# COUNCIL DIRECTIVE 93/44/EEC

## of 14 June 1993

## amending Directive 89/392/EEC on the approximation of the laws of the Member States relating to machinery

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission (1),

In cooperation with the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas lifting persons entails specific hazards for the persons lifted; whereas those hazards are not covered by the essential health and safety requirements laid down by Council Directive 89/392/EEC of 14 June 1989 on the approximation of the laws of the Member States relating to machinery (4);

Whereas, for the type of machinery in question, there is no reason to provide for different conformity assessment modules from those initially provided for in Directive 89/392/EEC for machinery in general;

Whereas additional essential health and safety requirements to cover the risks run by lifted persons can be laid down by means of an amendment to Directive 89/392/EEC; whereas this amendment can be used to advantage to correct certain imperfections in the said Directive;

Whereas it is also necessary to deal with safety components which are placed on the market separately and the safety function of which is declared by the manufacturer or his authorized representative established in the Community;

Whereas the dates of implementation laid down in this Directive shall not alter the dates of implementation of Directive 89/392/EEC and Directive 91/368/EEC, which amended it,

(1) OJ No C 25, 1. 2. 1992, p. 8; and OJ No C 252, 29. 9. 1992, p. 3.
(2) OJ No C 241, 21. 9. 1992, p. 107; and OJ No C 72, 15. 3. 1993, p. 70.
(3) OJ No C 223, 31. 8. 1992, p. 60.
(4) OJ No L 183, 29. 6. 1989, p. 9. Directive as amended by Directive 91/368/EEC (OJ No L 198, 22. 7. 1991, p. 16).

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

Directive 89/392/EEC is hereby amended as follows:

1. Article 1 shall be amended as follows:

(a) the following subparagraph shall be added to paragraph 1:

'It shall also apply to safety components placed on the market separately.';

(b) the following subparagraph shall be added to paragraph 2:

'For the purposes of this Directive, *safety components* means a component, provided that it is not interchangeable equipment, which the manufacturer or his authorized representative established in the Community places on the market to fulfil a safety function when in use and the failure or malfunctioning of which endangers the safety or health of exposed persons.';

(c) paragraph 3 shall be amended as follows:

(i) the following indent shall be deleted:

'— lifting equipment designed and constructed for raising and/or moving persons with or without loads, except for industrial trucks with elevating operation position,';

(ii) the following indent:

'— cableways for the public or private transposition of persons,'

shall be replaced by:

'— cableways, including funicular railways, for the public or private transportation of persons,';

(iii) the following indents shall be added:

'— lifts which permanently serve specific levels of buildings and constructions, having a car moving between guides which are rigid and inclined at a angle of more than 15 degrees to the horizontal and designed for the transport of:

— persons,

— persons and goods,

— goods alone if the car is accessible, that is to say, a person may enter it without difficulty, and fitted with controls situated inside the car or within reach of a person inside,

— means of transport of persons using rack and pinion rail mounted vehicles,

— mine winding gear,

— theatre elevators,

— construction site hoists intended for lifting persons or persons and goods.';

(d) paragraph 4 shall be replaced by the following:

'4. Where, for machinery or safety components, the risks referred to in this Directive are wholly or partly covered by specific Community directives, this Directive shall not apply, or shall cease to apply, in the case of such machinery or safety components and of such risks on the implementation of these specific Directives.'

2. Article 2 shall be replaced by the following:

*'Article 2*

1. Member States shall take all appropriate measures to ensure that machinery or safety components covered by this Directive may be replaced on the market and put into service only if they do not endanger the health or safety of persons and, where appropriate, domestic animals or 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 due observance of the Treaty, such requirements as they may deem necessary to ensure that persons and in particular workers are protected when using the machinery or safety components in question, provided that this does not mean that the machinery or safety components are modified in a way not specified in the Directive.

3. At trade fairs, exhibitions, demonstrations, etc., Member States shall not prevent the showing of machinery or safety components which do not conform to the provisions of this Directive, provided that a visible sign clearly indicates that such machinery or safety components do not conform and that they are not for sale until they have been brought into conformity by the manufacturer or his authorized representative established in the Community. During demonstrations, adequate safety measures shall be taken to ensure the protection of persons.';

3. Article 3 shall be replaced by the following:

*'Article 3*

Machinery and safety components covered by this Directive shall satisfy the essential health and safety requirements set out in Annex I.';

4. Article 4 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

'1. Member States shall not prohibit, restrict or impede the placing on the market and putting into service in their territory of machinery and safety components which comply with this Directive.';

(b) the following paragraph shall be added:

'3. Member States may not prohibit, restrict or impede the placing on the market of safety components as defined in Article 1 (2) where they are accompanied by an EC declaration of conformity by the manufacturer or his authorized representative established in the Community as referred to in Annex II, point C.';

5. Article 5 (1) and (2) shall be replaced by the following:

'1. Member States shall regard the following as conforming to all the provisions of this Directive, including the procedures for checking the conformity provided for in Chapter II:

— machinery bearing the CE marking and accompanied by the EC declaration of conformity referred to in Annex II.A.,

— safety components accompanied by the EC declaration of conformity referred to in Annex II.C.

In the absence of harmonized standards, Member States shall take any steps they deem necessary to bring to the attention of the parties concerned the existing national technical standards and specifications which are regarded as important or relevant to the proper implementation of the essential safety and health requirements in Annex I.

2. Where a national standard transposing a harmonized standard, the reference for which has been published in the *Official Journal of the European Communities,* covers one or more of the essential safety requirements, machinery or safety components constructed in accordance with this standard shall be presumed to comply with the relevant essential requirements.

