




Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	2001/0004(COD) Procedure completed
Machinery. Recast Amending Directive 95/16/EC 1992/0394(COD) Repealing Directive 98/37/EC 1996/0305(COD) Amended by 2008/0172(COD) Amended by 2010/0212(COD) Amended by 2013/0048(COD)	
Subject 2.10.03 Standardisation, EC/EU standards and trade mark, certification, compliance 3.40.08 Mechanical engineering, machine-tool industry 4.15.15 Health and safety at work, occupational medicine 4.60.04.02 Consumer security	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	IMCO Internal Market and Consumer Protection		31/08/2004
		PPE-DE SCHWAB Andreas	
	Former committee responsible		
	JURI Legal Affairs and Internal Market		27/02/2001
		PPE-DE WIELAND Rainer	
	Former committee for opinion		
ITRE Industry, External Trade, Research, Energy	The committee decided not to give an opinion.		
EMPL Employment and Social Affairs			15/03/2001
	PPE-DE PÉREZ ÁLVAREZ Manuel		
ENVI Environment, Public Health, Consumer Policy			11/04/2001
	PPE-DE FLORENZ Karl-Heinz		
Council of the European Union	Council configuration	Meeting	Date
	Agriculture and Fisheries	2724	25/04/2006
	Agriculture and Fisheries	2676	18/07/2005
	Competitiveness (Internal Market, Industry, Research and Space)	2605	24/09/2004
	Competitiveness (Internal Market, Industry, Research and Space)	2547	26/11/2003
European Commission	Commission DG	Commissioner	
	Internal Market, Industry, Entrepreneurship and SMEs		

Key events			
26/01/2001	Legislative proposal published	COM(2000)0899	Summary
12/02/2001	Committee referral announced in Parliament, 1st reading		
28/05/2002	Vote in committee, 1st reading		Summary
28/05/2002	Committee report tabled for plenary, 1st reading	A5-0216/2002	
03/07/2002	Debate in Parliament		
04/07/2002	Decision by Parliament, 1st reading	T5-0362/2002	Summary
11/02/2003	Modified legislative proposal published	COM(2003)0048	Summary
26/11/2003	Debate in Council	2547	
18/07/2005	Council position published	05786/2/2005	Summary
08/09/2005	Committee referral announced in Parliament, 2nd reading		
23/11/2005	Vote in committee, 2nd reading		Summary
25/11/2005	Committee recommendation tabled for plenary, 2nd reading	A6-0338/2005	
14/12/2005	Debate in Parliament		
15/12/2005	Results of vote in Parliament		
15/12/2005	Decision by Parliament, 2nd reading	T6-0517/2005	Summary
25/04/2006	Act approved by Council, 2nd reading		
17/05/2006	Final act signed		
17/05/2006	End of procedure in Parliament		
09/06/2006	Final act published in Official Journal		

Technical information	
Procedure reference	2001/0004(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Amending Directive 95/16/EC 1992/0394(COD) Repealing Directive 98/37/EC 1996/0305(COD) Amended by 2008/0172(COD) Amended by 2010/0212(COD) Amended by 2013/0048(COD)
Legal basis	EC Treaty (after Amsterdam) EC 095
Stage reached in procedure	Procedure completed

Documentation gateway

Legislative proposal	COM(2000)0899 OJ C 154 29.05.2001, p. 0164 E	26/01/2001	EC	Summary
Economic and Social Committee: opinion, report	CES1112/2001 OJ C 311 07.11.2001, p. 0001	12/09/2001	ESC	
Committee report tabled for plenary, 1st reading/single reading	A5-0216/2002	28/05/2002	EP	
Text adopted by Parliament, 1st reading/single reading	T5-0362/2002 OJ C 271 12.11.2003, p. 0378-0491 E	04/07/2002	EP	Summary
Modified legislative proposal	COM(2003)0048	11/02/2003	EC	Summary
Council statement on its position	10855/2005	05/07/2005	CSL	
Council position	05786/2/2005 OJ C 251 11.10.2005, p. 0001-0067 E	18/07/2005	CSL	Summary
Commission communication on Council's position	COM(2005)0403	31/08/2005	EC	Summary
Amendments tabled in committee	PE364.847	28/10/2005	EP	
Committee recommendation tabled for plenary, 2nd reading	A6-0338/2005	25/11/2005	EP	
Text adopted by Parliament, 2nd reading	T6-0517/2005	15/12/2005	EP	Summary
Commission response to text adopted in plenary	SP(2006)0053	12/01/2006	EC	
Commission opinion on Parliament's position at 2nd reading	COM(2006)0058	13/02/2006	EC	Summary
Draft final act	03680/4/2005	17/05/2006	CSL	
Follow-up document	SWD(2018)0161	07/05/2018	EC	
Follow-up document	SWD(2018)0160	07/05/2018	EC	

