRUS⁷⁰, the selling and unit price must also be distinct. MALTESE law states that the price on the label or mark must be boldly printed or otherwise indicated in writing. In SPAIN⁷¹, the price must be “located in the same visual ambit” and “visible for the consumer without the need to request that information”. Only the national laws of FRANCE do not contain a specific legislative transposition.

Table: Transposition of Art. 4 (formal requirements)

Transposition	Member States
As in Directive 98/6	AT, BE, BG, CZ, DE, DK, EE, EL, HU, IE, IT, LV, LT, LU, MT, NL, PL, PT, RO, SK, SL, UK (22)
Stricter provisions	CY, ES, FI, SE (4)
No specific legislative transposition	FR (1)

2. Sanctions (Art. 8)

Most of the member states have implemented Directive 98/6 as public law. Therefore, in these countries, the public authorities responsible control the application of the price indication law. As a consequence of this, a majority of the member states have stated public law sanctions. These sanctions range from fines to imprisonment.

⁶⁷ Article 8, 12 of the Rules on Price Indication for Goods and Services (issued by the Minister for the Economy). The prices for services also have to be indicated in an unambiguous way.

⁶⁸ Article 10(2) of the Regulation on Price Indications in Marketing of Consumer Goods.

⁶⁹ § 9 of the Price Information Act 1991:601.

⁷⁰ Article 7(3)(a) of the the Selling and Unit Price Indication Law of 2000, L.112(I)/2000.

⁷¹ Article 4(1) of the Royal Decree 3423/2000 of December 15, on the regulation of the indication of prices of the products offered to the consumers and users.

Additionally, other member states have chosen to implement provisions that enable every competitor of the trader to take action before the courts, e.g. AUSTRIA⁷², GERMANY⁷³, LATVIA et seqq. In Germany, this is only possible in cases of considerable infringement. In MALTA⁷⁴, in cases where the offender is convicted more than once, he may also be liable to have his licence to trade suspended for a period not exceeding one week.

The concrete sanctions can be identified with the help of the following table:

Member State	Sanction
Austria	- fines not exceeding € 1.450 (§ 15 PrAG) - damages and injunctions according to the UWG
Belgium	- fines between 250 and 10.000 € - cease and desist orders can be issued against sellers violating their obligations
Bulgaria	- fines between 300 and 3000 Lev
Cyprus	- a fine of Cyprus Pounds £1.000 (maximum) or imprisonment for a period of not longer than 6 months - for every subsequent conviction a fine of Cyprus Pounds £ 2.000 (maximum) or imprisonment for a period of 1 year (maximum)
Czech Republic	- fines not exceeding 50.000.000 Czech koruna (Sec.24(1) Act No. 634/1992.)
Denmark	- The price indication rules are now transferred to the Marketing Practices Act (cf. above under F.II.2.) Consequently, the sanction system of the Marketing Practices Act applies. This means that the Consumer Ombudsman supervises the rules. The Ombudsman has a variety of sanctions, including negotiation (in order to make the trader comply voluntarily), injunctions and fines.
Estonia	- a fine of up to 100 fine units; if committed by a legal person, is punishable by a fine of up to 30 000 kroons
Finland	- fines (Chapter 11 section 1 Consumer Protection Act)

⁷² § 1 of the Act against unfair competition.

⁷³ §§ 3, 4 No. 11 of the German Act against unfair competition.

⁷⁴ Article 9(3)(b) of the Consumer Affairs Act (Price Indication) Regulations.

