



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 12.05.2003
COM(2003) 252 final

2003/0094 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on the harmonisation of the laws of Member States relating to electrical equipment
designed for use within certain voltage limits**

(Codified version)

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. In the context of a people's Europe, the Commission attaches great importance to simplifying and clarifying Community law so as to make it clearer and more accessible to the ordinary citizen, thus giving him new opportunities and the chance to make use of the specific rights it gives him.

This aim cannot be achieved so long as numerous provisions that have been amended several times, often quite substantially, remain scattered, so that they must be sought partly in the original instrument and partly in later amending ones. Considerable research work, comparing many different instruments, is thus needed to identify the current rules.

For this reason a codification of rules that have frequently been amended is also essential if Community law is to be clear and transparent.

2. On 1 April 1987 the Commission therefore decided¹ to instruct its staff that all legislative acts should be codified after no more than ten amendments, stressing that this is a minimum requirement and that departments should endeavour to codify at even shorter intervals the texts for which they are responsible, to ensure that the Community rules are clear and readily understandable.
3. The Conclusions of the Presidency of the Edinburgh European Council (December 1992) confirmed this², stressing the importance of codification as it offers certainty as to the law applicable to a given matter at a given time.

Codification must be undertaken in full compliance with the normal Community legislative procedure.

Given that no changes of substance may be made to the instruments affected by codification, the European Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codified instruments.

4. The purpose of this proposal, is to undertake a codification of Council Directive 73/23/EEC of 19 February 1973 on the harmonisation of the laws of Member States relating to electrical equipment designed for use within certain voltage limits³. The new Directive will supersede the various acts incorporated in it⁴; this proposal fully preserves the content of the acts being codified and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.
5. The codification proposal was drawn up on the basis of a preliminary consolidation, in all official languages, of Directive 73/23/EEC and the instrument amending it, carried out by the Office for Official Publications of the European Communities, by means of a data-processing system. Where the articles have been given new

¹ COM(1987) 868 PV.

² See Annex 3 to Part A of the Conclusions.

³ Carried out pursuant to the Communication from the Commission to the European Parliament and the Council – Codification of the Acquis communautaire, COM(2001) 645 final.

⁴ Annex V, Part A of this proposal.

numbers, the correlation between the old and the new numbers is shown in a table contained in Annex VI to the codified Directive.

↓ 73/23/EEC (adapted)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the harmonisation of the laws of Member States relating to electrical equipment designed for use within certain voltage limits

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee⁵,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁶,

Whereas:



- (1) Council Directive 73/23/EEC of 19 February 1973 on the harmonisation of the laws of Member States relating to electrical equipment designed for use within certain voltage limits⁷, has been substantially amended⁸. In the interests of clarity and rationality the said Directive should be codified.

↓ 73/23/EEC Recital (1)

- (2) The provisions in force in the Member States designed to ensure safety in the use of electrical equipment used within certain voltage limits may differ, thus impeding trade.

⁵ OJ C [...], [...], p. [...].

⁶ OJ C [...], [...], p. [...].

⁷ OJ L 77, 26.3.1973, p. 29. Directive as amended by Directive 93/68/EEC (OJ L 220, 30.8.1993, p. 1).

⁸ See Annex V, Part A.

↓ 73/23/EEC Recital (2)

- (3) In certain Member States in respect of certain electrical equipment, the safety legislation takes the form of preventive and repressive measures by means of binding provisions.

↓ 73/23/EEC Recital (3)

- (4) In other Member States in order to achieve the same objective, the safety legislation provides for reference to technical standards laid down by Standards Bodies. Such a system offers the advantage of rapid adjustment to technical progress without neglecting safety requirements.

↓ 73/23/EEC Recital (4)

- (5) Certain Member States carry out administrative operations to approve standards. Such approval neither affects the technical content of the standards in any way nor limits their conditions of use. Such approval cannot therefore alter the effects, from a Community point of view, of harmonised and published standards.

