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REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT

on the implementation and functioning of Directive 2014/33/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to lifts and safety components for lifts

{SWD(2019) 26 final}

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1. INTRODUCTION

Directive 2014/33/EU on lifts and safety components for lifts[1] ('the Directive') was adopted on 26 February 2014. The EU legal framework relating to lifts was initially introduced by means of two directives: Directive 84/528/EEC lifting and mechanical handling appliances[2] of 17 September 1984 and Directive 84/529/EEC on electrically, hydraulically or oil-electrically operated lifts[3] of 17 September 1984. As of 1 July 1999, both directives were repealed by Directive 95/16/EC on lifts[4] of June 1995 which was later on replaced by Directive 2014/33/EU.

The Directive aims to:

- achieve a high level of protection of users, installers and maintenance personnel of lifts across the EU; and
- contribute to the proper functioning of the internal market by harmonising aspects of Member States' laws relating the the health and safety of lifts.

Article 46 of the Directive requires the Commission to submit a report to the European Parliament and the Council regarding its implementation and functioning. This report is to be based on a consultation of relevant stakeholders and accompanied, where applicable, by a proposal for revision of the Directive.

On this basis, the Commission has evaluated the Directive, drawing on an external study on the evaluation of the Directive[5] which included various stakeholder consultations[6]; and other data sources[7].

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1 Directive 2014/33/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to lifts and safety components for lifts, OJ L 96, 29.3.2014, p. 251.

2 Council Directive 84/528/EEC of 17 September 1984 on the approximation of the laws of the Member States relating to common provisions for lifting and mechanical handling appliances, OJ L 300, 19.11.1984, p. 72.

3 Council Directive 84/529/EEC of 17 September 1984 on the approximation of the laws of the Member States relating to electrically operated lifts, OJ L 300, 19.11.1984, p. 86.

4 European Parliament and Council Directive 95/16/EC 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.

5 Performed by a consortium led by Technopolis Consulting Group Belgium, final report available at https://publications.europa.eu/en/publication-detail/-/publication/9f1a5907-e539-11e7-9749-01aa75ed71a1/

6 Consultations carried out by the external consultant for the study:
- online public consultation (June 2016 – January 2017);
- several targeted surveys;
- workshop held in the context of the Member States' Lifts Working Group; and
- interviews with industry representatives, including SMEs, notified bodies and authorities.

The evaluation was discussed in meetings of the Commission's interservice steering group.

The evaluation is drawn up in a Staff Working Document ('SWD')[8] that accompanies this report. As the Directive was evaluated less than 3 years after the national laws transposing it were supposed to become applicable, the evidence base was relatively limited. However, since Directive 2014/33/EU is the result of a pure alignment of Directive 95/16/EC to the New Legislative Framework Decision No 768/2008/EC[9] with no major changes in the substance, the evaluation covered also the period before the entry into force of the current Directive, i.e. 1 July 1999 to 19 April 2014 covered by Directive 95/16/EC.

The evaluation has assessed the performance of the Lifts Directive on the basis of the extent to which it meets its objectives (effectiveness), its efficiency (with a focus on examining the regulatory – including administrative – costs and benefits and potential for simplification, its coherence with other EU legislation, its relevance versus stakeholders needs and its EU added value.

2. DIRECTIVE'S AIM AND MAIN PROVISIONS

The Directive establishes the legal framework for placing on the market lifts and safety components for lifts, and for putting into service lifts.

The two main objectives of the Directive are:

- Ensuring the free movement of lifts and safety components for lifts throughout the EU, contributing to, and effectively operating internal market for the said products. As such, Member States must allow marketing on their territory of lifts and safety components for lifts that comply with the requirements of the Directive;
- Guaranteeing that lifts and safety components for lifts within the scope of the Directive are safe for users and maintenance personnel thus improving the health and safety of these groups.

The Directive harmonises the provisions related to lifts and safety components for lifts and is based on the principles of the "New Approach" meaning that it is limited to the expression of the essential health and safety requirements (EHSRs) which lifts and safety components on the market are subject to and must fulfil.