France	- fines (Art. R.113-1 Code de la Consommation)
Germany	- fines not exceeding 25.000 €
Greece	- fines and/or imprisonment according to Art. 30 of Agoranomikos Kodikas
Hungary	- fines, prohibition of continuation of the illegal conduct (Arts. 47, 48 Consumer Protection Act)
Ireland	- a fine not exceeding 3.000 € - order (injunction) requiring the trader to act, or refrain from doing anything, to ensure compliance with the Regulations
Italy	- fines from 516, 45 Euro (1.000.000 Lire) to 3098,74 Euro (6.000.000 Lire)
Latvia	- administrative sanctions - competitors can claim
Lithuania	- state inspection of non-food products - consumer has the right to appeal to the State Food and Veterinary Service
Luxembourg	
Malta	- a fine of not less than fifty liri and not exceeding five hundred liri - suspension of licence to trade - publication of a summary of the judgment in the media (one or more daily newspapers) ⁷⁵
Netherlands	- a fine not exceeding € 16.750 - imprisonment for a maximum of 6 (six) months
Poland	- fines between 1.000 and 5.000 €
Portugal	- administrative sanctions
Romania	- fines between ROL 500.000 and ROL 1.000.000 - administrative sanctions provided for under general contravention law
Slovakia	- Public control and market surveillance authorities - fines up to 2.000.000 Slovak crowns (up to 5.000.000 Slovak crowns in case of repeated infringement within the space of one year) - Right of consumer, consumer organisations to take action before the courts
Slovenia	- administrative sanctions provided for under general administrative law.
Spain	- control by competent bodies of the Autonomous Communities of Spain

⁷⁵ See Reg. 9 (3)(b) of the Consumer Affairs Act (Price Indication) Regulations.

<i>Consumer Law Compendium</i>	<i>Comparative Analysis</i> F. Price Indication Directive (98/6)	600
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	- fines (the amount is determined by reference to three other Acts: Consumer Protection Act, Retail Trade Act and Royal Decree 1945/1983 on sanctions to protect consumers and food production)
Sweden	- sanctions in the Marketing Act
United Kingdom	- control by local weights and measures authority - fines (UK utilises system of sanctions generally provided in the Prices Act)

IV. Use of options provided in Directive 98/6

1. Products supplied in the course of the provision of a service

Article 3 para. 2, 1st indent permits the member states not to apply Art. 3 para. 1 to products supplied in the course of the provision of a service.

Most of the member states have made use of this option. In AUSTRIA, BELGIUM, BULGARIA, CYPRUS, the CZECH REPUBLIC, ESTONIA, GERMANY, GREECE, HUNGARY, IRELAND, LATVIA, LITHUANIA, MALTA, the NETHERLANDS, POLAND, PORTUGAL, ROMANIA, SLOVAKIA, SLOVENIA, SPAIN and the UNITED KINGDOM, the trader is not obliged to indicate the unit price for products supplied in the course of the provision of a service. Also ITALY⁷⁶ and LUXEMBOURG⁷⁷ have made use of the option.⁷⁸ Italy explicitly exempts the provision of food and beverages.⁷⁹

⁷⁶ Former Art. 2(5)(a) of the Statute 25/02/2000 n. 84 "Implementation of Directive 98/6/EC on consumer protection in the indication of the prices of products offered to consumers" now stated in Art. 14(5)(a) of the Italian Consumer Code.

⁷⁷ Article 3(2)(2) of the Decree of 7 September 2001 on price indication.

⁷⁸ Different: EIM-Study "Appraisal of Directive 98/6/EC on consumer protection in the indication of unit prices of products offered to consumers", P. 43, table 6.

⁷⁹ Article 14(5)(a) of the Italian Consumer Code. "including the provision of food and beverages".

Some countries have not made use of the option, such as FINLAND, FRANCE, DENMARK⁸⁰ and SWEDEN. With regard to Sweden it should be noted that the Prisinformationslag (SFS 1991:601)⁸¹ is applicable to goods as well as to services.

Table: Use of option with regard to products supplied in the course of the provision of a service (Art. 3 para. 2, 1st indent)

Use of Option	Member States
Yes	AT, BE, BG, CY, CZ, DE, EE, EL, ES, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, RO, SK, SL, UK (23)
No use	DK, FI, FR, SE (4)

2. Sales by auction and sales of works of art and antiques

Article 3 para. 2, 2nd indent of Directive 98/6 grants the member states the option not to apply Art. 3 para. 1 of Directive 98/6 to sales by auction and sales of works of art and antiques.

