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**A7-0259/2012**

28.11.2012

**\*\*\*I**  
**REPORT**

on the proposal for a directive of the European Parliament and of the Council on the harmonisation of the laws of Member States relating to the making available on the market of electrical equipment designed for use within certain voltage limits (recast)

(COM(2011)0773 – C7-0427/2011 – 2011/0357(COD))

Committee on the Internal Market and Consumer Protection

Rapporteur: Zuzana Roithová

(Recast – Rule 87 of the Rules of Procedure)

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a directive of the European Parliament and of the Council on the harmonisation of the laws of Member States relating to the making available on the market of electrical equipment designed for use within certain voltage limits (recast) (COM(2011)0773 – C7-0427/2011 – 2011/0357(COD))**

**(Ordinary legislative procedure – recast)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0773),
  - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0427/2011),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Economic and Social Committee of 28 March 2012<sup>1</sup>,
  - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts<sup>2</sup>,
  - having regard to the letter of 27 March 2012 from the Committee on Legal Affairs to the Committee on the Internal Market and Consumer Protection in accordance with Rule 87(3) of its Rules of Procedure,
  - having regard to Rules 87 and 55 of its Rules of Procedure,
  - having regard to the report of the Committee on the Internal Market and Consumer Protection (A7-0259/2012),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;
1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;

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<sup>1</sup> Not yet published in the Official Journal.

<sup>2</sup> OJ C 77, 28.3.2002, p. 1.

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

**Amendment 1**  
**Proposal for a directive**  
**Recital 4**

*Text proposed by the Commission*

(4) Economic operators should be responsible for the compliance of electrical equipment in relation to their respective roles in the supply chain, so as to ensure a high level of protection of public interests, such as health and safety, and the protection of consumers and to guarantee fair competition on the Union market.

*Amendment*

(4) Economic operators should be responsible for the compliance of electrical equipment in relation to their respective roles in the supply chain, so as to ensure a high level of protection of public interests, such as health and safety, and the protection of consumers, ***including a high level of protection of vulnerable consumers in those cases where the electrical equipment is not intended for professional use***, and to guarantee fair competition on the Union market.

**Amendment 2**  
**Proposal for a directive**  
**Recital 7**

*Text proposed by the Commission*

***(7) Although conformity assessment should be the responsibility of the manufacturer without any need to involve an independent conformity assessment body, in order to facilitate the completion of the conformity assessment procedure, manufacturers should be allowed to seek assistance of an independent conformity assessment laboratory.***

*Amendment*

***deleted***

**Amendment 3**  
**Proposal for a directive**  
**Recital 13 a (new)**

*Text proposed by the Commission*

*Amendment*

***(13a) Economic operators should ensure that all required relevant information is also displayed in the case of distance selling.***

**Amendment 4**  
**Proposal for a directive**  
**Recital 18 a (new)**

*Text proposed by the Commission*

*Amendment*

***(18a) When issuing a single EU declaration of conformity could cause specific problems due to the complexity or scope of that single EU declaration, it should be possible to replace that single EU declaration by individual EU declarations of conformity relevant for the particular electrical equipment.***

**Amendment 5**  
**Proposal for a directive**  
**Recital 22**

*Text proposed by the Commission*

*Amendment*

(22) The existing system should be supplemented by a procedure under which interested parties are informed of measures intended to be taken with regard to products presenting a risk to the health and safety of persons or to other aspects of public interest protection. It should also allow market surveillance authorities, in cooperation with the relevant economic operators, to act at an earlier stage in respect of such products.

(22) The existing system should be supplemented by a procedure under which interested parties are informed of measures intended to be taken with regard to products presenting a risk to the health and safety of persons, ***including the safety of children, the elderly and persons with disabilities in those cases where the electrical equipment is not intended for professional use***, or to other aspects of public interest protection. It should also allow market surveillance authorities, in cooperation with the relevant economic operators, to act at an earlier stage in respect of such products.

## Amendment 6

### Proposal for a directive Recital 25

*Text proposed by the Commission*

(25) It is necessary to provide for transitional arrangements that allow making available on the market electrical equipment which has already been placed on the market in accordance with Directive 2006/95/EC.

