Commission Implementing Decision (EU) 2019/1728 of 15 October 2019 on harmonised standards for toys drafted in support of Directive 2009/48/EC of the European Parliament and of the Council

COMMISSION IMPLEMENTING DECISION (EU) 2019/1728

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THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council[(1)], and in particular Article 10(6) thereof,

Whereas:

(1) In accordance with Article 13 of Directive 2009/48/EC of the European Parliament and of the Council[(2)], toys 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*, are to be presumed to be in conformity with the requirements covered by those standards or parts thereof set out in Article 10 of Directive 2009/48/EC and Annex II to that Directive.

(2) By letter M/445 of 9 July 2009 the Commission made a request to the European Committee for Standardisation (CEN) and the European Committee for Electrotechnical Standardisation (Cenelec) for the drafting of new and the revision of existing harmonised standards in support of Directive 2009/48/EC.

(3) Directive 2009/48/EC lays down, in point 13 of Part III of Annex II thereto, migration limits for 19 elements, from toys or components of toys, that must not be exceeded. However, these migration limits do not apply if any hazard can be excluded, such as by the inaccessibility of a toy component possibly including one or several elements.

(4) On the basis of the request M/445 of 9 July 2009, CEN revised harmonised standard EN 71-3:2013+A3:2018 on migration of certain elements, the reference of which has been published in the *Official Journal of the European Union*[(3)], in order to include the latest technical and scientific progress into the test methods described in standard EN 71-3. This progress includes an improved measurement of chromium VI and of organic tin compounds, better controlled experimental conditions when carrying out the tests, and an improved structure of standard EN 71-3 to ease the practical application. This

resulted in the adoption of harmonised standard EN 71-3:2019 on migration of certain elements.

(5) The Commission together with CEN has assessed whether harmonised standard EN 71-3:2019 on migration of certain elements drafted by CEN complies with the request M/445 of 9 July 2009.

(6) Harmonised standard EN 71-3:2019 satisfies the requirements, which it aims to cover and which are set out in Directive 2009/48/EC. It is therefore appropriate to publish the reference of that standard in the *Official Journal of the European Union.*

(7) Harmonised standard EN 71-3:2019 replaces harmonised standard EN 71-3:2013+A3:2018. It is therefore necessary to withdraw the reference of that standard from the *Official Journal of the European Union*. In order to afford toy manufacturers sufficient time to adapt their products to the revised specifications in harmonised standard EN 71-3:2019, it is necessary to defer the withdrawal of the reference of harmonised standard EN 71-3:2013+A3:2018.

(8) In the interests of clarity and rationality, a complete list of references of harmonised standards drafted in support of Directive 2009/48/EC and satisfying the requirements they aim to cover should be published in one act. The references of European standards currently published in the *Official Journal of the European Union*[(4)] should therefore be included in this Decision. Consequently, it is also necessary to repeal Commission Implementing Decision (EU) 2019/1254[(5)].

(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

The references of the harmonised standards for toys drafted in support of Directive 2009/48/EC, listed in Annex I to this Decision, are hereby published in the *Official Journal of the European Union*.

Article 2

The references of the harmonised standards for toys drafted in support of Directive 2009/48/EC, listed in Annex II to this Decision, are hereby withdrawn from the *Official Journal of the European Union* as from the dates set out in that Annex.

Article 3

Implementing Decision (EU) 2019/1254 is repealed.

Article 4

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

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Decision (EU) 2019/1728. (See end of Document for details)*

Done at Brussels, 15 October 2019.

For the Commission

The President

Jean-Claude JUNCKER