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*****I**

REPORT

on the proposal for a directive of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to making available on the market of lifts and safety components for lifts (recast) (COM(2011)0770 – C7-0421/2011 – 2011/0354(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 the Member States relating to making available on the market of lifts and safety components for lifts (recast)
(COM(2011)0770 – C7-0421/2011 – 2011/0354(COD))**

(Ordinary legislative procedure – recast)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0770),
 - 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 (C7-0421/2011),
 - 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 2012¹,
 - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts²,
 - 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 (A7-0260/2012),
- 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;

¹ Not yet published in the Official Journal.

² 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 5

Text proposed by the Commission

(5) Economic operators should be responsible for the compliance of lifts and safety components for lifts, 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

(5) Economic operators should be responsible for the compliance of lifts and safety components for lifts, 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 lifts are intended for transport of persons***, and to guarantee fair competition on the Union market.

Amendment 2

Proposal for a directive Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) All obligations imposed on economic operators by this Directive should also apply in the case of distance selling.

Amendment 3

Proposal for a directive Recital 17 a (new)

Text proposed by the Commission

Amendment

(17a) 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 lift.

Amendment 4

Proposal for a directive Recital 30

Text proposed by the Commission

Amendment

(30) The existing system should be supplemented by a procedure under which interested parties are informed of measures intended to be taken with regard to lifts or safety components for lifts 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 lifts and safety components for lifts.

(30) The existing system should be supplemented by a procedure under which interested parties are informed of measures intended to be taken with regard to lifts or safety components for lifts 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 lifts are intended for transport 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 lifts and safety components for lifts.

Amendment 5

Proposal for a directive Recital 35 a (new)

Text proposed by the Commission

Amendment

(35a) 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 6

Proposal for a directive Recital 37

Text proposed by the Commission

Amendment

(37) It is necessary to provide for transitional arrangements that allow ***making*** available on the market and ***putting*** into service of lifts that have already been placed on the market in accordance with Directive 95/16/EC.

(37) It is necessary to provide for transitional arrangements that allow ***economic operators a reasonable period of time to make*** available on the market and ***put*** into service of lifts that have already been placed on the market in accordance with Directive 95/16/EC. ***Economic operators should be able to sell stocks of lifts that are already in the distribution chain on the date of application of national measures transposing this Directive.***

Amendment 7

Proposal for a directive Article 2 – paragraph 1 – point 8

Text proposed by the Commission

Amendment

(8) ‘authorised representative’ means any natural or legal person established within the Union who has received a written mandate from a manufacturer to act on his behalf in relation to ***specific*** tasks;

(8) ‘authorised representative’ means any natural or legal person established within the Union who has received a written mandate from a manufacturer to act on his behalf in relation to ***specified*** tasks;

Amendment 8

Proposal for a directive Article 2 – point 12

Text proposed by the Commission

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

Amendment

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

Amendment 9

Proposal for a directive Article 2 – paragraph 1 – point 12 a (new)

Text proposed by the Commission

Amendment

(12a) ‘accreditation’ means accreditation within the meaning of Article 2(10) of Regulation (EC) No 765/2008;

Amendment 10

Proposal for a directive Article 2 – paragraph 1 – point 12 b (new)

Text proposed by the Commission

Amendment

(12b) ‘national accreditation body’ means national accreditation body within the meaning of Article 2(11) of Regulation (EC) No 765/2008;

Amendment 11

Proposal for a directive Article 2 – paragraph 1 – point 13

Text proposed by the Commission

Amendment

(13) ‘technical specification’ means a document that prescribes technical requirements to be fulfilled by a lift or a

deleted

safety component for lifts;

Amendment 12

Proposal for a directive

Article 2 – paragraph 1 – point 14

Text proposed by the Commission

(14) ‘conformity assessment’ means the process demonstrating whether the essential health and safety requirements set out in **Annex I** relating to a lift or a safety component for lifts, process and system have been fulfilled;

Amendment

(14) ‘conformity assessment’ means the process demonstrating whether the essential health and safety requirements set out in **this Directive** relating to a lift or a safety component for lifts, process and system have been fulfilled;

Amendment 13

Proposal for a directive

Article 2 – paragraph 1 – point 16

Text proposed by the Commission

(16) ‘recall’ means any measure aimed at achieving the return of a safety component for lifts that has already been made available to the installer;

Amendment

(16) ‘recall’ means any measure aimed at achieving the return of a safety component for lifts that has already been made available to the installer **or end-user**;