*Amendment*

(25) It is necessary to provide for transitional arrangements that allow making available on the market electrical equipment which has already been placed on the market in accordance with Directive 2006/95/EC. ***Economic operators should be able to sell stocks of electrical equipment designed for use within some certain voltage limits that are already in the distribution chain on the date of application of national measures transposing this Directive.***

## Amendment 7

### Proposal for a directive Recital 25 a (new)

*Text proposed by the Commission*

*Amendment*

***(25a) The harmonised standards relevant to this Directive should also fully take into account the United Nations Convention on the Rights of Persons with Disabilities, signed by the European Union on 23 December 2010.***

## Amendment 8

### Proposal for a directive Article 2 – point 1

*Text proposed by the Commission*

(1) '***placing*** on the market' means the ***first making available*** of electrical equipment on the Union market;

*Amendment*

(1) '***making available*** on the market' means the ***supply*** of electrical equipment ***for distribution, consumption or use*** on the Union market ***in the course of a commercial activity, whether in return for***



*payment or free of charge;*

**Amendment 9**  
**Proposal for a directive**  
**Article 2 – point 2**

*Text proposed by the Commission*

(2) '**making available** on the market' means *any supply* of electrical equipment *for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;*

*Amendment*

(2) '**placing** on the market' means *the first making available on the market* of electrical equipment;

**Amendment 10**  
**Proposal for a directive**  
**Article 2 – point 7**

*Text proposed by the Commission*

(7) 'economic **operators**' means *the* manufacturer, *the* authorised representative, *the* importer *and the* distributor;

*Amendment*

(7) 'economic **operator**' means *a* manufacturer, *an* authorised representative, *an* importer *or a* distributor;

**Amendment 11**  
**Proposal for a directive**  
**Article 2 – point 9**

*Text proposed by the Commission*

(9) 'harmonised standard' means *harmonised* standard as defined in Article 2(1)(c) of Regulation (EU) No [...] [on European Standardisation];

*Amendment*

(9) 'harmonised standard' means standard as defined in Article 2(1)(c) of Regulation (EU) No [...] [on European Standardisation];

**Amendment 12**  
**Proposal for a directive**  
**Article 3 – paragraph 1**

*Text proposed by the Commission*

1. Electrical equipment may be made available on the market only if, having been constructed in accordance with good engineering practice in safety matters in force in the Union, it does not endanger the safety of persons, domestic animals or property when properly installed and maintained and used in applications for which it was made.

*Amendment*

1. Electrical equipment may be made available on the market only if, having been constructed in accordance with good engineering practice in safety matters in force in the Union, it does not endanger the safety of persons, domestic animals or property when properly installed and maintained and used in applications for which it was made ***or in applications which can be reasonably foreseen.***

**Amendment 13**  
**Proposal for a directive**  
**Article 3 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. Where applicable, electrical equipment not intended for professional use may be made available on the market only if it is constructed in such way that it can be easily used and accessed by persons with disabilities.***

**Amendment 14**  
**Proposal for a directive**  
**Article 5 – title**

*Text proposed by the Commission*

Supply of electricity

*Amendment*

***Prohibition of stricter safety requirements for the supply of electricity***

**Amendment 15**  
**Proposal for a directive**  
**Article 5**

*Text proposed by the Commission*

In relation to electrical equipment, the Member States shall ensure that stricter

*Amendment*

In relation to electrical equipment, the Member States shall ensure that stricter

safety requirements than those laid down in **Article m3** and Annex I are not imposed by electricity supply bodies for connection to the grid, or for the supply of electricity to users of electrical equipment.

safety requirements than those laid down in **Article 3** and Annex I are not imposed by electricity supply bodies for connection to the grid, or for the supply of electricity to users of electrical equipment.

#### **Amendment 16**

##### **Proposal for a directive**

##### **Article 6 – paragraph 4 – subparagraph 2**

###### *Text proposed by the Commission*

When deemed appropriate with regard to the risks presented by electrical equipment, manufacturers shall, to protect the safety of consumers, carry out sample testing of electrical equipment made available on the market, investigate, and, if necessary, keep a register of complaints, of non-conforming electrical equipment and electrical equipment recalls, and shall keep distributors informed of any such monitoring.

###### *Amendment*

When deemed appropriate with regard to the risks presented by electrical equipment, manufacturers shall, to protect the **health and** safety of consumers, carry out sample testing of electrical equipment made available on the market, investigate, and, if necessary, keep a register of complaints, of non-conforming electrical equipment and electrical equipment recalls, and shall keep distributors informed of any such monitoring.

#### **Amendment 17**

##### **Proposal for a directive**

##### **Article 6 – paragraph 6**

###### *Text proposed by the Commission*

6. Manufacturers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted **on the electrical equipment** or, where that is not possible, **on its** packaging or in a document accompanying the electrical equipment. The address must indicate a single point at which the manufacturer can be contacted.

###### *Amendment*

6. Manufacturers shall indicate, **on the electrical equipment**, their name, registered trade name or registered trade mark and the **postal, or, if available, the website** address at which they can be contacted or, where that is not **reasonably** possible, **those details shall be provided on the** packaging or in a document accompanying the electrical equipment. The address must indicate a single point at which the manufacturer can be contacted. **The contact details shall be in a language easily understood by end-users and market surveillance authorities.**

**Amendment 18**  
**Proposal for a directive**  
**Article 6 – paragraph 7**

*Text proposed by the Commission*

7. Manufacturers shall ensure that the electrical equipment is accompanied by safety information in a language which can be easily understood by consumers and other end-users, as determined by the Member State concerned.

