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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND  
THE COUNCIL**

**FIRST REPORT ON THE IMPLEMENTATION OF DIRECTIVE 2000/9/EC relating  
to cableway installations designed to carry persons**

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## **FIRST REPORT ON THE IMPLEMENTATION OF DIRECTIVE 2000/9/EC relating to cableway installations designed to carry persons**

### **1. INTRODUCTION**

The purpose of Directive 2000/9/EC of the European Parliament and of the Council of 20 March 2000 relating to cableway installations designed to carry persons<sup>1</sup> (hereinafter “the Directive”) is to establish the free movement in the internal market of safety components and subsystems of cableway installations while maintaining a uniform and high level of safety.

The Directive entered into force on 3 May 2000 and became fully applicable on 3 May 2004 in member countries of the European Economic Area (EEA), i.e. in all Member States of the European Union as well as Iceland, Liechtenstein and Norway.

This report presents the key developments in the implementation of the Directive. It is submitted by the Commission to the European Parliament and the Council in accordance with Article 21 of the Directive.

This report takes into account the results of the consultation held by the European Commission with the competent national authorities and all actors involved in the Directive’s implementation. The consultation was held in 2010 by means of a questionnaire on the different aspects of the Directive’s implementation.

### **2. DIRECTIVE 2000/9/EC: BASIC ELEMENTS AND SPECIFIC ASPECTS**

The Directive is based on Articles 47, 55 and 95 of the Treaty establishing the European Economic Community (TEC) (which are now Articles 53, 62 and 114 of the Treaty on the Functioning of the European Union (TFEU)).

The Directive is founded on the principles of the New Approach, whereby harmonisation is restricted to the essential requirements of safety, human health, protection of the environment and consumer protection.

Only those products which meet the essential requirements set out in the Directive may be placed on the market. Compliance with the harmonised standards, for which references have been published in the Official Journal of the European Union and transposition into national standards has occurred, gives rise to a presumption of conformity with the essential requirements set out in the Directive. The application of harmonised standards is not, however, obligatory and manufacturers may also choose other technical solutions, provided that conformity with the essential requirements established in the Directive is guaranteed in all cases.

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<sup>1</sup> OJ L 106, 3.5.2000, p. 21.

While the Directive draws on these general principles, it also contains specific aspects relating to the characteristics of cableway installations. Indeed, cableway installations are, with the exception of the smaller ones, unique products adapted to the local conditions and by nature inextricably linked to fixed infrastructure and mobile machinery.

As a result, the Directive focuses on the distinction between safety components, subsystems and installations and stipulates different arrangements for, on the one hand, the safety components and subsystems and, on the other, installations. Safety components and subsystems are subject to the rules on the free movement of goods and to the conformity assessment and declaration of conformity, whereas fixed installations continue to fall within the Member States' competence and are subject to a licence for construction and authorisation for putting into service which are granted by the competent public authorities.

This distinction between safety components, subsystems and installations thus reflects the specific nature of cableway installations compared with other mechanical engineering products. This distinction also underpins the legislator's choice to adopt, for cableway installations, a legislative act specifically designed for the sector, which is different from the *acquis* regarding the European harmonisation of mechanical engineering products, and more specifically Directive 2006/42/EC on machinery<sup>2</sup>.

### **3. THE MARKET FOR CABLEWAY INSTALLATIONS**

Cableway installations are mainly a means of public transport and their safety is therefore vitally important in relation to both the persons transported and the staff involved in putting these installations into service and maintaining them.

It should also be stressed that, particularly in mountainous regions, cableway installations are normally used for tourist purposes and their use plays a crucial economic role.

The market for cableway installations is characterised by a high degree of specialisation in the industrial sector. It is based on professional buyers who choose the cable lift constructor after launching the procurement procedure by issuing a call for tenders, whether public or private.