↓ 73/23/EEC Recital (5)

- (6) Within the Community the free movement of electrical equipment should follow when this equipment complies with certain safety requirements recognised in all Member States. Without prejudice to any other form of proof, the proof of compliance with these requirements may be established by reference to harmonised standards which incorporate these conditions. These harmonised standards should be established by common agreement by bodies to be notified by each Member State to the other Member States and to the Commission and should be publicised as widely as possible. Such harmonisation should for the purposes of trade eliminate the inconveniences, resulting from differences between national standards.

↓ 73/23/EEC Recital (6)

- (7) Without prejudice to any other form of proof, the compliance of electrical equipment with the harmonised standards may be presumed from the affixing or issue of marks or certificates by the competent organisations or, in the absence thereof, from a manufacturer's declaration of compliance. In order to facilitate the removal of barriers to trade the Member States should recognise such marks or certificates or such declaration as elements of proof. With this end in view, the said marks or certificates should be publicised in particular by their publication in the *Official Journal of the European Union*.

↓ 73/23/EEC Recital (7)

- (8) As a transitional measure, the free movement of electrical equipment for which harmonised standards do not yet exist may be achieved by applying the safety provisions or standards already laid down by other international bodies or by one of the bodies which establish harmonised standards.

↓ 73/23/EEC Recital (8)

- (9) It is possible that electrical equipment may be placed in free circulation even though it does not comply with the safety requirements, and it is therefore desirable to lay down suitable provisions to minimise this danger.

↓ 93/68/EEC Art. 13, point. 1,

- (10) Council Decision 90/683/EEC⁹ establishes the modules for the various phases of the conformity assessment procedures which are intended to be used in the technical harmonisation Directives.

↓ 93/68/EEC Art. 13, point 1,)

- (11) The choice of procedures should not lead to a lowering of safety standards of electrical equipment, which have already been established throughout the Community.

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- (12) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and application of the Directives set out in Annex V, Part B,

↓ 73/23/EEC

HAVE ADOPTED THIS DIRECTIVE:

Article 1

For the purposes of this Directive 'electrical equipment' means any equipment designed for use with a voltage rating of between 50 and 1 000 V for alternating current and between 75 and 1 500 V for direct current, other than the equipment and phenomena listed in Annex II.

⁹ OJ L 380, 31.12.1990, p. 13.

Article 2

1. The Member States shall take all appropriate measures to ensure that electrical equipment may be placed on the market only if, having been constructed in accordance with good engineering practice in safety matters in force in the Community, 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.
2. The principal elements of the safety objectives referred to in paragraph 1 are listed in Annex I.

Article 3

The Member States shall take all appropriate measures to ensure that if electrical equipment is of such a nature as to comply with the provisions of Article 2, subject to the conditions laid down in Articles 5, 6, 7 and 8, the free movement thereof within the Community shall not be impeded for reasons of safety.

Article 4

In relation to electrical equipment the Member States shall ensure that stricter safety requirements than those laid down in Article 2 are not imposed by electricity supply bodies for connection to the grid, or for the supply of electricity to users of electrical equipment.

↓ 73/23/EEC (adapted)

Article 5

The Member States shall take all appropriate measures to ensure that, in particular, electrical equipment which complies with the safety provisions of harmonised standards shall be regarded by their competent administrative authorities as complying with the provisions of Article 2, for the purposes of placing on the market and free movement as referred to in Articles 2 and 3 respectively.

Standards shall be regarded as harmonised once they are drawn up by common agreement between the bodies notified by the Member States in accordance with Article 11(a), and published under national procedures. The standards shall be kept up to date in the light of technological progress and the developments in good engineering practice in safety matters.

↓ 73/23/EEC

For purposes of information the list of harmonised standards and their references shall be published in the *Official Journal of the European Union*.