Again a vast majority of member states have chosen to implement this option. They are: AUSTRIA, BULGARIA, CYPRUS, ESTONIA, GERMANY, GREECE, HUNGARY, IRELAND, ITALY⁸², LATVIA, LITHUANIA, MALTA, the NETHERLANDS, PORTUGAL, ROMANIA, SLOVAKIA, SLOVENIA, SPAIN and the UNITED KINGDOM.

BELGIUM⁸³ and SWEDEN⁸⁴ have made use of the option, but only exclude auctions. LUXEMBOURG only exempts works of art and antiques if such products carry a clear indication, which allows for their identification on a price list.⁸⁵

⁸⁰ As mentioned above under F.II.2., since 1 July 2006 the price indication rules also apply to services. Thus Denmark no longer makes use of the option in Art. 3, para 2, 1st indent of the Directive.

⁸¹ Price Information Act 1991:601.

⁸² Legislative Decree of 25 February 2000 No. 84 "Implementation of Directive 98/6/EC on consumer protection in the indication of the prices of products offered to consumers" - Now moved into Art. 14(5)(b) and (c) of the Italian Consumer Code. Different : EIM-Study "Appraisal of Directive 98/6/EC on consumer protection in the indication of unit prices of products offered to consumers", p. 43, table 6.

⁸³ Article 2(1) of the Act of 14 July 1991 on trade practices and consumer information and protection. Different : EIM-Study "Appraisal of Directive 98/6/EC on consumer protection in the indication of unit prices of products offered to consumers", p. 43, table 6.

⁸⁴ § 4 Price Information Act 1991:601.

⁸⁵ Article 7(2) of the Decree of 7 September 2001 on price indication.

Only FINLAND, FRANCE⁸⁶ and POLAND have not made use of the option provided in Directive 98/6. From 1 July 2006 DENMARK has no longer made use of the option regarding works of art and antiques.⁸⁷

Table: Use of option with regard to sales by auction and sales of works of art and antiques (Art. 3(2) 2nd indent)

Use of Option	Member States
Yes	AT, BE ⁸⁸ , BG, CY, CZ, DE, EE, EL, ES, HU, IE, IT, LT, LU ⁸⁹ , LV, MT, NL, PT, RO, SE ⁹⁰ , SK, SL, UK (23)
No use	DK, FI, FR, PL (4)

3. Products for which indication of unit price would not be useful

Article 5 of Directive 98/6 allows the member states to waive the obligation to indicate the unit price for products for which the indication might be not useful because of the product's nature or purpose, or, if it creates confusion. Art. 5(2) allows the member states, in the case of non-food products, to establish a list of the products or product categories to which the obligation to indicate the unit price shall remain applicable.

Seemingly all member states have made use of this option. However, the categories of exempt products vary considerably. For instance, § 6 of the SWEDISH Prisinformationslag⁹¹ simply states that the trader only has to provide information about the selling price when the nature of the good is of such character that the unit price is of no interest to the buyer or might create confusion. The LATVIAN transposition law uses the same wording as Directive 98/6 and, furthermore, contains a short list of examples, such as milk, sour cream and eggs.⁹²

⁸⁶ Regulatory Act of the November 16 on consumer protection in the indication of the prices of certain products per unit and pre-packaged products offered to consumers. Different: EIM-Study "Appraisal of Directive 98/6/EC on consumer protection in the indication of unit prices of products offered to consumers", p. 43, table 6.

⁸⁷ § 13(1) of the Marketing Practices Act.

⁸⁸ Only auctions are excluded.

⁸⁹ Only works of art and antiques are exempt if such products carry a clear indication, which allows for their identification on a price list.

⁹⁰ Only auctions are excluded.

⁹¹ Price Information Act 1991:601.

⁹² Article 12 of the Cabinet Regulation No 178 "Procedures for Displaying Prices of Products and Services".

