

tekom Europe Position Paper: Revision of the Machinery Directive (2006/42/EC)

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The European Association for Technical Communication – tekomp Europe e.V. is a multinational association and a forum for about 9,000 professionals across Europe who are active in technical communication and related fields. Among these professionals, tekomp Europe counts over 2,680 machinery manufacturers, suppliers for machinery manufacturers, and consulting/service companies related to the business of machinery manufacturing. Our members develop all kinds of information for use for products, such as

- Instructions for use, assembly, disassembly, maintenance and repair
- Technical construction files
- Product labels or warning messages on products

tekomp Europe welcomes the European Commission's proposal for a new regulation on machinery products but also has some concerns. tekomp Europe sees a need for clarification and amendment of the current draft (after consultation within the European Parliament). For the upcoming trilogue/interinstitutional negotiations in 2022, tekomp Europe highlights the following positions:

- tekomp Europe welcomes the alignment with the NLF and supports the proposed wording: *'Manufacturers shall ensure that the machinery products are accompanied by the instructions and information set out in section 1.7 of Annex III in a language which can be easily understood by end users, as determined by the Member State concerned. Such instructions and information shall be clear, understandable, intelligible and legible.'*
- tekomp Europe supports instructions in digital formats being allowed explicitly in the regulation for all kinds of instructions, e.g. assembly instructions.
- tekomp Europe appreciates and supports the clear definition of 'instructions', which is applicable to format and media-independent. In the regulation, the intended definition stands for 'instructions for use'; however, as explained below, tekomp Europe suggests the term 'instructions' instead of 'instructions for use'.

tekomp Europe also sees more specific needs for clarification and amendment regarding the following issues:

1. tekomp Europe sees the need for clarification of the terms 'end user', 'non-professional operator', 'operator' and 'user'

Proposal:

Definitions for the terms 'end user' and 'non-professional operator' should be amended to the definitions listed in Article 3 and the use of the terms 'user' and 'operator' in the regulation needs to be reviewed.

tekom Europe's proposals are as follows:

- 'End user' shall mean any natural or legal person residing or established in the European Union to whom a product has been made available, either as a consumer outside of any trade, business, craft or profession or as a professional end user in the course of its industrial or professional activities.
Comment: This definition is already established in REGULATION (EU) 2019/1020 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011.
- 'Non-professional operator' shall mean any operator untrained in the use of the specific machine or related product or having no knowledge or background with regards to such use and is therefore not deemed a sophisticated user.
- The meaning of the term 'operator' in ANNEX III ESSENTIAL HEALTH AND SAFETY REQUIREMENTS RELATING TO THE DESIGN AND CONSTRUCTION OF MACHINERY OR RELATED PRODUCTS is not applicable to the term 'operator' in the main text of the regulation. To use the same term with different meanings in the same regulation is confusing. Therefore, the use of the term 'operator' in the main text needs to be reviewed to avoid confusion and misinterpretation.
- 'User' is not defined and the use of the term is not clear. Who is meant with the term 'user' as used in the regulation? A differentiation between legal and natural persons is needed. A natural person is a physical person who interacts with the machine and its related product.

Substantiation:

Definitions must be clear. This delimitation/differentiation is also important for bodies notified and national market surveillance authorities.

Regarding the definitions of 'end user' and 'non-professional operator', the concepts of 'foreseen and reasonably foreseeable use' or 'reasonably foreseeable misuse' are of importance as worked out in Annex III, 1.1.2:

1.1.2. Principles of safety integration

(a) A machinery product shall be designed and constructed so that it is fit for its function, and can be operated, adjusted and maintained without putting persons at risk when these operations are carried out under the conditions foreseen but also taking into account any reasonably foreseeable misuse thereof.

2. tekomp Europe sees the need to use the term 'instructions' in a consistent manner in the regulation – it is important not to use other terms as 'instructions for use' or 'instruction manual'. The definition of 'instructions for use' is then the definition for 'instructions' in Article 3.

3. tekomp Europe emphasises in ANNEX III the importance of the paragraph

1.7.4 Instructions

By way of exception, the maintenance instructions intended for use by specialised personnel mandated by the manufacturer or his or her authorised representative may be supplied in only one official language of the Union which the specialised personnel understand.

Proposal:

Any deletion of the paragraph should be reversed. And the text should be as follows:

By way of exception, the maintenance instructions intended for use by specialised personnel mandated by the manufacturer or his or her authorised representative may be supplied in only one official language of the Union which the specialised personnel understand.

Additionally other languages can be delivered on demand.

Substantiation:

This exception has proven itself in practice and should not be changed or deleted. A change or deletion does not increase the safety level. On the contrary, if the specialised personnel do not speak the language of the country of destination, the safety risk is increased even more greatly.

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