European industry has traditionally held a dominant position on the market for cableway installations, not only within but also outside the European Union. In recent years, mergers have led to two large European industrial groups emerging which have prominent positions on the European and global markets. In contrast, there are very few small and medium-sized enterprises in the sector.

By harmonising the conformity assessment procedures of safety components and subsystems, and by promoting the establishment of harmonised standards at the European level, the Directive has made economies of scale possible by standardising products.

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<sup>2</sup> Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC (recast) (*OJ L 157, 9.6.2006, p. 24*) – Directive 2006/42/EC repealed the earlier Directive 98/37/EC of the European Parliament and of the Council of 22 June 1998 on the approximation of the laws of the Member States relating to machinery (*OJ L 207, 23.7.1998, p. 1*).

Above all, however, the adoption of the Directive has led to an improvement in the positioning and visibility of the industrial sector concerned as it has proved to be a beneficial instrument even outside the European Union.

#### **4. IMPLEMENTATION OF DIRECTIVE 2000/9/EC**

The transposition of the Directive at national level has not, on the whole, run into any particular problems, and it has not been necessary to start infringement proceedings against any Member State.

The Commission has prepared, with the help of an expert and in consultation with the stakeholders in the sector, Application guide to the Directive. The Guide, published in 2006, was developed with the intention of providing all players involved in the application of the Directive<sup>3</sup> with a reference tool.

##### **4.1. Definitions and scope (Article 1)**

The installations covered by the Directive are funicular railways, cable cars, gondolas, chairlifts and drag lifts. The Directive is applicable to the installations built and put into service as from 3 May 2004, and to subsystems and safety components placed on the market as from that date.

With regard to changes to existing installations, i.e. installations built and put into service before 3 May 2004, the Directive provides that only changes requiring a new authorisation for putting into service must meet the basic requirements, whereas other changes do not fall within the scope of the Directive. In this respect, it should be noted that the application of the Directive in respect of changes to existing installations has not always been easy, as it is sometimes difficult to identify the changes for which a new authorisation for putting into service is required under the different legislations of Member States.

The Directive's scope, under Article 1(6), excludes *inter alia* lifts within the meaning of Directive 95/16/EC<sup>4</sup>, tramways of traditional construction, rack railways and equipment for use in amusement parks. In the first few years of the Directive's implementation, it became apparent that the scope of the Directive would have to be better defined in relation to Directive 95/16/EC relating to lifts, and especially with regard to lifts inclined at an angle. At the same time, the distinction between installations in amusement parks designed for leisure purposes and cableway installations used as a means of transport for persons, and therefore subject to the Directive, is not always clear-cut.

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<sup>3</sup> The Guide has been published in English, French and German and is also available electronically in English, French, German and Italian on DG Enterprise and Industry's website: [http://ec.europa.eu/enterprise/sectors/mechanical/documents/guidance/cableways/index\\_en.htm](http://ec.europa.eu/enterprise/sectors/mechanical/documents/guidance/cableways/index_en.htm)

<sup>4</sup> Directive 95/16/EC of the European Parliament and of the Council of 29 June 1995 on the approximation of the laws of the Member States relating to lifts (OJ L 213, 7.9.1995, p. 1).

## 4.2. Basic requirements and harmonised standards (Articles 2–3 and Annex II)

Through the implementation of and compliance with the essential requirements set out in the Directive it was possible to guarantee a very high level of safety for cableway installations in all Member States. In this respect, it is noteworthy that the adoption of the Directive contributed especially to increasing the level of safety of cableway installations in Member States which did not have a tradition in that field.

Furthermore, the adoption of the Directive has given impetus to finalising the standardisation process at the European level. In 2000, the Commission gave CEN<sup>5</sup> and CENELEC<sup>6</sup> the standardisation mandate M300 in the field of cableway installations designed to carry persons. The standardisation programme was completed by the CEN Technical Committee responsible for cableway installations during the period 2000–2005. There are currently twenty-three harmonised standards in the field of cableway installations. Their references are regularly published in the Official Journal of the European Union<sup>7</sup>, and the list is available on DG Enterprise and Industry's website<sup>8</sup>.

