



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 16.11.1995
COM(95) 523 final

94/0011 (COD)

Amended proposal for a

EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

relating to cableway installations designed to carry passengers

(presented by the Commission pursuant to Article 189 a (2)
of the EC-Treaty)

EXPLANATORY MEMORANDUM

In response to the European Parliament's opinion of 6 April 1995⁽²⁾ on the proposal for a European Parliament and Council Directive relating to cableway installations designed to carry passengers, the Commission has decided to amend the abovementioned proposal.

The Commission has approved the following amendments:

Amendment No 1

This amendment to the title replaces "passengers" by "persons".⁽³⁾

Amendment No 2

This amendment to the first recital adds a reference to systems used in urban transport facilities, for which essential requirements, particularly mechanical requirements, must be laid down.

Amendment No 3

This amendment makes it clear that these installations are not always operated in connection with tourism.

Amendment No 4

This adds a reference to the transfrontier nature of certain installations and the corresponding regulatory problems.

Amendment No 5

This stresses the importance of the choice of site from the safety point of view.

Amendment No 6

This stresses the importance of environmental studies from the safety point of view.

Amendment No 7

This extends the environmental impact assessment to all sites.

Amendment No 8

This stresses that the constraints linked to the operation of the installations must be taken into account in the safety analysis.

Amendment No 9

This specifies the conditions for application of the Directive when it enters into force.

(2) PE 189.074, 6.4.1995.

(3) This amendment only concerns certain linguistic versions.

Amendment No 10

This specifies the conditions for application to existing installations if the essential safety requirements are ignored.

Amendment No 11

This gives a more detailed definition of "safety component".

Amendment No 15

This introduces the concept of authorization for construction.

Amendment No 16

This stipulates that the derogation procedure will not be mandatory in cases where there is an innovation.

Amendment No 18

This extends these provisions to construction.

Amendment No 19

This gives a clearer definition of "third parties", by including skiers.

Amendment No 20

This extends the consideration of external factors to include the specific environmental features of the site.

Amendment No 21

This makes it clear that the Member States are responsible for the qualifications of the operators.

The Commission has also partly approved the following amendments:

Amendment No 12

This provides a clearer definition of "developer". However, on the advice of the Legal Service, the Commission has adopted the definition of "client" in Article 2(b) of Directive 92/57/EEC of 24 June 1992. This is more general than the definition proposed by Parliament.

Amendment No 17

This lays down the conditions for applying the Directive to installations planned or under construction at the time the Directive enters into force. However, on the advice of the Legal Service the Commission has replaced Parliament's proposal "and, as far as possible, and in accordance with the stage reached" by "where the stage reached permits" in order to avoid a legal weakness.

The Commission has rejected the following amendments

Amendment No 13

This would have allowed the Committee to amend the essential requirements of the Directive.

Only the Council and Parliament are empowered to decide such major amendments to the Directive.

Amendment No 14

Proposes that the Committee should designate a Member State to take the lead on transfrontier installations.

This proposal concerns only a few special cases and could create conflicts, notably as regards responsibility for safety. Against this, the Commission's proposal is simpler and more efficient since it allows the developer of the installation to choose a notified body to establish the general certificate of conformity recognized by all Member States.

**Amended proposal for a
European Parliament and Council Directive
relating to cableway installations designed to carry passengers**

Original text

Amended text

I. Title of the proposed directive

Proposal for a European Parliament and Council Directive relating to cableway installations designed to carry passengers (COM(93)646 - C3-0039/94 - COD94011)

Proposal for a European Parliament and Council Directive relating to cableway installations designed to carry persons (COM(93)646 - C3-0039/94 - COD94011)

II. First recital

Whereas cableway installations designed to carry passengers are designed, manufactured, put into service and operated with the object of providing a service to the public; whereas, to a very large extent, these cableway installations are mountain lift systems used in high-altitude tourist resorts and consisting of funicular railways, cable cars, gondolas, chair lifts and drag lifts;

Whereas cableway installations designed to carry passengers are designed, manufactured, put into service and operated with the object of providing a service to the public; whereas, principally, these cableway installations are mountain lift systems used in high-altitude tourist resorts and consisting of funicular railways, cable cars, gondolas, chair lifts and drag lifts, but also mechanical raising and lowering systems used in certain urban transport facilities; whereas some types of installation may use other, completely different simple mechanical principles which cannot be excluded a priori; whereas, therefore, provision should be made for introducing specific mechanical requirements designed to achieve the same safety objectives as those laid down in this Directive;

III.