Several member states have excluded automatic vending machines from the obligation to indicate the unit price. They are: BELGIUM⁹³, the CZECH REPUBLIC⁹⁴, GREECE⁹⁵, HUNGARY⁹⁶, ITALY⁹⁷, IRELAND⁹⁸, LITHUANIA⁹⁹, the NETHERLANDS¹⁰⁰, PORTUGAL, ROMANIA¹⁰¹, SLOVAKIA¹⁰² and SPAIN¹⁰³. GERMANY only exempts automatic vending machines for food and beverages.¹⁰⁴ The UNITED KINGDOM excludes only those automatic vending machines which sell bread made up in a prescribed quantity and products which are pre-packaged in a constant quantity.¹⁰⁵ In CYPRUS, after the amendment effected to the original transposition law by Law 136(I)/2005, the exception for vending machines is no longer applicable.

Many member states have exempted products sold in quantities below certain limits. These limits range from 5g or 5ml in CYPRUS and LITHUANIA¹⁰⁶, less than 10g or ml in GERMANY, less than 15g or ml in the NETHERLANDS, less than 20g or ml in AUSTRIA, less than 50g or ml in ESTONIA, GREECE, HUNGARY, PORTUGAL¹⁰⁷, ROMANIA¹⁰⁸, SLOVAKIA and SPAIN to 100g or ml in LUXEMBOURG.

Further exemptions are rather specific. BELGIUM has exempted ice cream and snacks sold for immediate consumption, products consumed on the premises in restaurants, hotels and bars

⁹³ Article 10(2) of the Royal Decree of 30 June 1996 concerning the indication of the price of products and services and the order form.

⁹⁴ Article 13(9)(j) of the Act on Prices No. 526/1990.

⁹⁵ Article 5 Table I, sent. 3 of the Ruling of the Ministries of Economics and Development Z1-404/2001.

⁹⁶ Article 4(2)(b) of the Decree No. 7/2001. (III.29.) on the indication of the prices of products and services offered to consumers.

⁹⁷ Article 4(1)(c) of the Legislative Decree of 25 February 2000 No. 84 "Implementation of Directive 98/6/EC on consumer protection in the indication of the prices of products offered to consumers".

⁹⁸ Article 5(2)(f) of the Requirements to Indicate Product Prices Regulations.

⁹⁹ Article 29.6.3 of the Rules of Labelling of Items (Goods) and Indication of Prices

¹⁰⁰ Annex II lit. D of the Decree of 21 May 2003, containing rules in regard to the indication of prices as replacement for the Decree price-indication on goods 1980.

¹⁰¹ Article 9(d) of Decision 947 of 13 October 2000.

¹⁰² Article 4 of the Price Indication Decree 545/2002: only in the case of goods sold in vending machines for food and beverages.

¹⁰³ Annex I lit. (c) of the Royal Decree 3423/2000 of December 15 on the regulation of the indication of prices of the products offered to the consumers and users.

¹⁰⁴ § 9(4)(5) of the Price Indication Regulation.

¹⁰⁵ Regulation 5(3) lit. c and d of the Price Marking Order 2004.

¹⁰⁶ Article 29.6.2 of the Rules of Labeling of Items (Goods) and Indication of Prices

¹⁰⁷ Or above 10 kg or 10 l. Cf. Art. 4(2)(g) of the Decree-Law 130/90 of April 26.

¹⁰⁸ As well as those products pre-packaged in quantities above 10 kilograms or litres; eg. Article 9(b) of Decision 947 of 13 October 2000.

etc. and, furthermore, wine sold in bottles of 75 cl.¹⁰⁹ GERMANY excludes beverages, chewing tobacco, cosmetics, perfumes and products sold at a reduced price because the sell-by date is almost at an end. Italy has exempted products of various types included in the same package; pre-cooked, or prepared foodstuffs, or those to be prepared, formed of two or more separate items contained in a single package, requiring additional preparation by the consumer before the finished product is obtained; single-portion ice-creams and non-food products that can only be sold individually.¹¹⁰ FINLAND has chosen to exclude chocolate eggs, decorative sweets, pastries and confectionary products.¹¹¹ Romania has exempted foodstuffs to be consumed on certain premises¹¹² as well as assorted products sold in one single packaging, where the unit price of each product may create confusion, and the indication of the price of a single product may be misleading, advertising displayed for a short period of time and special offers where the price was reduced because of the deterioration of the product and/or because of the danger that it may deteriorate.¹¹³ According to BULGARIAN law traders are only allowed to indicate the selling price where they sell products in a single package. Moreover, the Minister of Economy issues provisions on the indication of prices of some types of products and services. The SPANISH Annex I of the Royal Decree 3423/2000 also excludes “individual portions of ice cream” (lit. d), “wines with geographic nomination” (lit. e) and “alcoholic drinks with geographic nomination” (lit. f). Other member states, e.g., BELGIUM, the NETHERLANDS, ITALY and SPAIN have exempted “fantasy” packages or products.¹¹⁴