In the first few years that the Directive was implemented, only one formal objection to a harmonised standard was filed by a Member State under the procedure set out in Article 2(7) of the Directive. Given the opinions expressed by the Standing Advisory Committee for the Directive and the Standing Committee for Directive 98/34/EC<sup>9</sup>, the formal objection was not followed through as it was not possible to substantiate the claim that the harmonised standard in question did not meet the essential requirements established in the Directive, and therefore the reference of the harmonised standard was kept on the list of standards published in the Official Journal of the European Union<sup>10</sup>.

As part of the standardisation mandate from the Commission, the CEN Technical Committee responsible for cableway installations has recently launched the first review process for the existing harmonised standards with a view to modifying and updating them if necessary.

## 4.3. Safety analysis and safety report (Article 4 and Annex III)

The Directive provides that all planned installations shall be subject to a safety analysis which covers all safety aspects of the system and its surroundings in the context of the design, construction and putting into service and makes it possible to identify risks liable to occur during operation.

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<sup>5</sup> European Committee for Standardisation.

<sup>6</sup> European Committee for Electrotechnical Standardisation.

<sup>7</sup> The most recent publication of references of harmonised standards in the field of cableway installations appeared in Official Journal C 51, 4.3.2009, p. 9.

<sup>8</sup> [http://ec.europa.eu/enterprise/sectors/mechanical/documents/standardization/cableways/index\\_en.htm](http://ec.europa.eu/enterprise/sectors/mechanical/documents/standardization/cableways/index_en.htm)

<sup>9</sup> Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on information society services (OJ L 204, 21.7.1998, p. 37). Directive as amended by Directive 98/48/EC (OJ L 217, 5.8.1998, p.18).

<sup>10</sup> Commission Decision of 26 November 2008 on the non-withdrawal of the reference of standard EN 12929-2:2004 "Safety requirements for cableway installations designed to carry persons – General requirements – Part 2: Additional requirements for reversible bi-cable aerial ropeways without carrier truck brakes" in the Official Journal of the European Union in accordance with Directive 2000/9/EC of the European Parliament and of the Council – (C(2008)7289 final).

The safety analysis is the subject of a safety report recommending the measures envisaged to deal with any such risks and including a list of the safety components and subsystems.

The safety analysis is a new concept introduced in the Directive and has played a fundamental role in its implementation. However, it should be stressed that the Directive only provides that the safety analysis be carried out at the request of the main contractor or his authorised representative. Thus, the Directive does not stipulate who must carry out this analysis, but only on whose behalf it is carried out. Similarly, with regard to the method to be used in preparing the safety analysis, the Directive stipulates only that it must be a recognised method, which takes into account the state of the art, the complexity of the installation and the planned operating modes. On this subject, it must be noted that this fairly general wording has at times created problems in interpreting how the Directive is to be applied.

#### **4.4. Safety components, subsystems and installations (Article 1 and Annex I)**

As has been mentioned above, the Directive is based on the distinction between safety components, subsystems and installations.

With regard to the safety components, the Directive defines these as any basic component, set of components, subassembly or complete assembly of equipment and any device incorporated in the installation for the purpose of ensuring a safety function and identified by the safety analysis.

“Installation” is defined as the whole on-site system, consisting of infrastructure and subsystems. The infrastructure is specially designed for each installation and includes, *inter alia*, the layout, station structures and structures along the line, and the foundations. With regard to subsystems, the Directive does not define these as such but provides a list which includes, *inter alia*, the following: cables and cable connections, drives and brakes, vehicles, mechanical equipment, electrotechnical devices and rescue equipment.

The Directive establishes the free movement of safety components and subsystems in the internal market, and these are, therefore, subject to an assessment procedure and declaration of conformity procedure; whereas installations continue to fall within the Member States’ competence and, therefore, each Member State lays down the procedures for authorising the construction and putting into service of installations which are located within its territory.

