

# Cableway installations

## Proposal for a new regulation

### SUMMARY

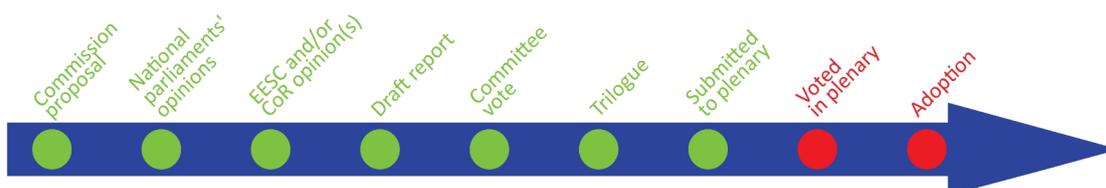
Around 17 500 cableway installations currently exist in Western Europe and the Alps, representing 60% of the global total. European industry has generally held a dominant position in the global cableway installations market, with the ski industry remaining the primary market for cableway technology.

The proposed regulation, covering the European Economic Area, is to replace Directive 2000/9/EC relating to cableway installations designed to carry persons. Its aim is to simplify the current rules, align them with the EU's New Legislative Framework, and address some problems experienced in implementing the existing Directive.

Given its predominantly technical nature, the new regulation was developed with input from experts via targeted consultations. The Commission's impact assessment revealed a broad consensus among Member States, manufacturers, notified bodies and stakeholders regarding the need to simplify and clarify the current rules. The European Economic and Social Committee issued an opinion on the proposal in 2014. On 10 November 2015, the Internal Market and Consumer Protection Committee of the European Parliament voted in favour of the interinstitutional agreement reached at informal trilogues between the Commission, Council and Parliament. The vote in plenary is expected in January 2016.

### Proposal for a regulation of the European Parliament and of the Council on cableway installations

<i>Committee responsible:</i>	Internal Market and Consumer Protection Committee (IMCO)	COM(2014)0187 of 27 March 2014
<i>Rapporteur:</i>	Antonio López-Istúriz White (EPP, Spain)	<i>procedure ref.:</i> 2014/0107(COD)
<i>Next steps expected:</i>	Vote in plenary: 19 January 2016	Ordinary legislative procedure



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## Introduction

On 27 March 2014, the Commission proposed a new [regulation](#) on cableway installations. Its main objective is to enhance legal certainty concerning the scope of existing [Directive 2000/9/EC](#) relating to cableway installations designed to carry persons and achieve better implementation of the relevant legal provisions.

The proposed regulation should replace the current Directive 2000/9/EC. It concerns the European Economic Area (EEA), covering the EU Member States, Iceland, Liechtenstein and Norway. As a regulation it is directly applicable and does not need additional transposition into the national law of Member States.

One of the main objectives of the proposal is to align the current legislation with the [New Legislative Framework](#), particularly [Decision EC No 768/2008](#) that aims to improve the internal market for goods and strengthen the conditions for releasing products to the market. The proposal also aims to address some problems experienced in implementing Directive 2000/9/EC, identified by stakeholders in the consultation process which preceded the Commission's impact assessment. In addition, the proposed regulation takes into account [Regulation \(EU\) No 1025/2012 on European Standardisation](#)<sup>1</sup> setting out a horizontal legal framework for European standardisation. It also takes account of the [proposal for a regulation](#) on market surveillance of products from 2013, which aims to simplify the EU market surveillance framework and improve its functioning for market surveillance authorities and economic operators.

## Context

According to the European Commission, around 17 500 cableway installations currently exist in western Europe and the Alps, representing 60% of the global total. The market for cableway installations is characterised by a high degree of specialisation. European industry has generally held a dominant position in the global cableway installations market, marked by its strong presence in the cableway installations market in the United States of America and in Asia. In recent years three large European industrial brands (Doppelmayr-Garaventa, Leitner and Poma) have gained notable positions on the global market, accounting for 80-90% of the industry worldwide. In addition, around 30 small and medium-sized cableway installations manufacturers also operate in Europe, along with around 80 suppliers of subsystems<sup>2</sup> and safety components<sup>3</sup> for cableways. The ski industry is still the primary market for cableway technology (accounting for [80% of the business](#)), followed by the urban transport industry.