*Amendment*

7. Manufacturers shall ensure that the electrical equipment is accompanied by ***instructions and*** safety information in a language which can be easily understood by consumers and other end-users, as determined by the Member State concerned. ***Such instructions and safety information as well as any labelling shall be clear, understandable and intelligible.***

**Amendment 19**

**Proposal for a directive**  
**Article 8 – paragraph 3**

*Text proposed by the Commission*

3. Importers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted ***on the electrical equipment*** or, where that is not possible, on its packaging or in a document accompanying the electrical equipment.

*Amendment*

3. Importers shall indicate, ***on the electrical equipment***, their name, registered trade name or registered trade mark and the ***postal, or, if available, the website*** address at which they can be contacted or, where that is not ***reasonably*** possible, on its packaging or in a document accompanying the electrical equipment. ***The contact details shall be in a language easily understood by end-users and market surveillance authorities.***

**Amendment 20**  
**Proposal for a directive**  
**Article 8 – paragraph 4**

*Text proposed by the Commission*

4. Importers shall ensure that the electrical equipment is accompanied by safety information in a language which can be

*Amendment*

4. Importers shall ensure that the electrical equipment is accompanied by ***instructions and*** safety information in a language which

easily understood by consumers and other end-users, as determined by the Member State concerned.

can be easily understood by consumers and other end-users, as determined by the Member State concerned.

**Amendment 21**  
**Proposal for a directive**  
**Article 8 – paragraph 6**

*Text proposed by the Commission*

6. When deemed appropriate with regard to the risks presented by electrical equipment, importers shall, to protect the safety of consumers, carry out sample testing of electrical equipment made available on the market, investigate and, if necessary, keep a register of complaints, of non-conforming electrical equipment and electrical equipment recalls, and shall keep distributors informed of such monitoring.

*Amendment*

6. When deemed appropriate with regard to the risks presented by electrical equipment, importers shall, to protect the **health and** safety of consumers, carry out sample testing of electrical equipment made available on the market, investigate and, if necessary, keep a register of complaints, of non-conforming electrical equipment and electrical equipment recalls, and shall keep distributors informed of such monitoring.

**Amendment 22**  
**Proposal for a directive**  
**Article 9 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

2. Before making electrical equipment available on the market distributors shall verify that the electrical equipment bears the CE marking, that it is accompanied by the safety information in a language which can be easily understood by consumers and other end-users in the Member State in which the electrical equipment is to be made available on the market, and that the manufacturer and the importer have complied with the requirements set out in Article 6(5) and 6(6) and Article 8(3).

*Amendment*

2. Before making electrical equipment available on the market distributors shall verify that the electrical equipment bears the CE marking, that it is accompanied by the **required documents and by instructions and** safety information in a language which can be easily understood by consumers and other end-users in the Member State in which the electrical equipment is to be made available on the market, and that the manufacturer and the importer have complied with the requirements set out in Article 6(5) and 6(6) and Article 8(3).

**Amendment 23**  
**Proposal for a directive**  
**Article 9 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***5a. Member States shall ensure that electrical equipment which was lawfully placed on the market before [the date set out in the second subparagraph of Article 25(1)] may be made available on the market by distributors without further product requirements.***

**Amendment 24**  
**Proposal for a directive**  
**Article 11 – paragraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

Economic operators shall, on request, ***identify*** the following to the market surveillance authorities:

Economic operators shall, on request, ***specify*** the following to the market surveillance authorities:

**Amendment 25**  
**Proposal for a directive**  
**Article 11 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

Economic operators shall ***be able to*** present the information referred to in the first paragraph for a period of 10 years after they have been supplied with the electrical equipment and for a period of 10 years after they have supplied the electrical equipment.

Economic operators shall present the information referred to in the first paragraph for a period of 10 years after they have been supplied with the electrical equipment and for a period of 10 years after they have supplied the electrical equipment. ***Economic operators shall not be required to update that information after supply is finalised.***

**Amendment 26**  
**Proposal for a directive**  
**Article 11 a (new)**

*Text proposed by the Commission*

*Amendment*

***Article 11a***

***Obligations of economic operators  
concerning the products in stock***

***Member States shall ensure that the obligations of economic operators concerning the products in stock are applied in accordance with Article 24.***

**Amendment 27**

**Proposal for a directive**

**Article 13 – paragraph 1**

*Text proposed by the Commission*

1. Where harmonised standards referred to in Article 12 have not been drawn up and published, the Member States shall take all appropriate measures to ensure that, for the purposes of making available on the market or free movement as referred to in Articles 3 and 4 respectively, their competent administrative authorities shall also regard as complying with Article 3 and Annex I electrical equipment which complies with the safety provisions of the International Electrotechnical Commission (IEC) 2. The safety provisions referred to in paragraph 1 shall be notified to the Member States by the Commission. The Commission, after consulting the Member States, shall state the provisions and in particular the variants which it recommends to be published.