The main provisions are related to the scope and definitions, obligations of economic operators, procedures for conformity assessment, EHSRs and market surveillance, namely:

- For the scope and definitions: the scope of the Directive, the definition of installer of a lift and manufacturer of safety components, placing on the market and making available on the market, etc.;

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7 Analysis of available official statistics (Eurostat, Prodcom and Amadeus Database), studies, and information provided by industry associations, annual reports of economic operators, information on accidents from national studies and national reports on market surveillance.

8 Commission Staff Working Document, Evaluation of the Lift Directive 2014/33/EU, SWD(2019)26 Final.

9 Decision No 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.

- For obligations of economic operators: in accordance to the NLF Decision No 768/2008/EC, definition of obligations of installers, manufacturers, authorised representatives, importers and distributors as well as specific provisions on e.g. the two-way flow of information between the person responsible for the building construction and the lift installer;
- For conformity assessment procedures: provisions on procedures for notification of notified bodies, criteria applicable to notified bodies and conformity assessment procedures;
- For EHSRs: definition of the health and safety objectives to be achieved including provisions for granting lift accessibility to disabled persons and for preventing the risk of crushing;
- For market surveillance: provisions in accordance with the NLF Decision No 768/2008/EC including Union market surveillance and control of lifts or safety components for lifts entering the Union market, procedures for dealing with lifts and safety components for lifts presenting risk at national level, Union safeguard procedure, etc.

3. TRANSPOSITION AND IMPLEMENTATION

In order to enable achieving the objectives, the Directive harmonised certain aspects of Member States' laws, regulations and administrative provisions relating to lifts and their safety components. Its provisions must be transposed and implemented by Member States.

The Directive has been uniformly transposed across Member States. There is no evidence of any transposition difficulties with the exception of one issue identified in the evaluation study in relation to the transposition of "the prior approval" provision laid down by the third paragraph of EHSR 2.2. This point is further discussed in Section 4.2. below.

As for its implementation, some minor discrepancies across Member States were identified with regard to the definitions used, the way how the two-way flow of information between the installer and person responsible for work on the building is put in place, the provisions for accessibility of lifts to disabled persons, the possibility of giving a prior approval to prevent the risk of crushing, the conformity assessment and the EC type-examination certificates and the market surveillance practises.

The **definition of "installer**" as provided by the Directive has been transposed by 26 Member States; The Estonian legislation initially contained a different definition referring to the installer as "manufacturer". The use of the term "manufacturer" instead of "installer" had no impact on the application of the Directive. Furthermore, the Estonian legislation transposing Directive 2014/33/EU now also refers to the term "manufacturer".

Article 6(1) of the Directive sets up the **two-way flow of information** ensuring that the person responsible for work on the building and the installer both provide each other with the necessary information and take the appropriate steps in order to ensure the proper operation and safe use of the lift. This article is transposed exactly as it is in the national legislation of 26 Member States. The Austrian and Hungarian legislations both provide for specific

mechanisms guaranteeing this flow of information. These minor differences do not impact the application of the Directive.

Twenty Member States have included into their national transposition legislation provisions relating to the **accessibility of lifts to disabled persons** transposing the provisions exactly as they are in the Directive. The remaining eight Member States have included lift accessibility provisions mainly into their national building regulations. The majority of Member States have set up additional or more specific provisions to regulate accessibility of building into their national building regulations. This aspect falls within national competence.[10]

Twenty Member States have transposed directly the third paragraph of the EHSR 2.2[11] of the Directive affording Member States, in specific cases, the possibility of giving "**prior approval**", particularly in existing buildings, to adopt other appropriate means to avoid the risk of crushing than by providing free space or refuge beyond the extreme positions of the lift car. In four Member States, the "prior approval" can be applied only when a lift is to be installed in "existing buildings" where structural constraints exist. In practice, the approval is implemented differently in Member States. Considering various design solutions based on different technologies, the "prior approval" procedure allows installers to use alternative means to avoid the risk of crushing. However, the differences in the criteria applied by Member States makes it more difficult for installers to find information about the national implementation practises. The impact of such practices on the functioning of the Directive is discussed in section 4.2. below.