Article 6

1. Where harmonised standards as defined in Article 5 have not yet been drawn up and published, the Member States shall take all appropriate measures to ensure that, for the purposes of placing on the market or free movement as referred to in Articles 2 and 3 respectively, their competent administrative authorities shall also regard, as complying with the provisions of Article 2, electrical equipment which complies with the safety provisions of the International Commission on the Rules for the Approval of Electrical Equipment (CEE) or of the International Electrotechnical Commission (IEC) in respect of which the publication procedure laid down in paragraphs 2 and 3 has been applied.
2. The safety provisions referred to in paragraph 1 shall be notified to the Member States by the Commission as from the entry into force of this Directive, and thereafter as and when they are published. The Commission, after consulting the Member States, shall state the provisions and in particular the variants which it recommends to be published.
3. The Member States shall inform the Commission within a period of three months of such objections as they may have to the provisions thus notified, stating the safety grounds on account of which the provisions should not be recognised.

For purposes of information those safety provisions against which no objection has been raised shall be published in the *Official Journal of the European Union*.

Article 7

Where harmonised standards within the meaning of Article 5 or safety provisions published in accordance with Article 6 are not yet in existence, the Member States shall take all appropriate measures to ensure that, for the purpose of placing on the market or free movement as referred to in Articles 2 and 3 respectively, their competent administrative authorities shall also regard as complying with the provisions of Article 2, electrical equipment manufactured in accordance with the safety provisions of the standards in force in the Member State of manufacture, if it ensures a safety level equivalent to that required in their own territory.

Article 8

↓ 93/68/EEC Article 13 point 2 (adapted)

1. Before being placed on the market, the electrical equipment must have affixed to it the CE marking provided for in Article 10 attesting to its conformity to the provisions of this Directive, including the conformity assessment procedure described in Annex IV.

↓ 73/23/EEC (adapted)

2. In the event of a challenge, the manufacturer or importer may submit a report, drawn up by a body, which is notified in accordance with Article 11 (b) , on the conformity of the electrical equipment with the provisions of Article 2.

↓ 93/68/EEC Article 13 point 3
(adapted)

3. Where electrical equipment is subject to other Directives concerning other aspects which also provide for the affixing of the CE marking, the latter shall indicate that the equipment in question is also presumed to conform to the provisions of those other Directives.

However, where one or more of these Directives allow the manufacturer, during a transitional period, to choose which arrangements to apply, the CE marking shall indicate conformity to the provisions only of those Directives applied by the manufacturer. In this case, particulars of the Directives applied, as published in the *Official Journal of the European Union*, must be given in the documents, notices or instructions required by the Directives and accompanying the electrical equipment.

↓ 73/23/EEC (adapted)

Article 9

1. If, for safety reasons, a Member State prohibits the placing on the market of any electrical equipment or impedes its free movement, it shall immediately inform the other Member States concerned and the Commission, indicating the grounds for its decision and stating in particular:
- (a) whether its non-conformity with Article 2 is attributable to a shortcoming in the harmonised standards referred to in Article 5, the provisions referred to in Article 6 or the standards referred to in Article 7;
 - (b) whether its non-conformity with Article 2 is attributable to faulty application of such standards or publications or to failure to comply with good engineering practice as referred to in Article 2.
2. If other Member States raise objections to the decision referred to in paragraph 1, the Commission shall immediately consult the Member States concerned.
3. If an agreement has not been reached within three months from the date of notification as laid down in paragraph 1, the Commission shall obtain the opinion of one of the bodies notified in accordance with Article 11 (b) , having its registered office outside the territory of the Member States concerned and which has not been involved in the procedure provided for in Article 8. The opinion shall state the extent to which the provisions of Article 2 have not been complied with.

4. The Commission shall communicate the opinion of the body referred to in paragraph 3 to all Member States which may, within a period of one month, make their observations known to the Commission. The Commission shall at the same time note any observations by the parties concerned on that opinion.
5. Having taken note of these observations the Commission shall, if necessary, formulate the appropriate recommendations or opinions.