Second recital

Whereas these installations are operated in connection with tourism, and ski resort tourism in particular, which plays an important role in the economy of the regions concerned and is becoming an increasingly important factor in national trade balances; whereas, from a technical point of view, the cableway installations sector also ranks among the industrial activities linked to the production of capital equipment and to activities in the building and civil engineering sector;

Whereas these installations are principally operated in connection with tourism, and ski resort tourism in particular, which plays an important role in the economy of the regions concerned and is becoming an increasingly important factor in national trade balances; whereas, from a technical point of view, the cableway installations sector also ranks among the industrial activities linked to the production of capital equipment and to activities in the building and civil engineering sector;

IV.

Third recital a (new)

Whereas, further, certain installations may straddle frontiers and cableway projects may run up against these parallel, contradictory rules;

V.

Fifth recital

Whereas responsibility for improving equipment and installations is generally vested in a specialized service of the national administration; whereas, in certain cases, approval of the components cannot be obtained beforehand but only at the moment when a specific order is placed with a particular customer; whereas, by the same token, the requisite verification of the installation prior to its entry into public service may result in the rejection of certain components or certain technological solutions; whereas such a state of affairs leads to increased costs and longer waiting periods and is particularly discriminatory against non-national manufacturers, especially; whereas cableway installations are carefully monitored by the public services, not least during periods when they are operational; whereas the causes of serious accidents are linked to the system of transport as such, or to the fixed installations supporting the system, or to the way the system is operated and maintained;

Whereas responsibility for improving equipment and installations is generally vested in a specialized service of the national administration; whereas, in certain cases, approval of the components cannot be obtained beforehand but only at the moment when a specific order is placed with a particular customer; whereas, by the same token, the requisite verification of the installation prior to its entry into public service may result in the rejection of certain components or certain technological solutions; whereas such a state of affairs leads to increased costs and longer waiting periods and is particularly discriminatory against non-national manufacturers, especially; whereas cableway installations are carefully monitored by the public services, not least during periods when they are operational; whereas the causes of serious accidents are linked to the choice of site, to the system of transport as such, or to the fixed installations supporting the system, or to the way the system is operated and maintained;

Original text

Amended text

VI.

Sixth recital

Whereas, under these conditions, the safety of the installations depends both on the quality of the industrial goods supplied and on the way in which they are assembled, set up and monitored on site; whereas this underlines the importance of having an overview of the installation in order to assess the level of safety and of adopting a common approach, at Community level, in the field of safeguards and quality; whereas, under these conditions, steps should be taken to enable manufacturers to overcome their current difficulties and to enable users to derive maximum benefit from their leisure time and to enjoy equal improvements irrespective of the Member States they choose to visit; whereas, to this end, a set of requirements should be defined together with control and verification procedures to be applied uniformly throughout the Community;

Whereas, under these conditions, the safety of the installations depends on the environmental studies, on the quality of the industrial goods supplied and on the way in which they are assembled, set up and monitored on site; whereas this underlines the importance of having an overview of the installation in order to assess the level of safety and of adopting a common approach, at Community level, in the field of safeguards and quality; whereas, under these conditions, steps should be taken to enable manufacturers to overcome their current difficulties and to enable users to derive maximum benefit from their leisure time and to enjoy equal improvements irrespective of the Member States they choose to visit; whereas, to this end, a set of requirements should be defined together with control and verification procedures to be applied uniformly throughout the Community;

VII.

Eighth recital

Whereas Directive 85/337/EEC calls for an environmental impact assessment on cableway installations if the projects are likely to have significant effects on the environment by virtue, inter alia, of their nature, size or location;

Whereas Directive 85/337/EEC calls for an environmental impact assessment on cableway installations if the projects are likely to have significant effects on the environment by virtue, inter alia, of their nature, size or location; whereas it is also important, outside the cases covered by the abovementioned Directive, to take into account both environmental protection and requirements in connection with the sustainable development of winter and summer tourism;

VIII.

Nineteenth recital a (new)

Whereas the constraints linked to the operation of the installations must be taken into account in the safety analysis; whereas, however, operational management itself has no bearing on the principle of the free movement of goods or the safety of the installations; whereas, therefore, this Directive does not cover the operation of the installations; whereas, nevertheless, the Commission should propose to the Member States a series of recommendations designed to ensure that installations situated on their territory are operated in such a way as to offer users and third parties a high degree of protection;

IX.

Twentieth recital a (new)

Whereas installations under construction on the date this Directive enters into force must comply with its provisions where this is feasible given the stage reached in the work, and whereas installations for which authorization has been given but in connection with which building work has not started on the date of entry into force must comply with those same provisions;

X.

Twenty-first recital

Whereas it is not necessary to envisage bringing all existing installations into conformity with the provisions applicable to new installations; whereas, however, this may prove necessary if there is clear evidence that conditions are unsafe;

Whereas it is not necessary to envisage bringing all existing installations into conformity with all the provisions applicable to new installations; whereas, however, this may prove necessary if the basic safety objectives are ignored; whereas, in that event, the Commission should propose to the Member States a series of recommendations designed to ensure that existing installations on their territory offer users a high degree of protection in the light of the relevant provisions applicable to new installations;

Original text

Amended text

XI.