Conformity assessment procedures to be applied by the safety components manufacturers and the lift installers, as defined in Article 15 and 16 of the Directive, have been transposed and are implemented in all Member States. Some stakeholders reported that installers were sometimes requested to provide further evidence on lift compliance in addition to **EC type-examination certificates**. Such implementation issues have been removed as the new Directive 2014/33/EU amended the content of the type-examination certificates.

Market surveillance is an essential tool for enforcing legislation and is based on measures to check that products meet the relevant EHSRs and that non-compliant products are brought into compliance or withdrawn/recalled from the market. No specific procedures were laid down in Directive 95/16/EC. The framework for market surveillance has been set up by Regulation (EC) No 765/2008 and Directive 2014/33/EU includes specific provisions for market surveillance based on it. The evaluation demonstrated that market surveillance has

[10] For instance, in France, Ireland, Spain, Sweden and the UK, building regulations "accessible" passenger lifts should conform to harmonised standard EN 81-70. In Poland, the national building regulations include specific provisions for granting disabled persons accessibility to lifts, aligning with the recommendations of the Declaration made by the European Parliament, the Council and the Commission. In Cyprus, Italy and Latvia the building regulations provide for specific requirements on the dimensions of the lift car, on the presence of telephone devices and on the exact location of lift control panels. In Spain, Latvia and Italy local regulations prescribe additional requirements such as the use of Braille system.

[11] "*The lift must be designed and constructed to prevent the risk of crushing when the car is in one of its extreme positions.*
The objective will be achieved by means of free space or refuge beyond the extreme positions.
However, in specific cases, in affording Member States the possibility of giving prior approval, particularly in existing buildings, where this solution is impossible to fulfil, other appropriate means may be provided to avoid this risk."

been differently implemented across Member States, in terms of strategies, extent of monitoring activities and frequency and types of checks.

Notified bodies' notification procedures, as defined in Article 28 of the Directive, have been implemented differently across Member States. Accreditation is the preferred means of demonstrating technical capacity of notified bodies[12] and 19 Member States have transposed this article making accreditation[13] mandatory. Where accreditation is not used, notified bodies shall provide the notifying authority with all the documentary evidence necessary for the verification of its compliance with the relevant requirements. Implementation differences in notification procedures do not have impact on the application of the Directive.

4. KEY FINDINGS OF THE EVALUATION

4.1. Relevance

The evaluation concluded that the original objectives of the Directive are as valid today as when the Directive was first proposed. In particular, the objectives of ensuring high level of safety of users, installers and maintenance personnel and free movement of lifts and their safety components continue to be fully relevant.

Overall, the Directive is perceived as being clear. However, the evaluation revealed that there is a need to investigate how to improve the clarity of the scope of the Directive as regards major modifications of lifts in service which would trigger application of the Directive instead of national regulations, the definition of "installer" used in the Directive instead of "manufacturer" of a lift and the concepts of "putting into service" and "placing on the market". Regarding the provisions on the "prior approval" concerns were expressed, on one hand, relating to the non-harmonised criteria used by Member States to grant or reject a prior approval leading to divergent practises and, on the other hand, regarding possibility that different safety standards might emerge across the EU. Some concerns were also identified regarding the clarity of provisions for accessibility of lifts to disabled persons due to the fact that different national accessibility requirements apply to the entire building while the accessibility of lifts is regulated by the Directive.

Besides being relevant to the free movement of the products in its scope, the evaluation demonstrated the Directive to be an appropriate policy tool also to overall address new risks entailed by technological developments related to lifts. Consistently with the New Approach, the Directive defines only the risks to be dealt with and the safety objectives to be achieved, entrusting manufacturers and installers to choose the technical solutions to comply with the legislation. This allows innovation to occur in the lift sector.

