DIRECTIVE 2000/9/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 20 March 2000

relating to cableway installations designed to carry persons

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 47(2) and Articles 55 and 95 thereof,

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the Economic and Social Committee [2],

Acting in accordance with the procedure laid down in Article 251 of the Treaty [3],

Whereas:

(1) Cableway installations designed to carry persons (hereinafter referred to as 'cableway installations') are designed, manufactured, put into service and operated with the object of carrying persons. Principally, cableway installations are mountain lift systems used in high-altitude tourist resorts and consisting of funicular railways, cable cars, gondolas, chairlifts and drag lifts, but may also consist of cableway installations used in urban transport facilities. Some types of cableway installation may use other, completely different basic principles which cannot be excluded *a priori*. Therefore, provision should be made for introducing specific requirements designed to achieve the same safety objectives as those laid down in this Directive.

(2) Cableway installations are principally operated in connection with tourism, particularly in mountain areas, which plays an important role in the economy of the regions concerned and is becoming an increasingly important factor in the trade balances of the Member States. From a technical point of view, the cableway installations sector also ranks among the industrial activities linked to the production of capital equipment and to activities in the building and civil engineering sector.

(3) Member States are responsible for ensuring the safety of cableway installations at the time of manufacture, putting into service and during operation. Moreover, they are responsible together with the competent authorities for such matters as land-use, regional planning and environmental protection. National regulations differ widely as a result of techniques peculiar to the national industry as well as local customs and knowhow. They stipulate specific dimensions and devices and particular characteristics. In the light of these circumstances, manufacturers are obliged to redefine their equipment for each market. This makes it difficult to provide standard solutions and adversely affects competitiveness.

(4) The essential health and safety requirements must be observed in order to ensure that cableway installations are safe. Those requirements are to be applied with discernment to take account of the state of the art at the time of construction and of technical and economic requirements.

(5) Further, cableway installations may straddle frontiers and the construction thereof may run up against conflicting national rules.

(6) Steps should be taken to define, on a Community-wide basis, essential human safety and health requirements, environmental protection and consumer protection requirements applicable to cableway installations, subsystems and their safety components. Without this, mutual recognition of national regulatory provisions would create insoluble political and technical difficulties as regards interpretation and liability. By the same token, standardisation without prior definition of harmonised regulatory requirements is not sufficient to solve the problems.

(7) Responsibility for approving cableway installations is generally vested in a service of the competent national authorities; in certain cases, approval of the components cannot be obtained beforehand but only when the customer applies for such approval. By the same token, the requisite inspection of the cableway installation prior to its entry into service may result in the rejection of certain components or in diverse technological solutions. Such a state of affairs leads to increased costs and longer delivery periods and is particularly penalising for foreign manufacturers. Moreover, cableway installations are also carefully monitored by the public services when they are operational. The causes of serious accidents may be linked to the choice of site, to the system of transport itself, to the structures, or to the way in which the system is operated and maintained.

(8) In these circumstances, the safety of cableway installations depends equally on the surrounding

[1] OJ C 70, 8.3.1994, p. 8 and OJ C 22, 26.1.1996, p. 12.
[2] OJ C 388, 31.12.1994, p. 26.
[3] Opinion of the European Parliament of 6 April 1995 (OJ C 109, 1.5.1995, p. 122), confirmed on 27 October 1999 (not yet published in the Official Journal), Council common position of 28 June 1999 (OJ C 243, 27.8.1999, p. 1) and Decision of the European Parliament of 27 October 1999 (not yet published in the Official Journal). Council Decision of 16 December 1999.

conditions, on the quality of the industrial goods supplied and on the way in which they are assembled, installed on site and monitored during operation. This underlines the importance of having a general overview of cableway installations in order to assess the level of safety and of adopting a common approach at Community level to quality assurance. In these circumstances, in order to enable manufacturers to overcome their present difficulties and in order to enable users to derive the full benefit from cableway installations and to enjoy an equal level of development in all Member States, a set of requirements should be defined, together with control and inspection procedures to be applied uniformly in all Member States.

(9) Persons using cableways, from all Member States and beyond, must be ensured a satisfactory level of safety. In order to meet this requirement, it is necessary to define procedures and examination, control and inspection methods. This necessitates the use of standardised technical devices which must be incorporated in cableway installations.

(10) Where Council Directive 85/337/EEC [1] so requires, the effects of cableway installations on the environment must be assessed; above and beyond the effects mentioned in that Directive, both environmental protection and requirements in connection with the sustainable development of tourism should be taken into account.