Amendment 14

Proposal for a directive

Article 2 – paragraph 1 – point 17

Text proposed by the Commission

(17) ‘withdrawal’ means any measure aimed at preventing a lift from being **placed** on the market or a safety component for lifts from being made available on the market;

Amendment

(17) ‘withdrawal’ means any measure aimed at preventing a lift from being **made available** on the market or a safety component for lifts from being made available on the market;

Amendment 15

Proposal for a directive Article 4 – paragraph 1

Text proposed by the Commission

1. Member States shall take all appropriate measures to ensure that the lifts covered by this Directive may be placed on the market and put into service only if they do not endanger the health or safety of persons or, where appropriate, the safety of property, when properly installed and maintained and used for their intended purpose.

Amendment

1. Member States shall take all appropriate measures to ensure that the lifts covered by this Directive may be placed on the market and put into service only if they do not endanger the health or safety of persons or, where appropriate, the safety of property, when properly installed and maintained and used for their intended purpose ***or for a purpose that can be reasonably foreseen.***

Amendment 16

Proposal for a directive Article 4 – paragraph 2

Text proposed by the Commission

2. Member States shall take all appropriate measures to ensure that safety components for lifts covered by this Directive may be made available on the market and put into service only if the lifts in which they are to be installed do not endanger the health or safety of persons or, where appropriate, the safety of property when properly installed and maintained and used for their intended purpose.

Amendment

2. Member States shall take all appropriate measures to ensure that safety components for lifts covered by this Directive may be made available on the market and put into service only if the lifts in which they are to be installed do not endanger the health or safety of persons or, where appropriate, the safety of property when properly installed and maintained and used for their intended purpose ***or for a purpose that can be reasonably foreseen.***

Amendment 17

Proposal for a directive Article 7 – paragraph 7

Text proposed by the Commission

7. Installers shall ensure that the lift is

Amendment

7. Installers shall ensure that the lift is

accompanied by the *instruction for use* referred to in point 6.2 of Annex I, *in a language which can easily be understood by end-users, as determined by the Member State in which the lift is installed.*

accompanied by the *instructions and safety information* referred to in point 6.2 of Annex I.

Amendment 18

Proposal for a directive Article 8 – paragraph 2

Text proposed by the Commission

2. Manufacturers shall draw up the required technical *file* and carry out the conformity assessment procedure referred to in Article 15 or have it carried out

Amendment

2. Manufacturers shall draw up the required technical *documentation* and carry out the *applicable* conformity assessment procedure referred to in Article 15 or have it carried out.

(This amendment [change from "file" to "documentation"] applies throughout the text. Adopting it will necessitate corresponding changes throughout.)

Justification

This change of the term of "file" to "documentation" shall apply throughout the text.

Amendment 19

Proposal for a directive Article 8 – paragraph 4

Text proposed by the Commission

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

Amendment

4. Manufacturers shall ensure that procedures are in place for series production to remain in conformity. Changes to product design or characteristics and changes to the harmonised standards or to technical specifications by reference to which conformity of a product is declared shall be adequately taken into account.

such monitoring.

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

Amendment 20

Proposal for a directive Article 8 – 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 safety component for lifts*** or, where that is not possible, ***a label inseparably attached to*** the safety component for lifts. The address must indicate a single point at which the manufacturers can be contacted.

Amendment

6. Manufacturers shall indicate, ***on the safety components for lifts***, 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 possible, ***those details shall be provided on the packaging or in a document accompanying*** the safety components for lifts. The address must indicate a single point at which the manufacturers can be contacted. ***The contact details shall be in a language easily understood by end-users and market surveillance authorities.***

Amendment 21

Proposal for a directive Article 8 – paragraph 7

Text proposed by the Commission

7. Manufacturers shall ensure that the safety component for lifts is accompanied

Amendment

7. Manufacturers shall ensure that the safety component for lifts is accompanied

by the *instruction manual* referred to in **Point 6.1** of Annex I, in a language which can easily be understood by end-users, as determined by the Member State concerned.

by the *instructions* referred to in Point 6.1 of Annex I, in a language which can easily be understood by end-users, as determined by the Member State concerned. ***Such instructions, as well as any labelling, shall be clear, understandable and intelligible.***

Amendment 22

Proposal for a directive Article 10 – paragraph 2

Text proposed by the Commission

2. Before placing a safety component for lifts on the market, importers shall ensure that the appropriate conformity assessment procedure has been carried out by the manufacturer. They shall ensure that the manufacturer has drawn up the technical ***file***, that the safety component for lifts bears the CE marking and is accompanied by the EU declaration of conformity and the *instruction manual* and that the manufacturer has complied with the requirements set out in Article 8(5) and 8(6).