↓ 93/68/EEC Article 13 point 4

Article 10

1. The CE conformity marking referred to in Annex III shall be affixed by the manufacturer or his authorised representative established within the Community to the electrical equipment or, failing that, to the packaging, the introduction sheet or the guarantee certificate so as to be visible, easily legible and indelible.
2. The affixing on electrical equipment of any markings liable to deceive third parties as to the meaning and form of the CE marking shall be prohibited. However, any other marking may be affixed to the electrical equipment, its packaging, the instruction sheet or the guarantee certificate provided that the visibility and legibility of the CE marking is not thereby reduced.
3. Without prejudice to Article 9:
 - (a) where a Member State establishes that the CE marking has been affixed unduly, the manufacturer or his agent established within the Community market shall be obliged to make the electrical equipment comply as regards the provisions concerning the CE marking and to end the infringement under conditions imposed by the Member State;

↓ 93/68/EEC Article 13 point 4 (adapted)

- (b) where non-compliance continues, the Member State shall take all appropriate measures to restrict or prohibit the placing on the market of the electrical equipment in question or to ensure that it is withdrawn from the market in accordance with Article 9.

↓ 73/23/EEC (adapted)

Article 11

Each Member State shall inform the other Member States and the Commission of the following:

- (a) the bodies referred to in Article 5;

☒ (b) ☒ the bodies which may make a report in accordance with the provisions of Article 8 ☒ (2) ☒ or give an opinion in accordance with the provisions of Article 9;

☒ (c) ☒ the ☒ publication reference ☒ referred to in the second paragraph of Article 5.

Any amendment to the above shall be notified by each Member State to the other Member States and to the Commission.

↓ 73/23/EEC

Article 12

This Directive shall not apply to electrical equipment intended for export to third countries.

↓ 73/23/EEC (adapted)

Article 13

The 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.

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Article 14

Directive 73/23/EEC, as amended by the Directive listed in Annex V, Part A, is repealed without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and application of the Directive set out in Annex V, Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table set out in Annex VI.

Article 15

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 16

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament

The President

[\[...\]](#)

For the Council

The President

[\[...\]](#)

ANNEX I

PRINCIPAL ELEMENTS OF THE SAFETY OBJECTIVES FOR ELECTRICAL EQUIPMENT DESIGNED FOR USE WITHIN CERTAIN VOLTAGE LIMITS

1. General conditions

- a) The essential characteristics, the recognition and observance of which will ensure that electrical equipment will be used safely and in applications for which it was made, shall be marked on the equipment, or, if this is not possible, on an accompanying notice.
- b) The manufacturers or brand name or trade mark should be clearly printed on the electrical equipment or, where that is not possible, on the packaging.
- c) The electrical equipment, together with its component parts should be made in such a way as to ensure that it can be safely and properly assembled and connected.
- d) The electrical equipment should be so designed and manufactured as to ensure that protection against the hazards set out in points 2 and 3 of this Annex is assured providing that the equipment is used in applications for which it was made and is adequately maintained.

2. Protection against hazards arising from the electrical equipment

Measures of a technical nature should be prescribed in accordance with point 1, in order to ensure:

- a) that persons and domestic animals are adequately protected against danger of physical injury or other harm which might be caused by electrical contact direct or indirect;
- b) that temperatures, arcs or radiation which would cause a danger, are not produced;
- c) that persons, domestic animals and property are adequately protected against non-electrical dangers caused by the electrical equipment which are revealed by experience;
- d) that the insulation must be suitable for foreseeable conditions.