(11) Cableway installation may come within the scope of Council Directive 93/38/EEC of 14 June 1993 coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors [2].

(12) Technical specifications should be included in the general documentation or in the technical specifications peculiar to each contract. Those technical specifications must be defined by reference to European specifications where such specifications exist.

(13) In order to make it easier to prove that the essential requirements have been complied with, it is useful to have harmonised European standards, compliance with which enables it to be presumed that the product is in conformity with the said essential requirements. Harmonised European standards are drawn up by private bodies and must retain their non-mandatory status. For this purpose, the European Committee for Standardisation (CEN) and the European Committee for Electrotechnical Standardisation (Cenelec) are recognised as the bodies competent to adopt harmonised standards that follow the general guidelines for cooperation between the Commission and those two bodies signed on 13 November 1984.

(14) For the purposes of this Directive, a harmonised standard is a technical specification (European standard or harmonisation document) adopted by one or other of those bodies, or by both, at the request of the Commission pursuant to Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on information society services [3] and in accordance with the general guidelines referred to above. In relation to standardisation, the Commission should be assisted by the committee referred to in that Directive, which will, if necessary, consult technical experts.

(15) Only safety components or subsystems of an installation which conform to a national standard transposing a harmonised standard the reference of which has been published in the *Official Journal of the European Communities*, are deemed to conform to the relevant essential requirements of this Directive, regardless of the need for any special justification.

(16) In the absence of European specifications, the technical specifications should as far as possible be defined by reference to other standards in use in the Community. Main contractors may define the additional specifications needed to supplement the European specifications or other standards. These provisions must ensure that the harmonised Community-level requirements with which cableway installations must comply are satisfied.

(17) It is, moreover, in the interest of the Member States to have an international standardisation system capable of producing standards which are actually used by international trading partners and satisfy the requirements of Community policy.

(18) In certain Member States at the moment in the general documentation or specifications peculiar to each contract, main contractors may indicate the control and inspection procedures. Those procedures must in future, notably in the case of safety components, fall within the framework of the Council resolution of 21 December 1989 concerning a global approach to conformity assessment [4]. The concept of safety component applies not only to physical objects but also to intangible objects such as software. The procedures for assessing the conformity of safety components must be based on use of the modules provided for in Council Decision 93/465/EEC [5]. In the case of critical safety components, the principles and conditions for the application of design quality assurance should be defined; such an approach is necessary in order to

[1] Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ L 175, 5.7.1985, p. 40). Directive as last amended by Directive 97/11/EC (OJ L 73, 14.3.1997, p. 5).

[2] OJ L 199, 9.8.1993, p. 84. Directive as last amended by Directive 98/4/EC (OJ L 101, 1.4.1998, p. 1).

[3] OJ L 204, 21.7.1998, p. 37. Directive as amended by Directive 98/48/EC (OJ L 217, 5.8.1998, p. 18).

[4] OJ C 10, 16.1.1990, p. 1.

[5] Council Decision 93/465/EEC of 22 July 1993 concerning the modules for the various phases of the conformity assessment procedures and the rules for the affixing and use of the CE conformity marking, which are intended to be used in the technical harmonisation Directives (OJ L 220, 30.8.1993, p. 23).

promote the general adoption of the quality assurance system in undertakings.

(19) When conducting methodical safety analysis of cableway installations, it is necessary to identify the components on which the safety of the cableway installation depends.

(20) In their contractual documents, main contractors lay down, by reference to European specifications, the characteristics which manufacturers are under a contractual obligation to observe, particularly for safety components. In these circumstances, the conformity of the components is linked principally to their field of use and not solely to free movement on the Community market.

(21) Safety components should bear the CE marking to be affixed either by the manufacturer or by his authorised representative established within the Community. The CE marking means that the safety component complies with the provisions of this Directive and those of other applicable Community Directives on CE marking.

(22) It is not necessary to affix the CE marking to subsystems subject to the provisions of this Directive but, on the basis of the assessment of conformity following the procedures laid down for this purpose in this Directive, the declaration of conformity will suffice. This is without prejudice to the obligation incumbent on manufacturers to affix the CE marking to certain subsystems in order to certify that they conform with other Community provisions applicable to them.

(23) Member States' responsibility for safety, health and other aspects covered by the essential requirements on their territory must be recognised in a safeguard clause providing for the appropriate Community procedures.

(24) A procedure is necessary for the inspection of subsystems of cableway installations before they are put into service. Such inspection must enable the authorities to satisfy themselves that at each stage of the design, manufacturing and entry into service, the result obtained conforms with the applicable provisions of this Directive. This must enable manufacturers to count on equal treatment, irrespective of the Member State in question. The principles and conditions governing EC verification of subsystems of installations should therefore be defined.