*Amendment*

1. Where harmonised standards referred to in Article 12 have not been drawn up and published, the Member States shall take all appropriate measures to ensure that, for the purposes of making available on the market or free movement as referred to in Articles 3 and 4 respectively, their competent administrative authorities shall also regard as complying with Article 3 and Annex I electrical equipment which complies with the safety provisions of the International Electrotechnical Commission (IEC) ***which have been published in accordance with paragraphs 2 and 3 of this Article***. The safety provisions referred to in paragraph 1 shall be notified to the Member States by the Commission. The Commission, after consulting the Member States, shall state the provisions and in particular the variants which it recommends to be published.

**Amendment 28**

**Proposal for a directive**

**Article 15 – paragraph 2**

*Text proposed by the Commission*

2. The EU declaration of conformity shall have the model structure set out in Annex IV of this Directive, shall contain the elements specified in the Module A as set out in Annex III of this Directive and shall be continuously updated. ***It shall be*** translated into the language or languages required by the Member State in which market the electrical equipment is placed or made available.

*Amendment*

2. The EU declaration of conformity shall have the model structure set out in Annex IV of this Directive, shall contain the elements specified in the Module A as set out in Annex III of this Directive and shall be continuously updated. ***Upon the request of the market surveillance authorities, the economic operator shall provide a copy of the EU declaration of conformity in paper form or by electronic means and shall ensure that it is*** translated into the language or languages required by the Member State in which market the electrical equipment is placed or made available.

*Justification*

*This provision will help the economic operators in communication with the public authorities. The source of inspiration was art. 7 paragraph 1 of the Regulation No. 305/2011 on Construction Products.*

**Amendment 29**  
**Proposal for a directive**  
**Article 15 – paragraph 4**

*Text proposed by the Commission*

4. By drawing up the EU declaration of conformity, the manufacturer shall assume responsibility for the compliance of the electrical equipment.

*Amendment*

4. By drawing up the EU declaration of conformity, the manufacturer shall assume responsibility for the compliance of the electrical equipment ***with the requirements laid down in this Directive.***

**Amendment 30**  
**Proposal for a directive**  
**Article 18 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Member States shall, on an annual basis, provide the Commission with details of the activities of their market surveillance***



*authorities and of any plans for and increase of market surveillance, including the allocation of more resources, the increase of efficiency and the building of the necessary capacity for achieving those goals.*

**Amendment 31**  
**Proposal for a directive**  
**Article 18 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

*Member States shall provide adequate funding to their market surveillance authorities in order to ensure that their activities are coherent and effective across the Union.*

**Amendment 32**  
**Proposal for a directive**  
**Article 19 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

1. Where the market surveillance authorities of one Member State have taken action pursuant to Article 20 of Regulation (EC) No 765/2008, or where they have sufficient reason to believe that electrical equipment covered by this Directive presents a risk to the safety of persons, domestic animals or property, they shall carry out an evaluation in relation to the electrical equipment concerned covering all the requirements laid down in this Directive. The relevant economic operators shall cooperate as necessary with the market surveillance authorities.

1. Where the market surveillance authorities of one Member State have taken action pursuant to Article 20 of Regulation (EC) No 765/2008, or where they have sufficient reason to believe that electrical equipment covered by this Directive presents a risk to the **health or** safety of persons, domestic animals or property, they shall carry out an evaluation in relation to the electrical equipment concerned covering all the **relevant** requirements laid down in this Directive. The relevant economic operators shall cooperate as necessary with the market surveillance authorities.

**Amendment 33**  
**Proposal for a directive**  
**Article 19 – paragraph 5 – point a**

*Text proposed by the Commission*

(a) failure of the electrical equipment to meet requirements relating to the safety of persons, domestic animals or property ;

*Amendment*

(a) failure of the electrical equipment to meet requirements relating to the **health or** safety of persons, domestic animals or property ;

**Amendment 34**

**Proposal for a directive  
Article 19 – paragraph 7**

*Text proposed by the Commission*

7. Where, within **two** months of receipt of the information referred to in paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified.

*Amendment*

7. Where, within **three** months of receipt of the information referred to in paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified.

**Amendment 35**

**Proposal for a directive  
Article 19 – paragraph 8**

*Text proposed by the Commission*

8. Member States shall ensure that appropriate restrictive measures are taken in respect of the electrical equipment concerned without delay.

*Amendment*

8. Member States shall ensure that appropriate restrictive measures are taken in respect of the electrical equipment concerned, **such as withdrawal of the electrical equipment from their market**, without delay.

