# COMMISSION DECISION

## of 27 October 2006

## not to publish the reference of standard EN ISO 14122-4:2004 'Safety of machinery — Permanent means of access to machinery — Part 4: Fixed ladders' in accordance with Directive 98/37/EC of the European Parliament and of the Council

*(notified under document number C(2006) 5062)*

**(Text with EEA relevance)**

(2006/733/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to 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 [1], and in particular Article 6(1) thereof,

Having regard to the opinion of the Standing Committee set up under Article 5 of 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 [2],

Whereas:

(1) Directive 98/37/EC provides that machinery may be placed on the market and put into service only if it does not endanger the safety of persons, domestic animals or goods, when properly installed and maintained and used for its intended purpose.

(2) Where a national standard transposing a harmonised standard, the reference of which has been published in the *Official Journal of the European Union*, covers one or more essential health and safety requirements set out in Annex I to Directive 98/37/EC, the machine built in accordance with this standard is presumed to meet the essential requirements concerned.

(3) Pursuant to Article 6(1) of Directive 98/37/EC, France lodged a formal objection in respect of standard EN ISO 14122-4:2004 adopted by the European Committee for Standardisation (CEN) on 18 March 2003, the reference of which has not yet been published in the *Official Journal of the European Union*.

(4) Having examined standard EN ISO 14122-4:2004, the Commission has established that the specifications set out in its clauses 4.3.2 (choice of the type of fall protection device) in conjunction with clauses 6.2 (instructions for use) and 6.3 (marking) fail to meet essential requirements 1.1.2(b) (principles of safety integration), 1.5.15 (risk of slipping, tripping or falling) and 1.6.2 (access to operating positions and servicing points) of Annex I to Directive 98/37/EC.

(5) Specifically, the technical solution described in standard EN ISO 14122-4:2004 — a fall arrester — does not prevent a fall from a fixed ladder. It only limits the consequences of a fall and requires deliberate action on the part of the operator to use personal protective equipment (PPE).

(6) Fall arresters have several major disadvantages. First, they put constraint on the operator. This may result in operators, and in particular those performing frequent maintenance operations, failing to equip themselves with the PPE before using a fixed ladder. Second, they create secondary hazards in the event of an operator falling and hitting the fixed parts of the machine or installation, if there is not minimum clearance below the operator. Moreover, this unobstructed area must necessarily be larger than the enclosed area required by a cage. Third, they constitute an organisational constraint for companies (management of PPE, need for compatibility between the PPE and the anchorage system). This constraint can lead to malfunctions, which in turn can lead to accidents.

(7) In contradiction with essential requirement 1.1.2.(b) of Annex I to Directive 98/37/EC, clauses 4.3.2, 6.2 and 6.3 of standard EN ISO 14122-4:2004 put requirements for integrated protective measures (the cage) on the same level as those suitable only for residual risks (PPE).

(8) The purpose of a standard such as EN ISO 14122-4:2004 is to deal with an aspect of safety relating to a wide range of machinery, and not with specific cases. If, for a specific type of machinery, essential requirements 1.1.2, 1.5.15 and 1.6.2 of Annex I to Directive 98/37/EC cannot be fully satisfied, a standard for that type of machinery may specify the alternative measures to be taken.

[1] OJ L 207, 23.7.1998, p. 1. Directive as amended by Directive 98/79/EC (OJ L 331, 7.12.1998, p. 1).

[2] OJ L 204, 21.7.1998, p. 37. Directive as last amended by the 2003 Act of Accession.

(9) The reference of standard EN ISO 14122-4:2004 should therefore not be published in the *Official Journal of the European Union*,

HAS ADOPTED THIS DECISION:

*Article 1*

The reference of standard EN ISO 14122-4:2004 'Safety of machinery — Permanent means of access to machinery — Part 4: Fixed ladders' shall not be published in the *Official Journal of the European Union*.

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 27 October 2006.

*For the Commission*
Günter VERHEUGEN
*Vice-President*