Additional information

National parliaments	IPEX
European Commission	EUR-Lex

Final act

Directive 2006/42 OJ L 157 09.06.2006, p. 0024-0086 Summary
--

Machinery. Recast

PURPOSE: to present a proposal for a Council Directive on machinery and amending Directive 95/16/EC. **CONTENT:** This proposal for a Directive amends Directive 98/37/EC. Given the scope and number of amendments, and in order to make the text more comprehensible, it is presented as a recast directive rather than a directive amending Directive 98/37/EC. The proposal contains two major changes to the scope of the existing Directive: - the inclusion of portable cartridge-operated devices, such as fixing tools, stunning pistols, marking guns etc., where the cartridge is not direct-acting; - construction site hoists intended for lifting persons or persons and goods. The main provisions of the proposed Directive are the following: - the Machinery Committee set up by the Directive has been divided into two distinct parts; - the possibility of prohibiting potentially dangerous machinery has been introduced; - the procedures for disputing harmonised standards and safeguard clauses

are set out in separate articles; - as regards the conformity assessment of machinery, the distinction between machinery as a whole and machines which present more serious hazards, has been maintained; - partly completed machinery, which is almost a machine but which cannot itself perform a specific application, is required to meet only two obligations, namely to bear a declaration of incorporation and to be accompanied by assembly instructions; - Member States are now required to inform all parties concerned and the Commission of all existing and future provisions which they intend to apply; - provisions dealing with non-conforming markings and the obligations arising from the affixing of the CE marking on a machine that is not covered by the Directive or the absence of CE marking for a machine that is so covered; - two articles have been introduced, the first to describe the necessary cooperation between Member States, and the second to ensure the necessary confidentiality in exchanges of information relating to the application of the Directive. Finally, the provisions in the Annexes relate to health and safety requirements, categories of potentially hazardous machinery, partly completed machinery and intrinsically safe machinery, conformity assessment and minimum criteria for notification of bodies.?

Machinery. Recast

The committee unanimously adopted the report by Rainer WIELAND (EPP-ED, D) which tabled a large number of mainly technical amendments to the proposal (codecision procedure, 1st reading) with the aim of clarifying the text and improving consumer and health protection standards. On the key issue of the CE marking, the committee called for a ban on affixing misleading markings or signs to machinery and also urged Member States to recognise the CE marking as the only official confirmation that machinery complies with the directive. At the same time, the committee favoured the right for Member States to support voluntary certification and marking schemes on the grounds that voluntary schemes devised by consumer organisations or manufacturers can contribute to quality and help boost consumer confidence. Other amendments sought to exclude various types of machinery from the scope of the directive and to clarify manufacturers' and importers' obligations regarding matters such as safety and the provision of information. ?

Machinery. Recast

The European Parliament adopted a resolution drafted by Rainer WIELAND (EPP-ED, Germany) on the Commission's proposal. (Please refer to the summary dated 28/05/02.) Parliament clarified in the recitals the fact that the directive does not apply to industrial sites taken as a whole. It also pointed out that there is no Community legislation on fairground machinery and felt that the Commission should propose to bring such equipment within the scope of the directive. Parliament went on to state that purchasers should be given the best possible chance to select the machinery providing the best guarantee of a healthy and safe working environment. This may be done by compiling databases of machinery on the market, which contain information relating to the health and safety requirements laid down in the directive. The Commission should authorise CEN to establish and maintain such databases. On the question of market surveillance, Parliament has inserted a provision that Member States must ensure that machinery will be placed on the market only if it complies with the directive, when properly installed and maintained. There must be competent authorities established to monitor conformity.?