**Amendment 36**

**Proposal for a directive  
Article 21 – title**

*Text proposed by the Commission*

Compliant electrical equipment which present a risk to safety

*Amendment*

Compliant electrical equipment which present a risk to **health and** safety

**Amendment 37**  
**Proposal for a directive**  
**Article 21 – paragraph 1**

*Text proposed by the Commission*

1. Where, having performed an evaluation under Article 19(1), a Member State finds that although electrical equipment is in compliance with this Directive, it presents a risk to the safety of persons, it shall require the relevant economic operator to take all appropriate measures to ensure that the electrical equipment concerned, when placed on the market, no longer presents that risk, to withdraw the electrical equipment from the market or to recall it within a reasonable period, commensurate with the nature of the risk, as it may prescribe.

**Amendment 38**  
**Proposal for a directive**  
**Article 23 – paragraph 1**

*Text proposed by the Commission*

Member States shall lay down rules on penalties *for economic operators*, applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are enforced.

*Amendment*

1. Where, having performed an evaluation under Article 19(1), a Member State finds that although electrical equipment is in compliance with this Directive, it presents a risk to the **health or safety of persons and safety of domestic animals and property**, it shall require the relevant economic operator to take all appropriate measures to ensure that the electrical equipment concerned, when placed on the market, no longer presents that risk, to withdraw the electrical equipment from the market or to recall it within a reasonable period, commensurate with the nature of the risk, as it may prescribe.

*Amendment*

***Member States shall build upon existing mechanisms to ensure correct application of the regime governing the CE marking and shall take appropriate action in the event of improper use of the marking.*** Member States shall lay down rules on penalties applicable to infringements *by economic operators* of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are enforced. ***Such rules may include criminal penalties for serious infringements.***

**Amendment 39**  
**Proposal for a directive**  
**Article 23 – paragraph 2**

*Text proposed by the Commission*

The penalties *provided for* shall be effective, proportionate and dissuasive.

*Amendment*

The penalties *referred to in the first paragraph* shall be effective, proportionate ***to the seriousness of the offence***, and dissuasive.

**Amendment 40**  
**Proposal for a directive**  
**Article 23 – paragraph 3**

*Text proposed by the Commission*

Member States shall notify those provisions to the Commission by [insert date – the date set out in the second subparagraph of Article 25(1)] *at the latest* and shall notify it without delay of any subsequent amendment affecting them.

*Amendment*

Member States shall notify those provisions to the Commission by [insert date – the date set out in the second subparagraph of Article 25(1)] and shall notify it without delay of any subsequent amendment affecting them. ***The Commission shall make those provisions publicly available by publishing them on the internet.***

**Amendment 41**  
**Proposal for a directive**  
**Article 25 – paragraph 2**

*Text proposed by the Commission*

2. Member States shall communicate to the Commission the texts of the main provisions of national *laws* which they adopt in the field covered by this Directive.

*Amendment*

2. Member States shall communicate to the Commission the texts of the main provisions of national *law* which they adopt in the field covered by this Directive. ***The Commission shall make those texts publicly available by publishing them on the internet.***

**Amendment 42**

**Proposal for a directive**  
**Annex II – paragraph 8 a (new)**

*Text proposed by the Commission*

*Amendment*

***Equipment specifically designed solely for the purposes of research and development only made available on a business-to-business basis.***

*Justification*

*Private final consumers do not have access to R&D products. The recent recast of the RoHS and WEEE directives already excludes such equipment from their scope. In order to avoid uncertainty, the scope of product directives should be harmonised.*

**Amendment 43**  
**Proposal for a directive**  
**Annex III – point 3 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

The manufacturer shall take all measures necessary so that the manufacturing process and its monitoring ensure compliance of the electrical equipment with the technical documentation referred to in point 2 and with the requirements of this Directive.

The manufacturer shall take all measures necessary so that the manufacturing process and its monitoring ensure compliance of the ***manufactured*** electrical equipment with the technical documentation referred to in point 2 and with the requirements of this Directive.

**Amendment 44**

**Proposal for a directive**  
**Annex IV – point 1**

*Text proposed by the Commission*

*Amendment*

1. No xxxxxx (***unique*** identification of the electric equipment):

1. No xxxxxx (identification of the electric equipment):

**Amendment 45**  
**Proposal for a directive**  
**Annex IV – point 4**

*Text proposed by the Commission*

4. Object of the declaration (identification of electrical equipment allowing traceability. It **shall** include **a colour** image of sufficient clarity to enable the identification of the electric equipment).

*Amendment*

4. Object of the declaration (identification of electrical equipment allowing traceability. It **may** include, **where appropriate, an** image of sufficient clarity to enable the identification of the electric equipment).