Amendment

2. Before placing a safety component for lifts on the market, importers shall ensure that the appropriate conformity assessment procedure has been carried out by the manufacturer. They shall ensure that the manufacturer has drawn up the technical ***documentation***, that the safety component for lifts bears the CE marking and is accompanied by the EU declaration of conformity and the ***instructions referred to in point 6.1 of Annex I*** and that the manufacturer has complied with the requirements set out in Article 8(5) and 8(6).

Amendment 23

Proposal for a directive Article 10 – 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 safety component for lifts*** or, where that is not possible, on its packaging or in a document accompanying the safety ***component***.

Amendment

3. Importers shall indicate, ***on the safety component for lifts***, 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 safety ***components for lifts***. ***The contact details shall be in a language easily understood by end-users***

and market surveillance authorities.

Amendment 24

Proposal for a directive Article 10 – paragraph 4

Text proposed by the Commission

Amendment

4. Importers shall ensure that the safety component for lifts 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.

deleted

Amendment 25

Proposal for a directive Article 11 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

2. Before making a safety component for lifts available on the market, distributors shall verify that the safety component for lifts bears the CE marking, that it is accompanied by the EU declaration of conformity and by the **instruction manual** and that the manufacturer and the importer have complied with the requirements set out in Article 8(5) and 8(6), and Article 10(3).

2. Before making a safety component for lifts available on the market, distributors shall verify that the safety component for lifts bears the CE marking, that it is accompanied by the EU declaration of conformity and by the **instructions referred to in point 6.1 of Annex I** and that the manufacturer and the importer have complied with the requirements set out in Article 8(5) and 8(6), and Article 10(3).

Amendment 26

Proposal for a directive Article 11 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Member States shall ensure that safety component for lifts which were lawfully placed on the before [the date set out in

*the second subparagraph of Article 46(1)]
may be made available on the market by
distributors without further product
requirements.*

Amendment 27

Proposal for a directive Article 13 – paragraph 1 – introductory part

Text proposed by the Commission

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

Amendment

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

Amendment 28

Proposal for a directive Article 13 – paragraph 2

Text proposed by the Commission

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 a safety component for lifts and for a period of 10 years after they have supplied a safety component for lifts.

Amendment

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

Amendment 29

Proposal for a directive Article 13 a (new)

Text proposed by the Commission

Amendment

Article 13a

*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 45.

Amendment 30

Proposal for a directive Article 17 – paragraph 2

Text proposed by the Commission

2. The EU declaration of conformity shall have the model structure set out in Annex II, shall contain the elements specified in the relevant modules set out in Annex V, VIII, X, XI or XII, and shall be continuously updated. ***It shall be*** translated into the language or the languages required by the Member State ***on*** which market the lift ***or the safety component for lifts*** is placed or made available.

Amendment

2. The EU declaration of conformity shall have the model structure set out in Annex II, shall contain the elements specified in the relevant modules set out in Annex V, VIII, X, XI or XII, 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 Members State ***in*** which market the lift is placed or made available.

Amendment 31

Proposal for a directive Article 17 – 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 safety component for lifts and the installer shall assume responsibility for the compliance of the lift.

Amendment

4. By drawing up the EU declaration of conformity, the manufacturer shall assume responsibility for the compliance of the safety component for lifts ***with this Directive*** and the installer shall assume responsibility for the compliance of the lift ***with this Directive***.

Amendment 32

Proposal for a directive
Article 19 – paragraph 3 – point c

Text proposed by the Commission

(c) ***the approval of*** the full quality assurance system referred to in Annex XI.

Amendment

(c) the full quality assurance system referred to in Annex XI.

Amendment 33

Proposal for a directive
Article 19 – paragraph 4 – point a

Text proposed by the Commission

(a) ***the approval of*** the product quality assurance system referred to in Annex VI;

Amendment

(a) the product quality assurance system referred to in Annex VI;

Amendment 34

Proposal for a directive
Article 19 – paragraph 4 – point b

Text proposed by the Commission

(b) ***the approval of*** the full quality assurance system referred to in Annex VII.

Amendment

(b) the full quality assurance system referred to in Annex VII.

Amendment 35

Proposal for a directive
Article 19 – paragraph 4 – point b a (new)

Text proposed by the Commission

Amendment

(ba) conformity to type with random checking for safety components for lifts referred to in Annex IX.