Member States shall publish the references of national standards transposing harmonized standards.';

6. Article 7 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

'1. Where a Member State ascertains that

— machinery bearing the CE marking,

or

— safety components accompanied by the EC declaration of conformity,

used in accordance with their intended purpose are liable to endanger the safety of persons, and, where appropriate, domestic animals or property, it shall take all appropriate measures to withdraw such machinery or safety components from the market, to prohibit the placing on the market, putting into service or use thereof, or to restrict free movement thereof.

The Member States shall immediately inform the Commission of any such measure, indicating the reason for its decision and, in particular, whether non-conformity is due to:

(a) failure to satisfy the essential requirements referred to in Article 3;

(b) incorrect application of the standards referred to in Article 5 (2);

(c) shortcomings in the standards referred to in Article 5 (2) themselves.';

(b) paragraph 3 shall be replaced by the following:

'3. Where:

— machinery which does not comply bears the CE marking,

— a safety component which does not comply is accompanied by an EC declaration of conformity,

the competent Member State shall take appropriate action against whomsoever has affixed the marking or drawn up the declaration and shall so inform the Commission and other Member States.';

7. Article 8 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

'1. The manufacturer or his authorized representative established in the Community must, in order to certify that machinery and safety components are in conformity with this Directive, draw up for all machinery or safety component manufactured an EC declaration of conformity based on the model given in Annex II, A or C as appropriate.

In addition, for machinery alone, the manufacturer or his authorized representatives established in the Community must affix to the machine the CE marking referred to in Article 10.';

(b) the following paragraph shall be inserted:

'4a. Safety components shall be subject to the certification procedures applicable to machinery pursuant to paragraphs 2, 3 and 4. Furthermore, during EC type-examination, the notified body shall verify the suitability of the safety component for fulfilling the safety functions declared by the manufacturer.';

(c) paragraph 6 shall be replaced by the following:

'6. Where neither the manufacturer nor his authorized representative established in the Community fulfils the obligations of the preceding paragraphs, these obligations shall fall to any person placing the machinery or safety component on the market in the Community. The same obligations shall apply to any person assembling machinery or parts thereof or safety components of various origins or constructing machinery or safety components for his own use.';

8. Article 9 (1) shall be replaced by the following:

'1. Each Member State shall notify the Commission and the other Member States of the bodies responsible for carrying out the certification procedures referred to in Article 8. The Commission shall publish a list of those bodies in the *Official Journal of the European Communities* for information and shall ensure that the list is kept up to date.';

9. Article 11 shall be replaced by the following:

'*Article 11*

Any decision taken pursuant to this Directive which restricts the placing on the market and putting into

service of machinery or a safety component shall state the exact grounds on which it is based. Such a decision shall be notified as soon as possible to the party concerned, who shall at the same time be informed of the legal remedies available to him under the laws in force in the Member State concerned and of the time limits to which such remedies are subject.';

10. Annex I shall be amended as follows:

(a) the title shall be replaced by the following:

'ESSENTIAL HEALTH AND SAFETY REQUIREMENTS RELATING TO THE DESIGN AND CONSTRUCTION OF MACHINERY AND SAFETY COMPONENTS';

(b) the following shall be added after this title:

'For the purposes of this Annex, 'machinery' means either 'machinery' or 'safety component' as defined in Article 1 (2).';

(c) the preliminary observations shall be supplemented by the following:

'3. The essential health and safety requirements have been grouped according to the hazards which they cover.

Machinery presents a series of hazards which may be indicated under more than one heading in this Annex.

The manufacturer is under an obligation to assess the hazards in order to identify all those which apply to his machine; he must then design and construct it taking account of his assessment.';

(d) in Section 1.2.4, the last paragraph concerning the emergency stop shall be replaced by the following:

'Once active operation of the emergency stop control has ceased following a stop command, that command must be sustained by engagement of the emergency stop device until that engagement is specifically overridden; it must not be possible to engage the device without triggering a stop command; it must be possible to disengage the device only by an appropriate operation, and disengaging the device must not restart the machinery but only permit restarting.';

(e) the following sections shall be added:

'1.5.14. *Risk of being trapped in a machine*

Machinery must be designed, constructed or fitted with a means of preventing an exposed person from being enclosed within it or, if that is impossible, with a means of summoning help.'

1.5.15. *Risk of slipping, tripping or falling*

Parts of the machinery where persons are liable to move about or stand must be designed and constructed to prevent persons slipping, tripping or falling on or off these parts.';

(f) the second paragraph of Section 1.6.2 shall be deleted;

(g) the first indent of Section 1.7.4 (a) shall be replaced by the following:

'— a repeat of the information with which the machinery is marked, except the serial number (see 1.7.3) together with any appropriate additional information to facilitate maintenance (e.g. addresses of the importer, repairers etc.),';

(h) Section 1.7.4 (b) shall be replaced by the following:

'The constructions must be drawn up in one of the Community languages by the manufacturer or his authorized representative established in the Community. On being put into service, all machinery must be accompanied by a translation of the instructions in the language or languages of the country in which the machinery is to be used and by the instructions in the original language. This translation must be done either by the manufacturer or his authorized representative established in the Community or by the person introducing the machinery into the language area in question. By way of derogation from this requirement, the maintenance instructions for use by specialized personnel employed by the manufacturer or his authorized representative established in the Community may be drawn up in only one of the Community languages understood by that personnel.';

(i) Section 1.7.4 (d) shall be replaced by the following:

'Any literature describing the machinery must not contradict the instructions as regards safety aspects. The technical documentation describing the machinery must give information regarding the airborne noise emissions referred to in (f) and, in the case of hand-held and/or hand-guided machinery, information regarding vibration as referred to in 2.2.';