## EXPLANATORY STATEMENT

### *Background*

This report brings modifications to a proposal of the European Commission recasting Directive 2006/95/EC on the harmonisation of the laws of Member States relating to electrical equipment designed for use within certain voltage limits. It has been presented in November 2011 in the framework of the implementation of the New Legislative Framework (NLF) adopted in 2008 as "the goods package" covering the complementary instruments, Decision 768/2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC and Regulation 765/2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93. The present proposal is part of a package, aligning nine product directives to the NLF.

The existing Directive 2006/95/EC sets out the safety objectives that electrical equipment must comply with in order to be made available on the EU market.

The NLF was adopted to remedy shortcomings in existing Union harmonisation legislation in order to complete the Single Market, with fair competition and safe products. Inconsistent implementation and enforcement in the Member States of the existing Union harmonisation, together with complex regulation, has made it increasingly difficult for both economic operators and authorities to correctly interpret and apply legislation, which lead to unequal market conditions and also unsafe products placed on the market. "The goods package" gives the overall framework to streamline product legislation, in order to make it more uniform and comprehensible for both economic operators and market surveillance authorities.

However, the provisions of the NLF Decision are not directly applicable. To ensure that all economic sectors subject to Union harmonisation legislation benefit from the improvements of the NLF, the provisions of the NLF Decision need to be integrated into the existing product legislation.

After the adoption of the legal framework in NLF in 2008 the Commission has started an evaluation process on harmonised European product legislation in order to identify instruments to be revised in order to implement the NLF.

A number of directives have been identified in this evaluation process while they will need revision within the next 3 - 5 years due to revision clauses or for sector specific reasons (need to clarify scope, need to up-date safety requirements, etc.). The vast majority of the existing European product legislation will need revision for these reasons and will be dealt with individually according to the Commission work programme.

The 9 proposals in the package presented in November 2011, including Directive 2006/95/EC are not part of the aforementioned group of product directives, but have been identified as suitable for an alignment with the NLF due to their common structure. The sectors covered by the directives are all very important industrial sectors which are subject to a strong

international competition, and the assessments are, that those industries will benefit from the simplification and creation of a level playing field for European companies targeted by the NLF.

The changes made to the provisions of this Directive concern: the definitions, the obligations of economic operators, the presumption of conformity provided by harmonised standards, the Declaration of Conformity (DoC), CE marking, notified bodies, the safeguard clause procedure and the conformity assessment procedures.

The intention of the proposal was restricted to a pure alignment with the horizontal provisions in 768/2008/EC and the new terminology within the Lisbon Treaty, including new rules on comitology.

### ***Procedure***

The alignment to the NLF Decision requires a number of substantive amendments to the provisions of this Directive. The technique of recasting has been chosen in line with the Interinstitutional Agreement of 28 November 2001.

Pursuant to Rule 87 of the Rules of Procedure of the European Parliament, the committee responsible for legal affairs has examined the proposal, based on the reports from the Consultative Working Party (legal services of the Parliament, the Council and the Commission), and considered that it entails no substantive changes other than those identified as such in the proposal or those identified by the CWP.

### ***Rapporteur's Position***

Your Rapporteur considers this alignment of nine product directives with the NLF, as an important step towards the completion of the EU single market.

The NLF introduces a simplified regulatory environment for products and allows more consistent implementation of technical norms, which will help improving the functioning of the single market, by ensuring equal treatment of non-compliant products and of economic operators, as well as an equal assessment of notified bodies throughout the EU market.

It is your Rapporteur's opinion, that an alignment of the 9 product directives with the NLF will increase the confidence of both producers and consumers, by clarifying obligations for economic operators and provide Member States authorities with more effective tools to carry out market surveillance controls, all leading to a reduction of non-compliant and unsafe products on the market.

The Commission's proposals in the alignment package are based on a broad stakeholder consultation, including several hundreds of SMEs and their experiences with the Goods package, which is much appreciated by the Rapporteur.

Your Rapporteur supports the Commission's general intention of a pure alignment of the 9 product directives with the horizontal measures in Decision 768/2008, but would nevertheless



suggest some changes to Directive 2006/95/EC on electrical equipment designed for use within certain voltage limits for further clarification and sectoral adjustments with the following objectives:

### ***1. Further Align the Directive to the NLF and Ensure Legal Certainty***

Your Rapporteur considers important to bring a number of changes to the proposed Directive in order to reach a higher level of consistency with the terms used by the Decision No 768/2008/EC and eliminate the possible inconsistencies in the text which could otherwise create legal uncertainty.

It is also important to clarify the legal situation for products which have been legally placed on the market in compliance with the current Directive before the new Directive applies, but which are still in stock. The non-retroactive nature of EU legislation should be emphasized and it should be clarified that these products can still be made available on the market after the date of application of the new Directive.

In addition, your Rapporteur considers that the Commission should have the obligation to publish on the Internet the national provisions of transposed Directive and relevant sanctions (principle of transparency).