## Existing situation

The existing Directive 2000/9/EC relating to cableway installations designed to carry persons has been applicable in the EU since May 2002. From May 2004, with [Decision No 115/2001](#), its applicability was extended to the European Economic Area (EEA), i.e. including Iceland, Liechtenstein and Norway. It applies to the following main types

of cableway installations: funicular railways,<sup>4</sup> gondolas, chair lifts and drag lifts.<sup>5</sup> These are used in high-altitude tourist resorts or in urban transport facilities. The Directive defines cableway installations designed to carry persons as installations made up of several components, designed, manufactured, assembled and put into service with the object of carrying persons.

The purpose of Directive 2000/9/EC is to allow for the free movement of safety components and subsystems of cableway installations in the internal market, while maintaining a uniform and high level of safety for cableway installations for users, workers and third parties. The Directive sets out essential safety requirements for cableway installations, their infrastructure, safety components and subsystems. It harmonises the conditions for release on the internal market and operation of subsystems and safety components intended to be incorporated into cableway installations. At the same time, the Directive states that Member States are responsible for ensuring the safety of cableway installations at the time of manufacture, installation and during operation. Member States also still remain competent to regulate other aspects related to cableway installations, such as land-use, regional planning and environmental protection. Under the current rules manufacturers have to demonstrate that their safety components and subsystems are compliant with the essential requirements, defined in the Directive, affix [CE marking](#)<sup>6</sup> and provide instructions for their incorporation into the cableway installation.

However, the European Commission impact assessment (IA) accompanying the new legislative proposal revising existing Directive 2000/9/EC identified certain aspects of the current framework which require improvements. Based on the feedback from Member States and sectoral stakeholders addressed in the Commission's IA, several problems were recognised.

Firstly, it has proved difficult for the authorities, manufacturers and notified bodies responsible to clearly identify certain installations as cableways. Difficulties include installations for both transport and leisure purposes (as the current Directive excludes equipment for leisure purposes from its scope) and small funiculars and inclined lifts (as the inclined lifts fall within the scope of [Directive 95/16/EC](#) relating to lifts). Secondly, distinguishing between safety components, subsystems and infrastructures as defined in the Directive gives rise to divergent interpretations. The problem here is also that safety components and subsystems are subject to the rules on free movement of goods and therefore to Community conformity assessment procedures, while fixed installations fall under a specific authorisation regime and remain within Member State competence. Infrastructure is also not subject to the rules on free movement of goods. Thirdly, the current Directive does not provide for specific conformity assessment procedures for subsystems, while it provides them for safety components, which may result in creation of legal uncertainty and distort the markets. Fourthly, several general horizontal problems<sup>7</sup> identified in the New Legislative Framework (NLF), and adopted in the meantime, have also been observed in the current Directive.

### **The changes the proposal would bring**

Two elements are required to define the cableway installations according to the new proposal: traction by cable and passenger transport function. While the scope of the proposed regulation broadly corresponds to the scope of the existing Directive 2000/9/EC covering cableway installations, their subsystems, safety components and infrastructure, the proposal also makes additional clarifications and

updates. It clarifies that the following are excluded from the scope of the regulation: lifts within the meaning of Directive 95/16/EC relating to lifts; cable-operated tramways of traditional construction; cableway installations intended for agricultural purposes and for the service of mountain shelters and huts not intended for the transport of public; and on-site or mobile equipment for use in fairgrounds and/or amusement parks that is exclusively designed for leisure purposes.

As already mentioned, the proposal takes into account the new Regulation (EU) No 1025/2012 on European Standardisation as well as the proposal for a regulation on market surveillance of products from 2013.

Definitions of terms have been added, such as safety component, drag lift or cable car; as well as obligations resulting from the alignment with NLF Decision No 768/2008, not included in the presently binding Directive, under which economic operators (manufacturers, authorised representatives, importers and distributors) will be held accountable.