(25) The constraints linked to the operation of cableway installations must be taken into account in the safety analysis, albeit not in such a way as to jeopardise the principle of free movement of goods or the safety of cableway installations. Consequently, although this Directive does not cover the actual operation of cableway installations, the Commission should propose to the Member States a series of recommendations designed to ensure that such installations situated on their territory are operated in such a way as to offer users, operating personnel and third parties a high degree of protection.

(26) In the case of cableway installations, full-scale tests can be carried out on technological innovations only on the construction of a new installation. In these circumstances, a procedure should be provided for which, while ensuring that the essential requirements are complied with, also enables special conditions to be established.

(27) Cableway installations for which authorisation has been given but in connection with which building work has not yet started or which are already under construction must comply with the provisions of this Directive, unless Member States decide otherwise, giving their reasons, and an equally high level of protection is achieved. The provisions of this Directive must be complied with where existing cableway installations are modified if national legislation requires such modifications to be authorised.

(28) It is not necessary to require all existing cableway installations to be brought into conformity with the provisions applicable to new installations. However, this may prove necessary if the essential safety objectives are not complied with. In that event, the Commission should propose to the Member States a series of recommendations designed to ensure that existing cableway installations on their territory afford users a high degree of protection in the light of the provisions applicable in this field to new installations.

(29) Particularly in the absence of a European specification, the notified bodies responsible for procedures for assessing the conformity both of safety components and of subsystems of cable installations must coordinate their decisions as closely as possible. The Commission must ensure that they do so.

(30) Implementation of the essential requirements, particularly with regard to the safety of the installation, and coordination of all procedures call for the establishment of a committee.

(31) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission [1],

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

GENERAL PROVISIONS

Article 1

1. This Directive shall apply to cableway installations designed to carry persons.

2. For the purposes of this Directive 'cableway installations designed to carry persons' shall mean installations made up of several components, designed, manufactured, assembled and put into service with the object of carrying persons.

[1] OJ L 184, 17.7.1999, p. 23.

These on-site installations are used for the carriage of persons in vehicles or by towing devices, whereby the suspension and/or traction is provided by cables positioned along the line of travel.

3. The installations concerned are:

(a) funicular railways and other installations with vehicles mounted on wheels or on other suspension devices where traction is provided by one or more cables;

(b) cable cars where the cabins are lifted and/or displaced by one or more carrier cables; this category also includes gondolas and chair lifts;

(c) drag lifts, where users with appropriate equipment are dragged by means of a cable.

4. This Directive shall apply to:

— installations built and put into service, as from its entry into force,

— subsystems and safety components placed on the market, as from its entry into force.

It concerns such harmonisation provisions as are necessary and sufficient in order to ensure and guarantee compliance with the essential requirements referred to in Article 3(1).

In the event that important characteristics, subsystems or safety components of existing installations undergo modifications for which a new authorisation for entry into service is required by the Member State in question, such modifications and their repercussions on the installation as a whole must satisfy the essential requirements referred to in Article 3(1).

5. For the purposes of this Directive:

— 'installation' shall mean the whole on-site system, consisting of infrastructure and the subsystems listed in Annex I where infrastructure specially designed for each installation and constructed on site shall mean the layout, system data, station structures and structures along the line, which are needed for the construction and the operation of the installation, including the foundations,

— 'safety component' shall mean any basic component, set of components, subassembly or complete assembly of equipment and any device incorporated in the installation for the purpose of ensuring a safety function and identified by the safety analysis, the failure of which endangers the safety or health of persons, be they users, operating personnel or third parties,

— 'main contractor' shall mean any natural or legal person who commissions the construction of an installation,

— 'operability' shall mean all the technical provisions and measures which have an impact on design and realisation and are necessary in order for the installation to operate safely,

— 'maintainability' shall mean all the technical provisions and measures which have an impact on design and realisation and are necessary for maintenance designed to ensure that the installation operates safely.

6. This Directive shall not apply to:

— lifts within the meaning of Directive 95/16/EC [1],

— cable-operated tramways of traditional construction,

— installations used for agricultural purposes,

— on-site or mobile equipment for use in fairgrounds and/or amusement parks which are designed for leisure purposes and not as a means for transporting persons,

— mining installations or on-site installations used for industrial purposes,

— cable-operated ferries,

— rack railways,

— chain-driven installations.