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[12] http://ec.europa.eu/growth/single-market/goods/building-blocks/accreditation_en

[13] According to Art.2 of Regulation 765/2008, "*accreditation shall mean an attestation by a national accreditation body that a conformity assessment body meets the requirements set by harmonized standards and, where applicable, any additional requirements including those set out in relevant sectoral schemes, to carry out a specific conformity assessment activity*".

4.2. Effectiveness

The steady growth rate of the value of the intra- and extra-EU trade is a strong indicator that the Directive has effectively contributed to a well-functioning internal market for lifts and safety components, through the harmonisation of the relevant national legislation. The Directive's effectiveness is further enhanced by the legal certainty and transparency it provides. Data on lift-related accidents in the EU is fragmented and lack on details. Hence, these data can only provide selected, anecdotal indications on the number and trends of accidents over time. Overall, it can be inferred that the Directive has managed to contribute to the increase of lift safety by looking at the declining number of accidents involving maintenance personnel per number of lifts in service. As far as users are concerned, the data provided by available national reports suggest that the impact of the Directive is in no circumstances adverse and the Directive could even have brought a minor contribution to the improvement on the level of lift safety.

The evaluation also concluded that the **conformity assessment procedures** proved adequate to ensure the highest degree of health and safety for users and maintenance personnel. This is largely recognised by stakeholders and linked to the downstream control performed by notified bodies.

Among other things, the **definition of "installer**", the concepts of "**placing on the market**" and "**putting into service**" of lifts, the provision on the **two-way flow of information** set up in Article 6(1) and **notified bodies' notification procedures**, discussed above under section 3. are further clarified in the revised 'Guide to the Application of the Lifts Directive 2014/33/EU'[14] (hereafter "the Lifts Guide") the clarity of what is widely recognised by the stakeholders. In addition, the 'Blue Guide'[15] provides for clarification regarding harmonised application of the Union product harmonisation legislation like Directive 2014/33/EU.

However, the evaluation highlighted some factors that limited the effectiveness of the Directive. Regarding the "**prior approval**" procedure, Member States have adopted diverging national practises thus making it difficult for installers to find information about the national approval procedures and criteria applied. The Directive leaves "room for manoeuvre" for lift installers to cover the risk of crushing, the problem being lack of transparency and certainty in the granting of the prior approval by the Member States' authorities. The evaluation concluded that, despite the fact that "prior approval" is in line with the New Approach, the 'Lifts Guide' does not currently provide sufficiently detailed guidance regarding this procedure.

Regarding the **accessibility of lifts to disabled persons**, provisions on lift accessibility have been implemented differently in across the EU. However, the accessibility requirements for lifts are harmonised through the Directive while accessibility of buildings fall under the competence of Member States. Although most of the stakeholders do not perceive national provisions on accessibility as burdensome or hindering the internal market, the Lifts Guide could be used to further clarify the division of competencies.

[14] https://ec.europa.eu/docsroom/documents/29961

[15] The "Blue Guide" on the implementation of EU product rules, 2016; 2016/C 272/01.

Differences in implementation of **market surveillance** across Member States were identified in terms of strategies, extent of monitoring activities, frequency and types of checks, and level of penalties, this negatively impacting the Directive's overall effectiveness. Nonetheless, evidence collected suggests that the level of non-compliance of lifts and their safety components placed on the market is actually extremely low. This positive accomplishment relates to the strong and positive role of notified bodies in the conformity assessment process, acting as "ultimate controllers" of product compliance with the Directive. In addition, the new NLF aligned Directive 2014/33/EU has considerably improved the market surveillance framework for lifts due to introduction of much more comprehensive provisions on market surveillance.