Machinery. Recast

In its amended proposal, the Commission has integrated a number of suggestions from the European Parliament in view of improving the Directive. The Commission has accepted 11 amendments, in full, adopted by the Parliament at first reading. These amendments aim to clarify the scope of the Directive, to present a description of the different phases in the lifecycle of a product, to improve the safety level for construction site hoists and to simplify the application of the CE marking. Among the 6 amendments accepted in principle by the Commission, those which aim to improve the measures concerning the designation of notified bodies or the introduction of the term "hazard", meaning "the possible occurrence of an injury to a person or damage to a person's health". The Commission has also accepted in part 17 amendments which aim to introduce numerous simplifications and improvements to the scope of the Directive. According to the new wording, the Directive shall apply to the following products: machinery; interchangeable equipment; safety components; lifting accessories; removable mechanical transmission devices; partly completed machinery. The following are excluded from the scope of this Directive: components, including safety components, or equipment, including interchangeable equipment, intended to be used as spare parts to replace identical components or equipment supplied by the manufacturer of the original machinery or by a third party in accordance with the manufacturer's instructions; specific equipment for use in fairgrounds and amusement parks; machinery specially designed or put into service for nuclear purposes which, in the event of failure, may result in an emission of radioactivity; firearms; the following means of transport: agricultural and forestry tractor; motor vehicles and their trailers; vehicles covered by Directive 92/61/EEC; motor vehicles exclusively intended for competition; and means of transport by air, on water and on rail networks; (Machinery mounted on these means of transport is not excluded); seagoing vessels and mobile offshore units and machinery installed on board such units; machines specially designed and constructed for military or police purposes; mine winding gear; machinery intended to move performers during artistic performances; electrical and electronic products falling into the following areas: household appliances, audio and video equipment, information technology equipment, office machinery and equipment, circuit breakers and switches, the following types of high-voltage electrical equipment: switch gear and control gear, transformers; motors of all types; industrial sites taken as a whole; medical devices. The Commission accepts, in part, the amendments concerning the term "machinery". The proposal specifies that all machinery must be marked legibly and indelibly with the following minimum particulars: the name and address of the manufacturer and, where applicable, his authorised representative, where applicable, the name and address of the natural or legal person who assumes responsibility for its conformity to this Directive, designation of the machinery, CE marking, designation of series or type, serial number, if any, the year of construction. Furthermore, machinery designed and constructed for use in a potentially explosive atmosphere must be marked accordingly. Machinery must also bear full information relevant to its type and essential to its safe use. Where a machine part must be handled during use with lifting equipment, its mass must be indicated legibly, indelibly and unambiguously. Other amendments proposed by the Parliament (40 in total) were rejected by the Commission.?

Machinery. Recast

An extensive redrafting of the Proposal has been done by the Council, largely concentrating on the use of terminology in order to make it more

consistent throughout the proposed Directive. Lengthy debate and analysis at committee level has ensured that all foreseeable elements have now been incorporated into the proposed Directive. In this way, the Council is hoping to avoid revisiting the Directive in the near future.

The new elements incorporated into the Common Position are as follows:

- Changes have been made to the scope of the Directive. Various items have explicitly been added, some of which were previously mentioned in the Annexes only.
- Certain categories of products have been added to the scope of the Directive. This refers mainly to various means of transport and machinery especially designed for research/laboratory purposes.
- An indicative list of safety components has been set up, which may be modified via a comitology procedure setting up a new Machinery Committee.
- The Annex on Health and Safety requirements has been extensively redrafted.
- A table, cross referencing the proposed Directive with Directive 98/37/EC, has been included in a bid to facilitate the Directive's application ? even when the content of the corresponding parts are not identical.

A number of changes have been made to the terminology of the text. Amendments, which have been included in full by the Council are:

- References to Directive 92/59/EEC
- Restriction to the free circulation of goods.
- Including matters of transportation to the phases where hazards must be eliminated.
- Including the manufacturer's representative name and address only when appropriate.