Amendment 36

Proposal for a directive Article 21 – paragraph 1

Text proposed by the Commission

1. Member States shall designate a notifying authority that shall be responsible for setting up and carrying out the necessary procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies, including compliance with Article 26.

Amendment

1. Member States shall designate a *single* notifying authority that shall be responsible for setting up and carrying out the necessary procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies, including compliance with Article 26.

Amendment 37

Proposal for a directive Article 31 – paragraph 4

Text proposed by the Commission

4. Where the Commission ascertains that a notified body does not meet or no longer meets the requirements for its notification, it shall inform the notifying Member State accordingly and request it to take the necessary corrective measures, including *withdrawal of the notification* if necessary.

Amendment

4. Where the Commission ascertains that a notified body does not meet or no longer meets the requirements for its notification, it shall inform the notifying Member State accordingly and request it to take the necessary corrective measures, including *de-notification* if necessary.

Amendment 38

Proposal for a directive Article 37 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall provide the Commission annually with details of the activities of their market surveillance authorities of any plans of and increase of market surveillance, including the allocation of sufficient resources, the increase of efficiency and the building of

the necessary capacity for achieving those goals.

Amendment 39

Proposal for a directive

Article 37 – 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 40

Proposal for a directive

Article 38 – 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 a lift or a safety component for lifts covered by this Directive presents a risk to the health or safety of persons or, ***where appropriate, to the safety of property***, they shall carry out an evaluation in relation to the lift or the safety component for lifts 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 a lift or a safety component for lifts covered by this Directive presents a risk to the health or safety of persons or ***to other aspects of public interest protection***, they shall carry out an evaluation in relation to the lift or the safety component for lifts 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 41

Proposal for a directive

Article 38 – paragraph 4 – subparagraph 1

Text proposed by the Commission

4. Where the installer does not take adequate corrective action within the period referred to in the second subparagraph of paragraph 1, the market surveillance authorities shall take all appropriate provisional measures to restrict the placing on their national market **or** the putting into service.

Amendment

4. Where the installer does not take adequate corrective action within the period referred to in the second subparagraph of paragraph 1, the market surveillance authorities shall take all appropriate provisional measures to restrict the placing on their national market **and** the putting into service.

Amendment 42

**Proposal for a directive
Article 38 – paragraph 5 – point a**

Text proposed by the Commission

(a) failure of the lift or the safety component for lifts to meet the essential health and safety requirements set out in **Annex I**;

Amendment

(a) failure of the lift or the safety component for lifts to meet the essential health and safety requirements set out in **this Directive**;

Amendment 43

**Proposal for a directive
Article 38 – paragraph 7**

Text proposed by the Commission

7. Where, within **2** 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 44

Proposal for a directive Article 38 – paragraph 8

Text proposed by the Commission

8. Member States shall ensure that appropriate restrictive measures are taken, without delay, in respect of the lift or the safety component for lifts concerned.

Amendment

8. Member States shall ensure that appropriate restrictive measures, ***such as withdrawal from their market***, are taken, without delay, in respect of the lift or the safety component for lifts concerned.

Amendment 45

Proposal for a directive Article 39 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. If the national measure relating to a lift is considered justified, all Member States shall take the measures necessary to ensure that the non-compliant lift is restricted to be placed on their national market ***or*** put into service.

Amendment

2. If the national measure relating to a lift is considered justified, all Member States shall take the measures necessary to ensure that the non-compliant lift is restricted to be placed on their national market ***and*** put into service.

Amendment 46

Proposal for a directive Article 41 – paragraph 1 – point a

Text proposed by the Commission

(a) the CE marking has been affixed in violation Article 30 of Regulation (EC) No 765/2008 or of Article ***18 and*** 19 of this Directive;

Amendment

(a) the CE marking has been affixed in violation Article 30 of Regulation (EC) No 765/2008 or of Article 19 of this Directive;

Amendment 47

Proposal for a directive Article 44 – paragraph 1

Text proposed by the Commission

Member States shall lay down the rules on penalties 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

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 the 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 48

Proposal for a directive Article 44 – paragraph 2

Text proposed by the Commission

The penalties ***provided for must*** 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 49

Proposal for a directive Article 44 – paragraph 3

Text proposed by the Commission

Member States shall notify those provisions to the Commission by [...the date set out in the second subparagraph of Article 46(1)] and shall notify it without delay of any subsequent amendment affecting them.