3. Protection against hazards which may be caused by external influences on the electrical equipment

Technical measures are to be laid down in accordance with point 1, in order to ensure:

- a) that the electrical equipment meets the expected mechanical requirements in such a way that persons, domestic animals and property are not endangered;

- b) that the electrical equipment shall be resistant to non-mechanical influences in expected environmental conditions, in such a way that persons, domestic animals and property are not endangered;
 - c) that the electrical equipment shall not endanger persons, domestic animals and property in foreseeable conditions of overload.
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ANNEX II

EQUIPMENT AND PHENOMENA OUTSIDE THE SCOPE OF THE DIRECTIVE

Electrical equipment for use in an explosive atmosphere

Electrical equipment for radiology and medical purposes

Electrical parts for goods and passenger lifts

Electricity meters

Plugs and socket outlets for domestic use

Electric fence controllers

Radio-electrical interference

Specialised electrical equipment, for use on ships, aircraft or railways, which complies with the safety provisions drawn up by international bodies in which the Member States participate.

ANNEX IV

INTERNAL PRODUCTION CONTROL

1. Internal production control is the procedure whereby the manufacturer or his authorised representative established within the Community, who carries out the obligations laid down in point 2, ensures and declares that the electrical equipment satisfies the requirements of this Directive that apply to it. The manufacturer or his authorised representative established within the Community must affix the CE marking to each product and draw up a written declaration of conformity.
2. The manufacturer must establish the technical documentation described in point 3 and he or his authorised representative established within the Community must keep it on Community territory at the disposal of the relevant national authorities for inspection purposes for a period ending at least 10 years after the last product has been manufactured.

Where neither the manufacturer nor his authorised representative is established within the Community, this obligation is the responsibility of the person who places the electrical equipment on the Community market.

3. Technical documentation must enable the conformity of the electrical equipment to the requirements of this Directive to be assessed. It must, as far as relevant for such assessment, cover the design, manufacture and operation of the electrical equipment. It must include:
 - a general description of the electrical equipment;
 - conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, etc.;
 - descriptions and explanations necessary for the understanding of said drawings and schemes and the operation of the electrical equipment;
 - a list of the standards applied in full or in part, and descriptions of the solutions adopted to satisfy the safety aspects of this Directive where standards have not been applied;
 - results of design calculations made, examinations carried out, etc.;
 - test reports.
4. The manufacturer or his authorised representative must keep a copy of the declaration of conformity with the technical documentation.
5. The manufacturer must take all measures necessary in order that the manufacturing process shall ensure compliance of the manufactured products with the technical documentation referred to in point 2 and with the requirements of this Directive that apply to them.



ANNEX V

Part A

Repealed Directive with its amendment
(referred to in Article 14)

Council Directive 73/23/EEC (OJ L 77, 26.3.1973, p. 29)
Council Directive 93/68/EEC Article 1 (OJ L 220, 30.8.1993, p. 1)
point 12 and Article 13 only

Part B

List of time-limits for transposition into national law and application
(referred to in Article 14)

Directive	Time-limit for transposition	Date of application
73/23/EEC	21 August 1974	-
93/68/EEC	1 July 1994	1 January 1995 ¹⁰

¹⁰ Until 1 January 1997 Member States had to allow the placing on the market and the bringing into service of products which complied with the marking arrangements in force before 1 January 1995. See Article 14(2) of Directive 93/68/EEC.

ANNEX VI

CORRELATION TABLE

Directive 73/23/EEC	This Directive
Articles 1 – 7	Articles 1 – 7
Article 8 (1)	Article 8 (1)
Article 8 (2)	Article 8 (2)
Article 8 (3) (a)	Article 8 (3) first subparagraph
Article 8 (3) (b)	Article 8 (3) second subparagraph
Article 9 (1) first indent	Article 9 (1) (a)
Article 9 (1) second indent	Article 9 (1) (b)
Article 9 (2) to (5)	Article 9 (2) to (5)
Article 10	Article 10
Article 11 first indent	Article 11 (a)
Article 11 second indent	Article 11 (b)
Article 11 third indent	Article 11 (c)
Article 12	Article 12
Article 13 (1)	–
Article 13 (2)	Article 13
–	Article 14
–	Article 15
Article 14	Article 16
Annexes I to IV	Annexes I to IV
–	Annex V
–	Annex VI