Article 5 para 2 of Directive 98/6 allows the member states to establish a list of non-food products or product categories to which the obligation to indicate the unit price shall remain applicable. Only BELGIUM, FRANCE, LUXEMBOURG and ROMANIA have enacted a detailed list on non-food products, France also has a list on food products.

¹⁰⁹ Article 11 of the Royal Decree of 30 June 1996 concerning the indication of the price of products and services and the order form.

¹¹⁰ Article 16(1) of the Consumer Code.

¹¹¹ Article 7(1) 3rd indent Regulation on Price Indications in Marketing of Consumer Goods.

¹¹² Cf. Art. 9(a) of Decision 947 of 13 October 2000: public catering units, tourist accommodation facilities, cinema halls, theatres, education establishments, hospitals, hostels and camps for children and youth.

¹¹³ Cf. Art. 9(e) of Decision 947 of 13 October 2000.

¹¹⁴ BELGIUM: Art. 11(6) of the Royal Decree of 30 June 1996 concerning the indication of the price of products and services and the order form; Netherlands: Annex II A. Decree of 21 May 2003, containing rules in regard to the indication of prices as replacement for the Decree price-indication on goods 1980: fantasy products and packaging which are offered. E.g. Chocolate Santa Claus, where the package is more important for the consumer than the product itself.

Spain: Annex I lit. g Royal Decree 3423/2000 of December 15, on the regulation of the indication of prices of the products offered to the consumers and users of nutritional products.

Such variations can make it very difficult to predict the details of the price indication laws of the member states. This may cause traders to indicate unit prices just by way of precaution, if they want to trade abroad. In the case that the indication of unit prices is costly, this necessity could deter the trader from doing business in other member states and therefore constitute a barrier to trade. Therefore concretising this option along the lines of the national transposition laws drawn might be considered. Another possibility would be to replace the option in Art. 5 with a general clause which simply reads that there is no obligation to indicate the unit price for products for which it is obvious that such indication is not useful because of the product's nature or purpose or if it creates confusion. This would leave it to the courts (and to the ECJ).

4. Indication if unit price were to constitute an excessive burden for certain small retail businesses

Again, a majority of the member states have made use of the option excluding the obligation to indicate the unit price in cases where it constitutes an excessive burden. Member states have implemented different criteria to protect small retail businesses. Only some characteristic examples shall be pointed out here.

Some member states have stated provisions that exempt shops depending on the total sales area. The relevant sales area ranges from less than 50m² in GREECE¹¹⁵, less than 150 m² in SLOVAKIA¹¹⁶, less than 280m² in the UNITED KINGDOM, less than 400m² in LUXEMBOURG and the CZECH REPUBLIC to 500m² in SLOVENIA¹¹⁷. In BELGIUM, the indication of the unit price is not required for pre-packaged products that are sold in pre-determined quantities when they are sold by sellers whose sales area is less than 150m².¹¹⁸

¹¹⁵ Article 6 (a) of the Decision of the Ministry of Trade No. Z1-404.

¹¹⁶ Article 4(a) of the Price Indication Decree 545/2002.

¹¹⁷ Article 15 Rules on Price Indication for Goods and Services (issued by the Minister for the Economy).

¹¹⁸ Article 12bis of the Royal Decree of 30 June 1996 concerning the indication of the price of products and services and the order form. This provision has been implemented by an amendment decree of 21 September 2004.