Amendment

Member States shall notify those provisions to the Commission by [...the date set out in the second subparagraph of Article 46(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 50

Proposal for a directive Article 46 – paragraph 2

Text proposed by the Commission

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

Amendment

2. Member States shall communicate to the Commission the text 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 51

Proposal for a directive Annex I – part 4 – point 4.8

Text proposed by the Commission

4.8. The car ***should*** be adequately lit whenever in use or whenever a door is opened; there must also be emergency lighting.

Amendment

4.8. The car ***must*** be adequately lit whenever in use or whenever a door is opened; there must also be emergency lighting.

Amendment 52

Proposal for a directive Annex I – part 4 – point 4.9

Text proposed by the Commission

4.9. The means of communication referred to in Point 4.5 and the emergency lighting referred to in Point 4.8 must be designed and constructed so as to function even without the normal power supply. Their period of operation ***should*** be long enough to allow normal operation of the rescue

Amendment

4.9. The means of communication referred to in Point 4.5 and the emergency lighting referred to in Point 4.8 must be designed and constructed so as to function even without the normal power supply. Their period of operation ***must*** be long enough to allow normal operation of the rescue

procedure.

procedure.

Amendment 53

Proposal for a directive Annex I – point 6 – title

Text proposed by the Commission

6. INSTRUCTIONS **FOR USE**

Amendment

6. INSTRUCTIONS **AND SAFETY INFORMATION**

Amendment 54

Proposal for a directive Annex I - point 6.1 – introductory part

Text proposed by the Commission

6.1. The safety components for lifts referred to in Annex III must be accompanied by *an instruction manual drawn up in a language which can be easily understood by consumers and other end-users, as determined by the Member State concerned*, so the following can be carried out effectively and without danger:

Amendment

6.1. The safety components for lifts referred to in Annex III must be accompanied by *instructions drawn up in an official language of the Member State of the lift installer or another Union language acceptable to him*, so the following can be carried out effectively and without danger:

Amendment 55

Proposal for a directive Annex I – point 6.2 – introductory part

Text proposed by the Commission

6.2. Each lift must be accompanied by instructions for use drawn up in a language which can be easily understood by consumers and other end-users, as determined by the Member State concerned. *Those* instructions *for use* shall contain at least the following documents:

Amendment

6.2. Each lift must be accompanied by instructions *and safety information* for use drawn up 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, and any labelling, shall be clear, understandable and intelligible. The instructions and safety information* shall contain at least the following

documents:

Amendment 56

**Proposal for a directive
Annex I – point 6.2 – point a**

Text proposed by the Commission

(a) *an instruction manual* containing the plans and diagrams necessary for normal use and relating to maintenance, inspection, repair, periodic checks and the rescue operations referred to in Point 4.4

Amendment

(a) *instructions* containing the plans and diagrams necessary for normal use and relating to maintenance, inspection, repair, periodic checks and the rescue operations referred to in Point 4.4

EXPLANATORY STATEMENT

Background

This report brings modifications to a proposal of the European Commission recasting Directive 95/16/EC on the approximation of the laws of the Member States relating to lifts. 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 95/16/EC sets out essential health and safety requirements that lifts and safety components for lifts 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 95/16/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 95/16/EC on lifts 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. Rapporteur also intends to make the lifts 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 lifts are intended for transport of persons.

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 precisng 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 made the necessary changes in order to allow small and medium-sized enterprises in this field to comply with the new requirements.

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)22828

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 the Member States relating to making available on the market of lifts and safety components for lifts (recast) (COM(2011)0770 – C7-0421/2011 – 2011/0354(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 abstentions¹, 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.

¹ 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 the Member States relating to making available on the market of lifts and safety components for lifts COM0770 of 21.11.2011 – 2011/0354(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 23 February 2012 for the purpose of examining, among others, the aforementioned proposal submitted by the Commission.

At that meeting¹, an examination of the proposal for a directive of the European Parliament and of the Council recasting Directive 95/16/EC of the European Parliament and the Council of 29 June 1995 on the approximation of the laws of the Member States relating to lifts 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:

¹ 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.