The development of **harmonised standards** has been key to ensure an effective application of the Directive. Indeed, they are largely used as the most common means to demonstrate compliance with the EHSRs. Via the presumption of conformity mechanism, harmonised standards allow manufacturers and installers to avoid the additional costs for testing compliance of solutions alternative to those provided by the standards. Mainly for this reason, voluntary harmonised standards are de facto perceived as binding by economic operators. This is particularly the case for SMEs, which do not have sufficient resources to test technical solutions alternative to standards. Another issue is the sometimes lengthy procedure needed by CEN to develop harmonised standards implying that standards may not always be able to cope with the speed of technological progress. SMEs might also be potentially disadvantaged by the way standards are developed the process not being sufficiently transparent and inclusive. While the Commission is committed to involve the broadest possible range of stakeholders in the standardisation activities, the question of the representation of SMEs in the process of development of hENs relates to the internal organisation of the relevant ESOs which are independent private bodies.

4.3. Efficiency

There is no clear view of the Directive's overall impact on costs for businesses since it has not been possible to reconstruct a baseline scenario or identify other points of comparison. In addition, very limited data is available from the time before the entry into force of the Directive. Stakeholders consulted in the framework of the evaluation did not provide quantitative estimates of the impacts of the Directive and were undable to establish a direct causal link between its coming into application and the increase in sales. The analysis is therefore based on qualitative information.

Based on the available qualitative data, it seems that that overall the Directive outweight costs and benefits for all stakeholder categories. Moreover, there is no evidence that the compliance costs entailed by the Directive increased in comparison to the period before 1999. In any case, by the harmonisation of different national regimes, the Directive simplifies the administrative and compliance requirements for selling abroad lifts and safety components. In this respect, there seem no more potential for further simplification. It should however be noted that benefits from easy access to internal market seems not evenly spread, with larger companies benefiting more than SMEs from harmonisation due to their orientation to intra- EU export. This is true for both SME economic operators and SME Notified Bodies

Finally, available statistics show a reduction in lift-related accidents involving maintenance personnel over recent years, which could lead to think of an increase in lift safety. Unfortunately, available accident statistics do not allow to establish a direct causal link between the Directive and an increase in lift safety since statistics do not distinguish between old lifts in service and those placed on the market under the Directive, and do normally not indicate the cause of accidents.

4.4. Coherence

Overall, the Directive is considered to be coherent with other EU legislation, and no problems have been identified in this respect. No evidence of inconsistencies between the Directive and other EU legislation relevant for lifts, with particular regard to Directive 2006/42/EC on machinery[16], Regulation (EU) 2016/424 on cableway installations[17] and Regulation (EU) No 305/2011 on construction products[18] was identified. However, the interfaces between these Directives are not always completely clear.

No major contradictions emerged between the Directive and national building legislation. As for the internal coherence of the Directive, requirements for lift installers and safety component manufacturers can be considered as generally clear and no overlapping rule has been identified.

4.5. EU added value

An EU approach remains the most appropriate response and is more likely to achieve the objectives set by the Directive than national approaches. In fact, the Directive reduced the regulatory fragmentation among Member States through alignment of national legislation relating to the lift sector, which benefited both the functioning of the internal market and positively contributed to the safety of lifts. A vast majority of stakeholders recognise the EU added value of the Directive, in particular in terms of enhanced free movement of lifts and their saety components, and their increased safety.

5. CONCLUSIONS AND WAY FORWARD

The outcome of the evaluation is positive. The evidence collected confirms that the Directive is working well and that its objectives are generally met. The Directive is also deemed to be an efficient means to establish a Union wide harmonised framework for lifts and their safety components. No inefficiency or simplification potential requiring legislative changes has been identified. The Directive is also considered coherent, relevant and clearly brings added value at EU level.

However, a few findings affecting the functioning of the Directive have been detected. In that context, a distinction shall be made between, on one hand, aspects related to the

[16] 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.

[17] Regulation (EU) 2016/424 of the European Parliament and of the Council of 9 March 2016 on cableway installations and repealing Directive 2000/9/EC, OJ L 81, 31.3.2016, p. 1.

[18] Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC, OJ L 88, 4.4.2011, p. 5.

implementation of the Directive and thus calling for improving its implementation and, on the other hand, factors that would require a possible change of its scope and/or product requirements via a legislative process.