Amendments, which were partially included or were reworded by the Council relate inter alia, to:

- Definitions of partly completed machinery and safety components, which have now been included.
- Matters relating to the conformity assessment procedure.
- Matters relating to the CE marking.
- On the obligation for national/Commission officials to respect professional confidentiality.
- Rewording the issue of fixed guards.
- Issues relating to language usage and instructions.
- Specifications on how information must be affixed on lifting accessories.

Amendments unacceptable to the Commission and therefore not included by the Council relate inter alia, to:

- Improved environmental performance of machines.
- The non-application of the provisions of the Directive in certain circumstances.
- Equipment used in fairgrounds and amusement parks.
- Voluntary certification and marking schemes.
- High voltage devices.
- Safety improvements regarding old machinery.
- The codification of future legal acts.
- Harmonised standards for machinery
- Risk analysis and conformity assessment procedures
- Partly completed machinery.
- Market Surveillance
- The definition of a 'lift'.
- The entry into force of the future Directive
- Obligations of the manufacturer during the handling and transport of machinery
- The stability of machinery.
- Seats in the machinery.
- Movement of exposed persons.
- Content in instruction manuals.
- Vibrations
- Defining a 'slinging device'.
- Designing a lifting device.
- Designing controls and manual controls
- Construction site hoists.
- The availability of technical files.
- Series manufacture of identical machines
- Persons responsible for fulfilling conformity assessment
- The compilation of a database of machinery which contributes to a safe working environment.

Amendments unacceptable to the Council related, inter alia, to:

- The exclusion of industrial sites and medical devices.
- The conformity of assessment procedure
- Risk analysis
- Professional secrecy
- Hazardous situations
- Measuring procedures
- Aspects of the definition relating to lifting devices.
- Static and dynamic tests
- Hold-to-run controls.
- Machinery load.
- Marking.
- The travel zone in industrial lifts.
- Co-ordination obligations.

To conclude, the Council accepts that the Common Position extensively modifies the text of the initial proposal. However, this re-writing is deemed essential in order to achieve three key objectives. Firstly, to ensure that the terminology is consistent throughout the entire Directive thus allowing for an easier application of its provisions. Secondly, to address the concerns of industrial stakeholders who are expected to apply the provisions and thirdly, to allow an easy transition from the Directive currently in force to the new Directive.

Machinery. Recast

The Commission is of the opinion that the Common Position, which was unanimously adopted, further clarifies certain issues and concepts whilst at the same time improving the formulation of certain provisions. At the same time, the Council's stance neither alters the objectives, nor the general approach, of the initially proposed Directive. The Commission can therefore support the Common Position.

In other comments, the Commission notes that key amendments proposed by the European Parliament made during the first reading of the Directive, such as introducing self-certification, have been incorporated into the Common Position. Moreover, many of the modifications introduced in the Common Position concern improvements in the layout of the text or constitute editorial improvements, which do not change the fundamental meaning or practical application of the Directive. The Commission notes that, the layout of Annex I on essential health and safety requirements is consistent with the layout of the current Directive. Thus, the essential health and safety requirements have been merged with the Chapters relating to lifting as well as the lifting of persons.

Three Declarations have been attached to the Common Position. They concern:

- Issues relating to the exclusion of agricultural and forestry tractors. The Council and Commission declare that, in order to cover all aspects of health and safety issues, components and separate technical units will need to be modified so as to address all the relevant risks of the Machinery Directive.
- Issues relating to the presumption of conformity and harmonised standards. The Commission declares that it will make every effort to provide information on standards published in the Official Journal, indicating the relationship between their clauses and essential health and safety requirements.
- Matters relating to CE marking. The Commission declares that it will clarify the conditions for the affixing of other markings in relation with the CE marking, whether national, European or private.

Machinery. Recast

The committee adopted the report by Andreas SCHWAB (EPP-ED,) amending the Council's common position under the 2nd reading of the codecision procedure:

- a new recital 19a called for the Commission to present by 2007 a proposal for a framework directive on uniform use of the CE marking in respect of all directives in force;
- electric motors should be listed among the products excluded from the scope of the directive in Art. 1(2). Moreover, to avoid pointless administrative formalities in the case of harmless products, the list should include a general category defined as follows: "machinery which, owing to its shape, size, function, or purpose, and to the energy stored within it or used by it, is harmless";
- the reference to scrapping of machinery was deleted from Annex I on the grounds that this lies outside the control of manufacturers, who should therefore not be made responsible for it;
- the requirement to declare uncertainties should be deleted in that it would represent a costly burden for manufacturers, especially SMEs. Moreover, the very meaning of 'uncertainties' is subject to ongoing scientific and academic debate and cannot easily be applied or interpreted;
- Member States which take measures against machinery on health and safety grounds should, "without delay, reinforce market surveillance with regard to machinery presenting the same risk by virtue of its technical characteristics".