### ***2. Enhance Consumer Protection***

The NLF contributes to increase consumer confidence in the single market. Therefore a number of modifications are also linked to your Rapporteur's objective to take full benefit of the NLF provisions related to consumer protection. In that respect, some amendments would allow the new directive to cover a wider scope of situations which fall under the essential safety requirements, when also the use reasonably foreseen should be taken in consideration during the design phase of the product (cf. article 16 on general requirements of Regulation 765/2008). Consumer protection would also be deepened by precisising that instructions, safety information and labelling must be clear, understandable and intelligible. Rapporteur also intends to make the electrical equipment more accessible for persons with disabilities. It is proposed to enhance the safety requirements by ensuring that the concept of the safety also includes the safety of children, elderly and the persons with disabilities in those cases, when the electrical equipment is not intended for professional use.

### ***3. Cut Down Red Tape***

The NLF should contribute to improving the free movement of goods within the European Union. However, a cumbersome bureaucracy would prevent the free flow of goods. Therefore, your Rapporteur has scrutinised the proposed Directive in order to cut-down red tape wherever possible. Thus, it is proposed in the report to modernise the current procedures by allowing the EU Declaration of Conformity (DoC) to be supplied not only in paper form, but also through the electronic means and to bring down the red tape for economic operators regarding the identification of subsequent/preceding economic operators in the supply chain.

As expressed earlier, the Rapporteur supports the simplification and modernisation of

procedures provided in the NLF, but wants to underline at the same time that a need for flexibility can be necessary regarding some obligations created by the new framework. For instance, it is proposed to add an exception to the rule on 'one single DoC' for cases where the providing a single document creates specific problems due to its complexity or extent. Here it should be possible to provide all relevant DoCs separately.

Rapporteur also changes the obligation of coloured image in the EU declaration of conformity to voluntary measure as it is regulated in this way in the Decision, which will lead to significant savings for relevant industries.

#### ***4. Ensure a Better Market Surveillance for our Products***

Even if the Rapporteur is aware of the forthcoming new regulation on market surveillance prepared by the Commission's services, the last set of changes is focusing on ensuring a higher level of market surveillance of products. To this end, your Rapporteur proposes to increase the market surveillance in distance selling through ensuring that all relevant information requirements are also displayed in electronic commerce, to establish an annual information requirement of Member States to the Commission about their market surveillance activities, to call on the Member States to provide the adequate funding to their market surveillance authorities. Finally, the Rapporteur stressed the need for appropriate actions to be taken by the Member States against improper use of CE marking.

## ANNEX: LETTER FROM THE COMMITTEE ON LEGAL AFFAIRS

Ref.: D(2012)22764

Mr Malcolm Harbour,  
Chair of the Committee on the Internal Market  
and Consumer Protection  
ASP 13E130  
Brussels

***Subject: Proposal for a directive of the European Parliament and of the Council on the harmonisation of the laws of Member States relating to the making available on the market of electrical equipment designed for use within certain voltage limits (recast)  
(COM(2011)0773 – C7-0427/2011 – 2011/0357(COD))***

Dear Chairman,

The Committee on Legal Affairs, which I am honoured to chair, has examined the proposal referred to above, pursuant to Rule 87 on Recasting, as introduced into the Parliament's Rules of Procedure.

Paragraph 3 of that Rule reads as follows:

*"If the committee responsible for legal affairs considers that the proposal does not entail any substantive changes other than those identified as such in the proposal, it shall inform the committee responsible.*

*In such a case, over and above the conditions laid down in Rules 156 and 157, amendments shall be admissible within the committee responsible only if they concern those parts of the proposal which contain changes.*

*However, if in accordance with point 8 of the Interinstitutional Agreement, the committee responsible intends also to submit amendments to the codified parts of the proposal, it shall immediately notify its intention to the Council and to the Commission, and the latter should inform the committee, prior to the vote pursuant to Rule 54, of its position on the amendments and whether or not it intends to withdraw the recast proposal."*

Following the opinion of the Legal Service, whose representatives participated in the meetings of the Consultative Working Party examining the recast proposal, and in keeping with the recommendations of the draftsman, the Committee on Legal Affairs considers that the proposal in question does not include any substantive changes other than those identified as such in the proposal and that, as regards the codification of the unchanged provisions of the earlier acts with those changes, the proposal contains a straightforward codification of the existing texts, without any change in their substance.

In conclusion, after discussing it at its meeting of 26 April 2012, the Committee on Legal Affairs, by 23 votes in favour and no abstentions<sup>1</sup>, recommends that your Committee, as the committee responsible, proceed to examine the above proposal in accordance with Rule 87.