Clarity and coherence in identifying safety components and subsystems and installations are therefore crucial in order to correctly implement the Directive. However, in implementing the Directive, the distinction especially between safety components and subsystems, and between subsystems and infrastructure has not always been clear.

#### **4.5. Assessment and declaration of conformity of safety components (Article 7 and Annexes IV-V)**

Before the safety component is placed on the market, the manufacturer or his authorised representative established in the Community must submit the safety component to a conformity assessment procedure.

The conformity assessment procedure set out in the Directive for safety components refers to various modules which are covered by Decision 93/465/EEC<sup>11</sup>, including Module B (EC-type examination) together with Module D (quality assurance of the production process) or with Module F (product verification); Module H (full quality assurance); and finally Module G (unit verification). The various modules may be chosen by the manufacturer or his authorised representative and will always be carried out by third party bodies, i.e. the notified bodies. Once the conformity assessment procedure is completed, the manufacturer or his authorised representative affixes the EC conformity marking and draws up the EC declaration of conformity.

The implementation of the Directive has shown that the choice of applicable modules for the conformity assessment of safety components is entirely relevant. The fact that the Directive provides that the conformity assessment must be carried out by a notified body has proved to be appropriate, and there have been no specific problems regarding the application of different modules.

#### **4.6. Assessment and declaration of conformity of subsystems (Article 10 and Annexes VI-VII)**

Before the subsystems are placed on the market, the manufacturer or his authorised representative established in the Community must submit the subsystem to a conformity assessment procedure.

However, the conformity assessment procedure set out in the Directive for subsystems does not, unlike that set out for safety components, refer to specific modules.

The Directive sets out an EC examination procedure for subsystems, which is carried out at the request of the manufacturer or his authorised representative by the notified body chosen for this purpose by the manufacturer or his authorised representative. Once this procedure is completed, the manufacturer or his authorised representative draws up the EC declaration of conformity; the EC marking does not have to be affixed.

In this respect, it should be stressed that the absence of modules in the EC examination procedure of subsystems has at times given rise to divergent interpretations and practices.

#### **4.7. Safeguard measures (Articles 14 to 15)**

The Directive stipulates the safeguard procedure to be followed if a Member State finds that a safety component, subsystem or even an installation may jeopardise the health or safety of persons and, if relevant, the safety of property. This procedure, the usefulness of which is not in question, has never been applied over the first few years since the implementation of the Directive.

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<sup>11</sup> Council Decision 93/465/EEC of 22 July 1993 concerning the modules for the various phases of the conformity assessment procedures and the rules for the affixing and use of the CE conformity marking, which are intended to be used in the technical harmonisation directives (OJ L 220, 30.8.1993, p. 23) – Decision 93/465/EEC has been repealed by Decision 768/2008/EC of the European Parliament and of the Council of 9 July 2008 (see footnote 17).



#### **4.8. Notified bodies (Article 16 and Annex VIII)**

Several Member States have notified the Commission and other Member States of the bodies responsible for carrying out, in accordance with the Directive, the conformity assessment procedures for safety components and subsystems<sup>12</sup>.

It is obviously crucial that the criteria established in the Directive for the assessment of notified bodies be rigorously and consistently applied by the national authorities of the various Member States.

With regard to the coordination of notified bodies as set out in the Directive, the Cableway Installations Sectoral Group of Notified Bodies was set up and started its work in 2004. The purpose of setting up the Group is twofold: to establish cooperation between the notified bodies in the sector and thereby promote the harmonisation of conformity assessment procedures carried out pursuant to the Directive.

The Cableway Installations Sectoral Group of Notified Bodies has up to now adopted five recommendations for use (RfUs)<sup>13</sup>.

The cooperation in place since 2004 between notified bodies in the sector has been fruitful, it could, however, prove even more effective. The harmonisation of conformity assessment procedures has not yet been completed, and only a few RfUs have been adopted which mainly focus on formal and administrative issues and not necessarily on technical ones.