Machinery. Recast

The European Parliament adopted a resolution drafted by Andreas SCHWAB (EPP-ED,) making some amendments to the common position:

-concerning agricultural and forestry tractors, the provisions of the Directive concerning the risks currently not covered by Directive 2003/37/EC should no longer apply when such risks are covered by Directive 2003/37/EC.

-a new recital states that Member States are responsible for ensuring that the Directive is effectively enforced on their territory and the safety of the machinery concerned is, as far as possible, improved in accordance with its provisions. The Member States should ensure their capacity to carry out effective market surveillance, taking account of guidelines developed by the Commission, in order to achieve the proper and uniform application of the Directive;

-electric motors should be listed among the products excluded from the scope of the directive in Art. 1(2).

-there is increased emphasis on the fact that business, professional and trade secrets shall be treated as confidential;

-the reference to scrapping of machinery was deleted from Annex I on the grounds that this lies outside the control of manufacturers, who should therefore not be made responsible for it;

-during the assessment of the technology of the machinery, the team of auditors shall carry out a review of the technical files to ensure their compliance with the relevant health and safety requirements.

Machinery. Recast

The Commission accepts in full all of the nine amendments adopted by the European Parliament. They are the result of a compromise package agreed between the European Parliament and the Council. The conclusion of the compromise package has been facilitated by three declarations, which the Commission made during the December 2005 session. The Commission Declaration states:

- On CE marking: The Commission will clarify the conditions for affixing other markings, whether national, European or private, in relation to the CE marking.
- On tractors I: The Parliament, the Council and the Commission declare that, in order to cover all aspects related to the health and safety of agricultural and forestry tractors in one harmonising Directive, Directive 2003/37 on type-approval of agricultural and forestry tractors, their trailers and inter-changeable towed machinery, together with their systems, components and separate technical units needs to be modified so as to address all the relevant risks of the Machinery Directive. Such a modification should include an amendment of the Machinery Directive in order to delete the expression 'for the risks'.
- On tractors II: The Commission recognises the need to include in the agricultural and forestry tractors directive further requirements for risks not yet covered by these Directives. To this end, the Commission is considering appropriate measures that include references to United Nations regulations, CEN and ISO standards and OECD codes.

Machinery. Recast

PURPOSE: to lay down the essential health and safety requirements of the design and manufacture of machinery placed on the internal market.

LEGISLATIVE ACT: Directive 2006/42/EC of the European Parliament and of the Council on machinery and amending Directive 95/16/EC (recast).

CONTENT: the Council approved Parliamentary amendments on the draft Directive on the technical harmonisation for machines, which amends Directive 95/16/EC. The Directive is deemed to have been adopted in the form of the common position, as amended by the European Parliament during its second reading.

The Directive's objective is to update technical prescriptions of existing community legislation which governs the design and construction of machinery, interchangeable equipment, safety components, lifting accessories, removable mechanical transmission devices and partly completed machinery. The agreed text improves legal certainty by clarifying the Directive's scope and meaning and by removing ambiguities that have led to diverging interpretations. For example, there will be clearer borderlines to other directives such as the Lifts and Low Voltage Directives. Market surveillance and surveillance of product certification bodies is made more efficient by improved co-ordination at EU-level and monitoring at national level. It covers anything from small consumer products such as handheld power tools, outboard engines to large professional products such as paper making machinery or tower cranes.

The agreed text defines only the essential health and safety requirements of general application, supplemented by a number of more specific requirements for certain categories of machinery.

ENTRY INTO FORCE: 29 June 2006

TRANSPOSITION: 29 June 2008. The Member States will have until 29 December 2009 to apply the Directive's provisions.