Article 1(5), third indent

– 'Safety component' means any installation component the failure of which poses a risk to the safety of persons, be they passengers, workers or third parties.

– 'Safety component' means any basic component, group of components, sub-unit or complete unit incorporated in the installation the failure of which poses a risk to the safety of persons, be they passengers, workers or third parties, including skiers.

XII.

Article 1(5), fourth indent (new)

= 'Client' means any natural or legal person for whom a project is carried out.

XIII.

Article 9

Each Member State shall be responsible for authorizing the putting into service of the cableway installations designed to carry passengers and located in its territory.

To this end, Member States shall take all appropriate measures to ensure that the installations covered by this Directive may be put into service only if they have been designed, constructed and installed in such a way as not to hamper compliance with the essential requirements pertaining thereto.

Each Member State shall be responsible for authorizing the construction and putting into service in its territory of cableway installations designed to carry passengers.

To this end, Member States shall take all appropriate measures to ensure that the installations covered by this Directive may be:

- (a) constructed only if they have been designed and
- (b) put into service only if they have been constructed and installed

in such a way as not to hamper compliance with the essential requirements pertaining thereto.

XIV.

Article 12

1. By way of derogation from the provisions of Article 11(1), the putting into service of an installation of a wholly or partially new design may be authorized by a Member State in its territory on the basis of a provisional EC verification certifying that the installation complies with the essential requirements.
2. Under the coordination arrangements referred to in Article 17, the notified body which has examined the EC verification procedure shall notify its partners of the outcome of its work and shall inform them, if so requested, of how the installation, with its new features, performs under operating conditions.
3. The Member State may authorize the same derogation for other installations exhibiting the same new feature for a period of no more than two years from the date on which the first installation comes into operation.

At the end of this period, the coordination procedure referred to in Article 17 shall be initiated by the notified body which examined the provisional EC verification procedure, with a view to making it definitive and enabling the EC declaration of conformity to be drawn up.

Where a projected installation or a component thereof is of a new design, without infringing compliance with the essential requirements, a Member State may make authorization for construction and putting into service subject to special conditions.

A design feature may not be treated as new beyond a period of five years from the date on which it was first put into service in an installation.

XV. Article 14

The provisions of this Directive shall apply in cases where an existing installation is undergoing major repairs or alterations.

The provisions of this Directive shall apply in cases where an existing installation is undergoing major repairs or alterations, in the case of an installation for which authorization has been given prior to the entry into force of this Directive but in connection with which building work has not yet begun, and where the stage reached permits, to installations under construction on the date referred to in Article 20.

XVI.

Article 20(1)

1. The Member States shall amend their laws, regulations and administrative provisions so as to authorize the use of safety components and the putting into service of installations complying with this Directive by 31 December 1995 at the latest. They shall forthwith inform the Commission thereof.

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XVII.

Annex II, paragraph 2.1

2.1 Safety of persons

The safety of passengers, workers and third parties is an essential requirement for the design, construction and operation of cableway transport installations.

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The safety of passengers, workers and third parties, including skiers, is an essential requirement for the design, construction and operation of cableway transport installations.

XVIII.

Annex II, paragraph 2.3

2.3 Consideration of external factors

All cable transport installations must be designed, constructed and operated in such a way as to take into account, in addition to the category and type of installation, the nature and physical features of the terrain on which it is installed, the natural environmental risks and the proximity of other infrastructures. No authorization may be granted for installations likely to have a significant impact on areas with a sensitive environment, such as special protection areas designated in accordance with Community legislation, until after an assessment has been made, as provided for by Directive 85/337/EEC.

2.3 Consideration of external factors

All cable transport installations must be designed, constructed and operated in such a way as to take into account, with the protection of passengers in mind, in addition to the category and type of installation, the nature and physical features of the terrain on which it is installed, the natural environmental risks, major or otherwise, and the proximity of other infrastructures. Due account must also be taken, with regard to environmental protection and the sustainable development of winter and summer tourism, of the nature and physical features at all seasons of the countryside on which it is installed and the proximity of other infrastructures. In addition, no authorization may be granted for installations likely to have a significant impact on areas with a sensitive environment, such as special protection areas designated in accordance with Community legislation, until after an assessment has been made, as provided for by Directive 85/337/EEC.

XIX.

Annex II, paragraph 7.1.2

7.1.2 Operation of the installation must be entrusted to persons acknowledged to have the requisite skills and they must be given the material resources they require to carry out their tasks satisfactorily.

7.1.2 Operation of the installation must be entrusted to persons acknowledged by each Member State to have the requisite skills and they must be given the material resources they require to carry out their tasks satisfactorily.

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