Commission Implementing Decision (EU) 2019/1766 of 23 October 2019 amending Implementing Decision (EU) 2019/436 as regards harmonised standard EN ISO 19085-3:2017 for numerically controlled boring and routing machines

COMMISSION IMPLEMENTING DECISION (EU) 2019/1766

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THE EUROPEAN COMMISSION,

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

Having regard to Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC[(1)], and in particular Article 10 thereof,

Whereas:

(1) In accordance with Article 7 of Directive 2006/42/EC, machinery manufactured in conformity with a harmonised standard, the references to which have been published in the *Official Journal of the European Union*, is to be presumed to comply with the essential health and safety requirements covered by such a harmonised standard.

(2) By letter M/396 of 19 December 2006 the Commission made a request to CEN and CENELEC for the drafting, the revision and the completion of the work on harmonised standards in support of Directive 2006/42/EC to take account of changes introduced by that Directive in comparison with Directive 98/37/EC of the European Parliament and of the Council[(2)].

(3) On the basis of the request M/396 of 19 December 2006, CEN drafted the new harmonised standard EN ISO 19085-3:2017.

(4) The Commission together with the CEN has assessed whether the EN ISO 19085-3:2017 drafted by the CEN comply with the request M/396 of 19 December 2006.

(5) In December 2017, Germany raised a formal objection in accordance with Article 10 of Directive 2006/42/EC in respect of standard EN ISO 19085-3:2017 ’Woodworking machines – Safety requirements – Part 3: Numerically controlled (NC) boring and routing machines’.

(6) The formal objection raised by Germany is based on the failure of point 6.6.2.2.3.1 of standard EN ISO 19085-3:2017, dealing with the prevention of access to tools and other moving parts of the machine, to comply with the essential health and safety requirements set out in point 1.4.1 of Annex I to Directive 2006/42/EC.

(7) Having examined the standard EN ISO 19085-3:2017 together with the representatives of the committee established by Article 22 of Directive 2006/42/EC and the

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Decision (EU) 2019/1766. (See end of Document for details)*

representatives of the committee established by Article 22 of the Regulation (EU) No 1025/2012 of the European Parliament and of the Council[3], the Commission concluded that the standard fails to meet one of the essential health and safety requirements set out in point 1.4.1. of Annex I to Directive 2006/42/EC, namely the requirement stating that guards and protective devices must not be easy to by-pass. In particular, the standard includes technical specifications for the access to the moving parts of the machine through the area between the machine frame and the lateral machine fences, but it does not address the design or protection of the machine frame itself, which in some cases may be low enough to be by-passed. Standard EN ISO 19085-3:2017 should therefore be published in the *Official Journal of the European Union* with restriction.

(8) References of harmonised standards drafted in support of Directive 2006/42/EC are published in Commission Implementing Decision (EU) 2019/436[4]. In order to ensure that all references of harmonised standards drafted in support of Directive 2006/42/EC are listed in the same act, the reference of standard EN ISO 19085-3:2017 should be included in an Annex to that Decision. Implementing Decision (EU) 2019/436 should therefore be amended accordingly.

(9) Compliance with a harmonised standard confers a presumption of conformity with the corresponding essential requirements set out in Union harmonisation legislation from the date of publication of the reference of such standard in the *Official Journal of the European Union*. This Decision should therefore enter into force on the date of its publication,

HAS ADOPTED THIS DECISION:

Article 1

Annex II to Implementing Decision (EU) 2019/436 is amended in accordance with the Annex to this Decision.

Article 2

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Done at Brussels, 23 October 2019.

For the Commission

The President

Jean-Claude JUNCKER