In the light of the results of the evaluation there are not sufficient elements to conclude that the Directive would need to be revised. However, the Comission considers that issues identified in the evaluation process could be responded by further enhancing a uniform implementation of the Directive, in particular through application of soft measures like better coordination and improved guidance.

It would also be important to ensure that up-to-date information about Member States' accessibility requirements for built environment and approaches in transposing the "prior approval" procedure are made available for all economic operators and notified bodies concerned.

Furthermore, to facilitate market access, while highlighting the voluntary nature of application of harmonised standards conferring the presumption of conformity to the Directive's essential health and safety requirements, measures would need to be taken to ensure timely availability of standards for manufacturers and installers, in particular for the SMEs.

The lifts sector has well-established forums, which can be used to put in place measures aiming to improve the implementation and functioning of the Directive, namely

- the Lifts Working Group (Lifts WG);
- the Lifts Administrative Co-operation group of market surveillance authorities (Lifts AdCo); and
- the co-ordination group of Lifts Notified Bodies (NB Lifts).

Consequently, as response to the findings of the evaluation, the Commission will take the following measures:

- On the unclarity of some definitions: The Commission will intensify its coordination efforts in the framework of the Lifts WG to clarify the terminology of the Directive, e.g. "installer", "placing on the market" and "putting into service", as requested by stakeholders.
- On the prior approval: The Commission will bring the issue before the Lifts AdCo to improve the coordination among Member States with the objective to emergence of a more coherent and uniform application of "prior approval" procedure provided in the point 2.2, last paragraph, of Annex I to the Directive in order to ensure full transparency and improve legal certainty,
- On the accessibility of lifts to disabled persons: The Commission will further clarify the borderline between the lifts accessibility requirements of the Directive vis-à-vis national legislation on accessibility of buildings and constructions by raising the issue in the framework of the Lifts WG. In particular, attention will be drawn to different conditions of installation and use of lifts, e.g. depending on the type of building and its function, level of floors, etc.

Once endorsed by the Lifts WG, the improved and new guidance on the provisions which the evaluation perceived as lacking clarity will be introduced as amendments to the 'Lifts Guide' which is the main reference document in support of the interpretation and implementation of the Directive.

- On market surveillance: The Commission will carefully monitor the enforcement of the Directive across all Member States and the activities of the Lifts AdCo. It will also suggest concerted actions in the framework of cooperation of competent market surveillance authorities (MSAs).

  The Commission will encourage the members of the Lifts AdCo to disseminate among the competent MSAs more detailed information about their respective National Market Surveillance Programs, information on sources of accident statistics and invite the group to explore possible synergies. The Commission will continue to focus on facilitating the smooth cooperation between MSAs to ensure that only compliant lifts and safety components for lifts are placed on the market and maintain fair competition.

  The Commission also notes that its 'Goods Package' proposal[19] includes a proposal for a new regulation in the area of market surveillance which, amongst others, aims to strengthen controls by MSAs and customs officers to prevent unsafe products from being placed on the Union market.

- On the standardistaion process: In order to ensure the timely availability of harmonised standards coferring the presumption of conformity to the EHSRs of the Directive, the Commission has already taken necessary measures in order to support and increase its involvement on the standards development processes. The new Standardisation Request M/549[20] gives the necessary tools to monitor and guide the preparation of harmonised standards in support of the Directive. Special efforts will be put to efficiently implement the actions to enhance transparency, reinforce legal certainty and speed of adoption of standards in accordance with the the Commission Communication on Harmonised Standards[21].

[19] Goods Package: Proposal for a Regulation on Compliance and Enforcement of EU Product Legislation - EU Product Compliance Network, COM(2017)795.

[20] Commission Implementing Decision of 21.9.2016 on a standardisation request to the European Committee for Standardisation as regards lifts and safety components for lifts in support of Directive 2014/33/EU of the European Parliament and of the Council, C(2016) 5884 final.

[21] Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee – Harmonised standards: Enhancing transparency and legal certainty for a fully functioning Single Market, COM(2018) 764 final.