Article 2

1. This Directive shall apply without prejudice to other Community Directives, although compliance with the essential requirements laid down in this Directive may call for the application of special European specifications established for that purpose.

2. 'European specification' shall mean a common technical specification, a European technical approval or a national standard transposing a European standard.

3. The references of European specifications, which may be common technical specifications, European technical approvals within the meaning of Directive 93/38/EEC or national standards used to transpose harmonised European standards, shall be published in the *Official Journal of the European Communities*.

4. Member States shall publish the references of national standards used to transpose harmonised European standards.

5. In the absence of harmonised European standards, Member States shall take the necessary measures to inform parties concerned of those existing national standards and technical specifications which are regarded as important or useful for ensuring proper transposition of the essential requirements referred to in Article 3(1).

[1] Directive 95/16/EC of the European Parliament and of the Council of 29 June 1995 on the approximation of the laws of the Member States relating to lifts (OJ L 213, 7.9.1995, p. 1).

6. Those technical specifications which are also required to supplement European specifications or other standards must not jeopardise compliance with the essential requirements referred to in Article 3(1).

7. Where a Member State or the Commission considers that a European specification as referred to in paragraph 2 does not entirely satisfy the essential requirements referred to in Article 3(1), the Commission or the Member State concerned shall bring the matter before the committee referred to in Article 17 giving the reasons therefor. The committee shall deliver an opinion without delay.

In the light of the committee's opinion and following consultations with the committee set up pursuant to Directive 98/34/EC in the case of harmonised European standards, the Commission shall inform the Member States whether or not it is necessary to withdraw the European specifications in question from the published information referred to in paragraph 3.

Article 3

1. The installations and their infrastructure, subsystems and safety components of an installation must comply with the essential requirements which are laid down in Annex II and are applicable to them.

2. Where a national standard transposing a harmonised European standard the reference for which has been published in the *Official Journal of the European Communities* covers the essential safety requirements laid down in Annex II, the installations and their infrastructure, subsystems and safety components of any installation constructed in accordance with the standard shall be presumed to comply with the relevant essential requirements.

Article 4

1. At the request of the main contractor or his authorised representative, all planned installations shall be subject to a safety analysis as defined in Annex III which covers all safety aspects of the system and its surroundings in the context of the design, realisation and putting into service and makes it possible to identify from past experience risks liable to occur during operation.

2. The safety analysis shall be the subject of a safety report recommending the measures envisaged to deal with any such risks and including a list of the safety components and subsystems which must be covered by the provisions of Chapter II or III, as the case may be.

CHAPTER II

SAFETY COMPONENTS

Article 5

1. Member States shall take all necessary measures to ensure that safety components:

— are placed on the market only if they permit the construction of installations complying with the essential requirements referred to in Article 3(1),

— are put into service only if they permit the construction of installations which are not liable to endanger the health or safety of persons or, where applicable, the safety of property when properly installed and maintained and used for their intended purpose.

2. This Directive shall not affect Member States' entitlement to lay down, in compliance with the Treaty, such requirements as they may deem necessary to ensure that persons and in particular workers are protected when using the installations in question, provided that this does not mean that the installations are modified in a way not specified in the Directive.

Article 6

Member States may not, on the basis of this Directive, prohibit, restrict or impede the placing on their national markets of safety components intended to be used in an installation where such components comply with the provisions of this Directive.

Article 7

1. Member States shall regard safety components referred to in Article 4(2) bearing the CE conformity marking shown in Annex IX and accompanied by the EC declaration of conformity provided for in Annex IV as conforming with all the relevant provisions of this Directive.

2. Before a safety component is placed on the market, the manufacturer or his authorised representative established in the Community must:

(a) submit the safety component to a conformity assessment procedure in accordance with Annex V, and

(b) affix the CE conformity marking on the safety component and, on the basis of the modules laid down in Decision 93/465/EEC, draw up an EC declaration of conformity in accordance with Annex IV.

3. The procedure for assessing safety component conformity shall be carried out at the request of the manufacturer or his authorised representative established in the Community by the notified body referred to in Article 16 and appointed by him for this purpose.

4. Where the safety components are subject to other Directives concerning other aspects and which also provide for the affixing of the CE conformity marking, the marking shall indicate that the safety component is also presumed to conform to the provisions of those other Directives.

5. Where neither the manufacturer nor his authorised representative established in the Community has complied with the obligations of paragraphs 1 to 4, those obligations shall devolve on whomsoever places the safety component on the market in the Community. The same obligations shall apply to whomsoever manufactures safety components for his own use.