Furthermore, the proposed regulation introduces conformity assessment procedures for subsystems based on the modules of NLF Decision No 768/2008. Specifically, it also introduces the affixing of the CE marking for subsystems in line with the existing system for safety components. In line with NLF Decision No 768/2008 the notification criteria for notified bodies have been reinforced. Specific requirements for notifying authorities that were not included in the current Directive have also been introduced (see Article 24).

Importantly, the introduction of the new regulation replacing the existing Directive still allows Member States to retain their competence concerning the designation and accreditation of notified bodies and the conduct of market surveillance and enforcement action (e.g. penalties). The regulation, being directly applicable, should also avoid the risk of 'gold plating'<sup>8</sup> and will make it possible for the manufacturers to consult the text directly without having to examine 28 national transposition laws.

Furthermore, the proposal also mentions implementing acts that the Commission can adopt to ensure the uniform application of this regulation in respect of notified bodies that do not (or no longer) meet the requirements for their notification. The new regulation is to apply two years after its entry into force.<sup>9</sup>

### Preparation of the proposal

Directive 2000/9/EC came into force in May 2000 and became fully applicable in the EU and member countries of the EEA in May 2004. In 2006, the Commission published an [Application Guide](#) to the Directive to provide a reference tool for all players involved in its application.

In March 2011 the Commission published the [first report](#) on the implementation of the Directive. The report concluded that the transposition of the Directive did not pose particular problems and that there was no need to start any infringement procedures against Member States. The adoption of the Directive prompted the finalisation of the standardisation process at the European level, as the Commission gave the European Committee for Standardization ([CEN](#)) and the European Committee for Electrotechnical Standardization ([CENELEC](#)) the standardisation [mandate](#) M300 in the field of cableway installations designed to carry persons.<sup>10</sup> Additionally, the report stated that from the adoption of the Directive one formal objection to a harmonised standard was filed by a Member State. The objection was not followed through as it proved impossible to

substantiate. The report also identified pertinent problems such as the need to clarify the distinction between safety components and subsystems as well as between subsystems and infrastructure.

In March 2014, the Commission published its [Impact Assessment](#) (IA) accompanying the legislative proposal for a revision of Directive 2000/9/EC. The document analysed the implementation problems identified by Member States and sectoral stakeholders during the preceding ten years. Subsidiarity analysis concluded that potential new national regulation would lead to a fragmented internal market, creating obstacles to free movement of cableway products. It is for this reason that the document emphasised the need for the simplification of rules at EU level, in the form of a regulation. According to the assessment, the proposed changes would contribute to legal certainty that would – together with alignment to the NLF – improve the level of safety and quality of cableway installations, and subsequently also lower the probability of accidents<sup>11</sup> and injuries. With regards to proposed changes, no significant impact on national budgets and administration was discovered. Importantly, it has been found that the proposed changes would not present any significant economic, environmental or social impacts.

### Parliament's starting position

In the Parliament's Committee on the Internal Market and Consumer Protection, the 27 November 2014 [draft report](#) on the proposal for a regulation by rapporteur Antonio López-Istúriz White (EPP, Spain), supported simplification of the regulatory environment, taking into account the issue of diverging transposition identified as a problem in the existing Directive 2000/9/EC.<sup>12</sup> He also supported the alignment of the provisions with the NLF adopted in 2008 and in particular Decision EC 768/2008. Accordingly, López-Istúriz White proposed several amendments to improve the consistency of the text with the NLF. With adoption of the [proposal for the Regulation on Market Surveillance](#) unlikely before the adoption of the proposed cableway installations regulation, the rapporteur suggested the introduction of specific rules on market surveillance in the text of the proposal. He also supported the clarity of the proposal regarding cableway installations designed for both transport and leisure purposes as well as the alignment of the conformity assessment procedures available for subsystems with those already used for safety components.