Yours faithfully,

Klaus-Heiner LEHNE

*Encl.: Opinion of the Consultative Working Party.*

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<sup>1</sup> Raffaele Baldassarre, Sebastian Valentin Bodu, Piotr Borys, Françoise Castex, Sergio Gaetano Cofferati, Christian Engström, Marielle Gallo, Giuseppe Gargani, Lidia Joanna Geringer de Oedenberg, Sajjad Karim, Vytautas Landsbergis, Eva Lichtenberger, Jiří Maštálka, Antonio López-Istúriz White, Bernhard Rapkay, Evelyn Regner, Francesco Enrico Speroni, Dimitar Stoyanov, Rebecca Taylor, Alexandra Thein, Axel Voss, Cecilia Wikström, Tadeusz Zwiefka,

**ANNEX: OPINION OF THE CONSULTATIVE WORKING PARTY OF THE LEGAL SERVICES OF THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION**



CONSULTATIVE WORKING PARTY  
OF THE LEGAL SERVICES

Brussels, 27 March 2012

**OPINION**

**FOR THE ATTENTION OF THE EUROPEAN PARLIAMENT  
THE COUNCIL  
THE COMMISSION**

**Proposal for a directive of the European Parliament and of the Council on the harmonisation of the laws of Member States relating to the making available on the market of electrical equipment designed for use within certain voltage limits  
COM(2011)0773 of 21.11.2011 – 2011/0357(COD)**

Having regard to the Inter-institutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts, and in particular to point 9 thereof, the Consultative Working Party consisting of the respective legal services of the European Parliament, the Council and the Commission met on 1 March 2012 for the purpose of examining, among others, the aforementioned proposal submitted by the Commission.

At that meeting<sup>1</sup>, an examination of the proposal for a directive of the European Parliament and of the Council recasting Directive 2006/95/EC of the European Parliament and of the Council of 12 December 2006 on the harmonisation of the laws of Member States relating to electrical equipment designed for use within certain voltage limits resulted in the Consultative Working Party's establishing, by common accord, as follows.

- 1) As far as the explanatory memorandum is concerned, in order to be drafted in full compliance with the relevant requirements laid down by the Inter-institutional Agreement such a document should have specified which provisions of the earlier act remain unchanged in the proposal, as is provided for under point 6(a)(iii) of that agreement.
- 2) In the recast text, the following should have been identified by using the grey-shaded type generally used for marking substantive changes:

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<sup>1</sup> The Consultative Working Party had at its disposal the English, French and German language versions of the proposal and worked on the basis of the English version, being the master-copy language version of the text under discussion.

- in Article 25(1), first subparagraph, the words "*Articles 2, 3(1), 6, 7, 8, 9, 10, 11, 12, 13(1), 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24 and Annexes III and IV*", as well as the entire text of the final sentence which reads as follows: "*They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive*";
- in Article 25(1), second subparagraph, the words "*from [day after the date mentioned in first subparagraph]*"

In consequence, examination of the proposal has enabled the Consultative Working Party to conclude, without dissent, that the proposal does not comprise any substantive amendments other than those identified as such therein or in the present opinion. The Working Party also concluded, as regards the codification of the unchanged provisions of the earlier act with those substantive amendments, that the proposal contains a straightforward codification of the existing text, without any change in its substance.

C. PENNERA  
Jurisconsult

H. LEGAL  
Jurisconsult

L. ROMERO REQUENA  
Director General

## PROCEDURE

<b>Title</b>	Harmonisation of the laws of Member States relating to the making available on the market of electrical equipment designed for use within certain voltage limits (Recast)			
<b>References</b>	COM(2011)0773 – C7-0427/2011 – 2011/0357(COD)			
<b>Date submitted to Parliament</b>	21.11.2011			
<b>Committee responsible</b> Date announced in plenary	IMCO 30.11.2011			
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	ITRE 30.11.2011	JURI 30.11.2011		
<b>Not delivering opinions</b> Date of decision	ITRE 19.12.2011			
<b>Rapporteur(s)</b> Date appointed	Zuzana Roithová 29.11.2011			
<b>Discussed in committee</b>	9.1.2012	28.2.2012	31.5.2012	10.7.2012
<b>Date adopted</b>	10.7.2012			
<b>Result of final vote</b>	+: -: 0:	26 0 0		
<b>Members present for the final vote</b>	Adam Bielan, Sergio Gaetano Cofferati, Birgit Collin-Langen, Lara Comi, Anna Maria Corazza Bildt, Cornelis de Jong, Christian Engström, Vicente Miguel Garcés Ramón, Philippe Juvin, Edvard Kožušník, Toine Manders, Sirpa Pietikäinen, Phil Prendergast, Mitro Repo, Zuzana Roithová, Heide Rühle, Christel Schaldemose, Andreas Schwab, Bernadette Vergnaud			
<b>Substitute(s) present for the final vote</b>	Raffaele Baldassarre, Ildikó Gáll-Pelcz, Morten Løkkegaard, Emma McClarkin, Konstantinos Poupakis, Marc Tarabella			
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Ismail Ertug			
<b>Date tabled</b>	28.11.2012			