Other member states use a certain number of employees as a criterion. AUSTRIA excludes sole traders with up to 9 employees and enterprises operating with up to 50 employees.¹¹⁹ In the NETHERLANDS, businesses with up to five full-time employees are exempt.

Member states like the CZECH REPUBLIC¹²⁰, GERMANY¹²¹, GREECE¹²², SLOVAKIA¹²³ and the NETHERLANDS¹²⁴ distinguish between shops where consumers are served, which are exempt from the obligation, and self-service stores, which are not exempt.

In the UNITED KINGDOM, the option in Article 6 has been utilised in respect of bread made up in a prescribed quantity as well as any product pre-packaged in a constant quantity, offered for sale in a small shop, by an itinerant trader, or from a vending machine.

Some member states have exempted *itinerant traders* from the obligation to indicate the unit price, such as AUSTRIA, ESTONIA and IRELAND. ROMANIA has excluded pre-packaged products sold by itinerant traders.¹²⁵ The UNITED KINGDOM has chosen to exclude only those itinerant traders, who sell bread made up in a prescribed quantity and products which are pre-packaged in a constant quantity.¹²⁶ CYPRUS initially excluded both small retail businesses and itinerant traders but after the amendment effected to the original transposition law by Law 136(I)/2005, these exceptions are no longer applicable.

ITALY, PORTUGAL, SLOVAKIA and SPAIN have implemented derogations for a transitional period. These periods expired in Portugal on 14 May 2002¹²⁷, in Italy on 1 March 2002¹²⁸, in Slovakia on the date the Treaty of Accession to the EU came into force¹²⁹ and in Spain on 30 June 2002. In Spain, legislative competence has been delegated to the Autonomous Communities which now have the faculty to establish a transitional period to indicate the unit price for products pre-wrapped in pre-fixed quantities and distributed by small retail

¹¹⁹ Article 10b(3) of the Price Indication Act.

¹²⁰ Article 13(9) lit. b of the Act on Prices No. 526/1990.

¹²¹ § 9(4)(3) of the Price indication regulation.

¹²² Article 6(e) of the Ruling of the ministry of economics and development - No. Z1-404-2001.

¹²³ Article 4 of the of the Price Indication Decree.

¹²⁴ Annex I lit. H 1st indent of the Decree of 21 May 2003, containing rules in regard to the indication of price.

¹²⁵ Article 9(d) of Decision 947 of 13 October 2000.

¹²⁶ Regulation 5(3) lit. (c) and (d) of the Price Marking Order 2004.

¹²⁷ Article 2(2) of the Decree-Law 162/99 of May 13.

¹²⁸ Article 7(1) of the Legislative Decree of 25 February 2000 No. 84 "Implementation of Directive 98/6/EC on consumer protection in the indication of the prices of products offered to consumers".

¹²⁹ Article 6 of the Price Indication Decree.

businesses where the sale is concluded by a seller who deals personally with the customer and offers the products, and also in the case of itinerant traders.

The CZECH REPUBLIC stated the 1 May 2014 as the expiry date.¹³⁰ The majority of the member states have implemented the exemptions for small retail businesses without a time limit. This is contrary to Directive 98/6.

BULGARIA, DENMARK, FINLAND, HUNGARY, LITHUANIA, POLAND and SWEDEN have not made use of the option provided by Directive 98/6.

Use of Option	Member States
Yes	AT, BE, CY, CZ, DE, EE, EL, ES, FR, IE, IT, LV, LU, MT, NL, PT, RO, SK, SL, UK (20)
No use	BG, DK, FI, HU, LT, PL, SE (7)

The variations of the individual transpositions in the member states can make it very difficult to predict the details of the Price Indication laws of a foreign member state. This could be removed by a more precise definition of small trader, which could be drafted along the criteria already contained in Art. 6.

¹³⁰ According to Art. II of the Act on Prices No. 526/1990 as amended by an Act 276/2002 and 124/2003.

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<i>Consumer Law Compendium</i>	<i>Comparative Analysis</i>	609
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