### Stakeholders' views

With the new regulation being quite technical in nature, the Commission decided not to launch an open public consultation, but opted for targeted consultations of experts. Three specific consultations have been carried out in two phases, one in 2010 and the remaining two in 2012. According to the Commission's IA, stakeholders have been consulted and contributed to identifying the problematic issues recognised in the assessment of the existing Directive. The IA mentioned a broad consensus among Member States, manufacturers, notified bodies and stakeholders regarding the need to simplify and clarify the current rules, with manufacturers preferring the 'soft law' option<sup>13</sup> in contrast with notified bodies, where a majority supported amending the legal text.

At the [International Organisation for Transportation by Rope](#) (OITAF) seminar in 2015, however, one of the [main cableway sector manufacturers](#) commented on possible problems the proposal may bring about. In particular, the entry into force and date of application of the regulation, as it may be that the assessment of its conformity might

not be completed by then. The manufacturer also stressed that the proposal does not include any consideration regarding the relocation of existing cableway installations or regarding handling of spare parts.

### Advisory committees

On 9 July 2014, the European Economic and Social Committee adopted its [opinion](#) on the proposal. It supported the decision to introduce a regulation, given the differing interpretations of certain parts of the existing Directive, and welcomed the alignment of the proposal with the NLF. However, it emphasised some shortcomings. Namely that it is not obvious why the wording 'designed to carry persons' was dropped from the title of the regulation. It noted that the proposal does not permit a clear delimitation between lifts (in particular inclined lifts) subject to Directive 95/16/EC and funiculars, arguing that the relevant information in the text (Recital 11) is insufficient for the purpose. It also stated that some of the technical terms used in the proposal differ considerably from the set of harmonised standards for cableway installations and proposed additional specific changes (as mentioned in point 4.2 and section 5 of the opinion).

The Committee of the Regions was not consulted.

### Council

At technical meetings and during the first trilogue on the text of the proposal on 11 May 2015 an agreement was reached between the institutions on most of the text, as [noted](#) by the Council. In June 2015, the Council considered that the substance of the Council's [General Approach](#) (as [corrected](#) in December 2014) seems to have been maintained through the trilogue negotiations.

On 30 September 2015, the Council published its [analysis](#) of the final compromise text. It stated that, should the Parliament adopt the text of the proposal exactly as set out in the Annex – subject to legal-linguistic revision – at a forthcoming plenary meeting, the Council would adopt the proposed regulation. The proposed compromise mentions that the new regulation does not apply to the relocation of installations or subsystems or safety components already incorporated into such installations, except where such relocation implies a major modification of the installation. It also specifies more clearly that cableway installations categorised by Member States as historic, cultural or heritage installations still in operation and that entered into service before 1 January 1986 are excluded from the scope of the regulation.

### National parliaments

The [subsidiarity deadline](#) was set for 23 May 2014. No reasoned opinion was sent within that deadline.

### Parliamentary analysis

In October 2014, the European Parliamentary Research Service published its [Initial Appraisal](#) of a European Commission Impact Assessment (IA) accompanying the proposal for a Regulation on cableway installations. There, it concluded that the study on which the IA is based seemed comprehensive and of good quality, giving the Commission a sound basis for the analysis of impacts in the area. It also welcomed the fact that the implementation report on Directive 2000/9/EC was taken on-board in the preparation of the IA.

## Legislative process

The Internal Market and Consumer Protection Committee (IMCO), responsible for the file, published its [draft report](#) on 27 November 2014. The [amendments](#) to the proposal were tabled in January 2015 and the [IMCO Committee report](#) on the proposal was adopted in March 2015.

When final trilogue negotiations between the three institutions were [held](#) on 22 September 2015, an agreement was found on the last remaining issues. Agreement was reached on three files grouped as a package (including proposed regulations on personal protective equipment and appliances burning gaseous fuels). On 30 September 2015, the Council published its analysis of the final compromise text of the proposed regulation. The Committee of the Permanent Representatives of the Governments of the Member States to the EU ([Coreper](#)) gave its [agreement](#) on 12 October 2015. On 10 November 2015, the IMCO Committee, by a large majority, [voted in favour](#) of the interinstitutional agreement reached at informal trilogues. The vote in plenary session is expected on 19 January 2016.