- the proposed deletion of the entire text of paragraph 1 of existing Article 6 of Directive 95/16/EC;
- in Article 46(1), first subparagraph, the words "*Articles: [Article 2(5)-2(19), Articles: 7-14, Articles: 17-18, Article 19(5), Articles: 20-45, Article 46(1), Article 47-49] and Annexes: [Annex II Part A Points: (f), (k), (l), (m), Annex II Part B Points: (d), (j), (k), (l), Annex IV Part A Points: 2(e), 3(c), 3(e), 3(g), Points: 4(b)-(e), Points: 5-9, Annex IV Part B Points: 2(e), 3(c), 3(e), 3(h), Points: 4(c)-(e), Point 5 paragraphs: 2-4, Points: 6-9, Annex V Point 3.3(b), Points: 6-7, Annex VI Points: 3.1(a)-(c), Point 3.3 paragraph 4 -5, Point 4.3, Points: 6-7, Annex VII Points: 3.1(a)-(b), 3.1(d), 3.1(f), Point 3.3, Point 4.2, Point 6, Annex VII Points: 3(c)-(d), 3(g), Annex VII Point 4, Annex IX Points: 3(a)-(d), Annex X Points: 3.1(a), 3.1(e), Point: 3.4, Points: 6-7, Annex XI Points: 3.1(a)-(c), 3.1(e), Points: 3.3.3, 3.3.4, Points: 3.4 -3.5, Point 5(b) Point 6, Annex XII Point 3.1(a), Point 3.3, Point 6]*", 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 point A.4(c) of Annex IV, the final words "*and identify the elements which have been designed in accordance with the specifications of harmonised standards, as well as the elements which have been designed without applying the specifications of those standards*";
- in the existing wording of the second subparagraph of point A.5 of Annex IV of Directive 95/16/EC, in respect of which a deletion is being proposed, the words "*the other notified bodies*" and "*reasoned*";
- the entire text of point A.6 of Annex IV;
- in point A.7, second subparagraph, of Annex IV, the final words "*or whether further examinations, verifications or tests are needed. As appropriate, the notified body shall issue an addition to the original EU type- examination certificate or ask for a new application for an EU type-examination to be submitted*";
- the entire text of point A.8 of Annex IV;
- in points A.11 and B.11 of Annex IV, the proposed replacement of the word "*manufactured*" with the words "*placed on the market*";
- in point B.9 of Annex IV, the proposed deletion of the words "*reasoned*" and "*the other notified bodies*";
- the entire text of the final sentence of the second subparagraph of point 3.2 of Annex V, which reads as follows: "*the absence of such harmonised standards, the notified body concerned shall determine the appropriate equivalent tests to be carried out*";
- in point 3 of Annex IX, the wordings "*The manufacturer or his authorised representative shall lodge an application for random checking with a single notified body of his choice*" and "*The application shall include*";
- the entire text of the third subparagraph of point 4 of Annex IX, which reads as follows: "*On request, the notified body shall provide the Commission and the Member states with a copy of the certificate of conformity*";
- in point 3(d) of Annex XII, the proposed deletion of the final words "*and a copy of the EC type-examination certificate*";
- in the second subparagraph of point 3.3 of Annex XII, the proposed adding of the final words "*and knowledge of the requirements set out in Annex I*";
- the indication "*the technical file(s)*" appearing as a new point 4.2(b) in Annex XII.

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

PROCEDURE

Title	Harmonisation of the laws of the Member States relating to making available on the market of lifts and safety components for lifts (Recast)			
References	COM(2011)0770 – C7-0421/2011 – 2011/0354(COD)			
Date submitted to Parliament	21.11.2011			
Committee responsible Date announced in plenary	IMCO 30.11.2011			
Committee(s) asked for opinion(s) Date announced in plenary	ITRE 30.11.2011	JURI 30.11.2011		
Not delivering opinions Date of decision	ITRE 19.12.2011			
Rapporteur(s) Date appointed	Zuzana Roithová 29.11.2011			
Discussed in committee	9.1.2012	28.2.2012	31.5.2012	10.7.2012
Date adopted	10.7.2012			
Result of final vote	+: -: 0:	27 0 1		
Members present for the final vote	Adam Bielan, Sergio Gaetano Cofferati, Birgit Collin-Langen, Lara Comi, Anna Maria Corazza Bildt, Cornelis de Jong, Christian Engström, Vicente Miguel Garcés Ramón, Louis Grech, Philippe Juvin, Edvard Kožušník, Toine Manders, Sirpa Pietikäinen, Phil Prendergast, Mitro Repo, Zuzana Roithová, Heide Rühle, Christel Schaldemose, Andreas Schwab, Bernadette Vergnaud			
Substitute(s) present for the final vote	Raffaele Baldassarre, Ildikó Gáll-Pelcz, Morten Løkkegaard, Emma McClarkin, Konstantinos Poupakis, Marek Siwiec, Marc Tarabella			
Substitute(s) under Rule 187(2) present for the final vote	Ismail Ertug			
Date tabled	25.7.2012			