#### **4.9. Committee (Article 17)**

The Directive stipulates that the Commission shall be assisted by a Standing Advisory Committee consisting of representatives of authorities from Member States and chaired by a representative of the Commission.

In the first few years of the Directive's implementation, the Committee has in principle met once a year and has not been called upon to adopt, by means of a formal vote, any real measures to implement the Directive. The Committee has, however, addressed the issue of interpretation regarding the application of the Directive and its transposition into national law, and in so doing has encouraged cooperation and dialogue between the competent national authorities.

The presence at these meetings of sectoral stakeholders as observers (such as OITAF<sup>14</sup>, IARM<sup>15</sup> and FIANET<sup>16</sup>) and other actors involved in the implementation of the Directive (the

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<sup>12</sup> The updated list of notified bodies is available on DG Enterprise and Industry's website: [http://ec.europa.eu/enterprise/sectors/mechanical/documents/legislation/cableways/notified-bodies/index\\_en.htm](http://ec.europa.eu/enterprise/sectors/mechanical/documents/legislation/cableways/notified-bodies/index_en.htm)

<sup>13</sup> The text on the RfUs is published on DG Enterprise and Industry's website: [http://ec.europa.eu/enterprise/sectors/mechanical/documents/legislation/cableways/notified-bodies/index\\_en.htm](http://ec.europa.eu/enterprise/sectors/mechanical/documents/legislation/cableways/notified-bodies/index_en.htm)

<sup>14</sup> Organizzazione Internazionale Trasporti a Funne (International Organization for Transportation by Rope), which groups together all stakeholders in the sector of cableway installations (manufacturers, operators and national authorities).

CEN Technical Committee responsible for cableway installations and the Cableway Installations Sectoral Group of Notified Bodies) was very useful.

#### **4.10. Market surveillance and ADCO Group**

Market surveillance is an essential principle in the New Approach and falls within Member States' competences. Following the adoption of the Directive, the national authorities were requested to undertake market surveillance in the sector of cableway installations in order to ensure that the products placed on the market meet the essential requirements set out in the Directive.

In order to bolster market surveillance, it has proven necessary to set up administrative cooperation between national authorities responsible for market surveillance. To this end, an Administrative Cooperation Group for Market Surveillance (ADCO Group) was set up for the Directive in 2008.

Since its creation, the ADCO Group has met at the same time as the Committee meetings. It offers a discussion *forum* where national authorities responsible for market surveillance in the cableway installations sector can exchange information and share good practices. The Group's work is currently looking very promising in respect of establishing effective and transparent cooperation between the national authorities concerned.

#### **4.11. Innovation**

Article 11(3) of the Directive provides that, in the case of innovative safety components or subsystems, the Member State may impose special conditions on the construction or putting into service of installations; the Member State concerned informs the Commission, which immediately notifies the Committee.

Since the Directive's implementation this procedure has never been used. It therefore remains to be seen whether this mechanism is indeed able to provide value added with regard to the assessment and certification procedures otherwise provided for in the Directive.

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<sup>15</sup> International Association of Ropeway Manufacturers.

<sup>16</sup> International Federation of National Associations of Ropeway and Cableway Operators.

## 5. CONCLUSIONS AND OUTLOOK

By adopting and implementing the Directive, the objective of establishing an internal market for safety components and subsystems of cableway installations, while guaranteeing a uniform and high level of safety in the Member States, has been achieved.

At the same time, the application of the Directive has highlighted a number of specific problems. The Commission will examine these aspects and possible solutions with a view to revising the Directive; this will also provide the opportunity to bring the Directive into line with the content of Decision 768/2008/EC<sup>17</sup>, adopted as part of the *New Legal Framework* for the New Approach legislation.

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<sup>17</sup> Decision 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC (OJ L 218, 13.8.2008, p. 82).