## References

[Cableway installations](#), European Parliament, Legislative Observatory (OEIL).

[Initial Appraisal of a European Commission Impact Assessment accompanying the proposal for a Regulation on cableway installations](#), EPRS, European Parliament, 2014.

## Endnotes

- <sup>1</sup> Regulation (EU) No 1025/2012 establishes rules on cooperation between European standardisation organisations, national standardisation bodies, Member States and the Commission, the establishment of European standards and European standardisation deliverables for products and services in support of Union legislation and policies.
- <sup>2</sup> According to the new proposal, the subsystems are defined as the systems listed in Annex I of the proposal – or their combination – and include cables and cable connections; mechanical equipment; cabins, seats or drag devices; monitoring, control and safety devices etc.
- <sup>3</sup> In line with the new proposal, 'safety component' means any basic component, set of components, subassembly or complete assembly of equipment, and any device intended to be incorporated in a subsystem or a cableway installation for the purpose of ensuring a safety function; the failure of which endangers the safety or health of persons, users, operating personnel or third parties.
- <sup>4</sup> In the existing Directive, funicular railways are not defined. According to the new proposal, a funicular railway is a cableway installation in which the carriers are hauled along rails on the ground or supported by fixed structures.
- <sup>5</sup> In Directive 2000/9/EC, these are not defined. According to the new proposal, a drag lift is a cableway installation where users with appropriate equipment are towed along a prepared track.
- <sup>6</sup> By affixing CE marking ('*Conformité européenne*') on their products, producers certify that these comply with the applicable EU safety rules. If a product poses a serious threat to health and safety, national competent authorities (including market surveillance and customs authorities) are obliged to share this information immediately with the European Commission via the European rapid alert system for non-food dangerous products (RAPEX) to prevent dangerous products from circulating on the market and consequently reaching consumers.
- <sup>7</sup> The area of EU product legislation has undergone a horizontal review with the adoption of the New Legislative Framework (NLF). The aim of NLF was to facilitate the compliance of products with the applicable requirements; to improve the unsatisfactory performance of certain notified bodies; and to eliminate inconsistencies in the legislation which complicated its application for manufacturers and authorities.
- <sup>8</sup> '[Gold plating](#)' refers to transposition of EU legislation which goes beyond what is required by that legislation, while remaining within legal boundaries. Here, in line with the harmonisation principles of the regulation, MS are not allowed to impose more stringent or additional requirements in their national legislation for the placing on the market of subsystems and safety components.
- <sup>9</sup> That is, with the exception of some articles, specifically regarding notification of authorised assessment bodies to carry out third party assessment tasks and the coordination of notified bodies, which are to apply as soon as six months after its entry into force.
- <sup>10</sup> For more on European standards, see: [How are European standards developed?](#), ANEC, 2015.

- <sup>11</sup> Cable systems are among the [safest transport systems](#) in the world, based on the ratio of the number of accidents to the number of people transported per kilometre. According to a [2014 Indian study](#), the most probable causes of an accident in a ropeway (i.e. cableway) are related to the snapping of rope wire or collision when entering a station. Recent examples of wire rope failure accidents in cableway industry in Europe are: [Cavalese ropeway accident](#) (Italy) in February 1998, when a military aeroplane hit a cable car line, killing 20 people and [the west France](#) accident in the Alps in July 1999, when wire rope snapped and caused the death of 20 people.
- <sup>12</sup> Background: The Parliament [first treated](#) the subject of cableway installations designed to carry passengers in 1994, when the proposal for Directive 2000/9/EC was published. In its second reading on 27 October 1999, Parliament [approved](#) the common position on the Directive with a few amendments that extended the scope of the application of the Directive to all types of transport of persons and not simply to the transport of paying passengers.
- <sup>13</sup> i.e. issuing commonly agreed interpretation on the application of Directive 2000/9/EC.

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