II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 17 September 1990

on interim measures applicable after the unification of Germany in anticipation of the adoption of transitional measures by the Council in cooperation with the European Parliament

(90/476/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 49, 57, 66, 100a and 118a thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament [1],

Whereas the Economic and Social Committee, having been consulted on the Commission proposal, has failed to issue its opinion within the time limit set by the Council in accordance with Article 198 of the Treaty; whereas it is necessary to proceed, notwithstanding the absence of an opinion from that Committee;

Whereas, from the date of German unification onwards, Community law will be fully applicable to the territory of the former German Democratic Republic;

Whereas, to take account of the special situation obtaining in that territory, provision must be made for transitional measures for the implementation of a number of Community acts;

Whereas, in its communication of 21 August 1990, the Commission submitted a number of proposals for Directives to be adopted by the Council in cooperation with the European Parliament, which must be closely associated at all times in the decision-making process envisaged during the phase prior to the definitive entry into force of the interim measures;

Whereas the Council will not be able to adopt those acts before the date of unification; whereas, taking account of the exceptional nature of the situation, interim measures must be introduced;

Whereas no such interim measures should pre-empt modifications to the proposals for Directives during their consideration and final adoption,

HAD ADOPTED THIS DIRECTIVE:

Article 1

As the Council was unable to act before the date of German unification on the transitional measures for the application to the territory of the former German Democratic Republic of Community Directives as provided for in the Commission proposals submitted to the Council by the communication of 21 August 1990 and as set out in the Annex to this Directive, interim measures shall apply by way of derogation from the Directives covered by those proposals, subject to the limits and conditions laid down in this Directive.

Article 2

1. The Commission may authorize the Federal Republic of Germany to maintain provisionally in force, legislation applicable in the territory of the former German Democratic Republic which does not comply with a Community act as referred to in Article 1.

[1] Opinion delivered on 11 September 1990 (not yet published in the Official Journal) and Decision of 13 September 1990 (not yet published in the Official Journal).

Such legislation maintained in force must not go beyond the limits of the Commission proposals in the Annex.

2. This authorization, which is the result of exceptional circumstances and may not be subsequently cited as a precedent, shall remain in force until the date on which the Council takes a final decision on the Commission proposals referred to in Article 1 or, where appropriate, until the date on which the transitional measure in question enters into force and no later than 31 December 1990.

After this time limit, should the Council have failed to adopt the requisite transitional measures, Community law shall apply in full.

3. The Federal Republic of Germany shall notify the Commission forthwith of any use made of this authorization. The Commission shall in turn forthwith notify the European Parliament, the Council and the Economic and Social Committee.

The European Parliament may invite the Commission to give further information on the scope of this authorization, so that it can give its views either on the specific use made of it or any related measures that may need to be taken at Community level.

Article 3

1. The Commission and the Federal Republic of Germany shall consult each other on the measures to be taken to ensure that no difficulties arise from the fact that legislation maintained in force under this Directive does not comply with Community law.

The Commission shall forthwith inform the European Parliament and the Council of the outcome of such consultations.

2. Any Member State may refer any difficulties to the Commission. The Commission shall, as a matter of urgency, examine the question and submit its conclusions, possibly accompanied by appropriate measures.

3. Measures to be taken at Community level on the basis of paragraphs 1 and 2 may not go beyond the limits of the Commission proposals listed in the Annex. They shall be adopted in accordance with the procedure laid down in Article 4.

Article 4

1. The measures provided for in Article 3 and any other necessary implementing arrangements shall be adopted in accordance with the following procedure.

The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt measures which shall be immediately applicable. However, if they are not in accordance with the opinion of the committee, the Commission shall forthwith communicate the measures to the Council.

In that event, the Commission may delay application of the measures it has decided by up to one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within the period laid down in the preceding subparagraph.

2. The measures provided for in paragraph 1 may not be decided after the date referred to in Article 2 (2). They shall not apply beyond that date.

Article 5

The Commission shall present to the European Parliament and to the Council, before the European Parliament states its views on the transitional measures, a further communication:

— listing the legislative and administrative measures already taken in respect of the territory of the former German Democratic Republic by the Community and by the competent German authorities:

  (a) to verify and enforce the application of Community law; and

  (b) to assure the full receipt of the Community's own resources and the proper management of Community expenditure,

— describing the further legislative and administrative measures which it considers necessary to achieve the above objectives, and

— proposing, where appropriate, the texts of further legislative measures where they are Community measures.

Article 6

1. The measures provided for in Articles 2 (1), 3 (2) and 4 (1) may be taken from the date of notification of this Directive [1].

2. Measures adopted pursuant to Articles 2 (1), 3 (2) and 4 (1) shall be published immediately in the *Official Journal of the European Communities*.

Article 7

This Directive is addressed to the Member States.

Done at Brussels, 17 September 1990.

For the Council
The President
G. DE MICHELIS

[1] This Directive was notified to the Member States on 20 September 1990.

ANNEX

Proposal for a

COUNCIL DIRECTIVE

of . . .

on transitional measures applicable in Germany in the context of the harmonization of technical rules

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission (1),

In cooperation with the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas the European Community has adopted, with regard to the placing on the market and utilization of products, a set of rules which are binding on all the Member States and on all economic operators;

Whereas from the date of German unification Community law will be automatically applicable in the territory of the former German Democratic Republic; whereas such application may give rise to difficulties owing to the level of development of the local economy;

Whereas Article 8c of the Treaty calls on the Commission to take into account the extent of the effort that certain economies showing differences in development will have to sustain during the period of establishment of the internal market;

Whereas such derogations must be temporary and must cause the least possible disturbance to the functioning of the common market;

Whereas the information available on the situation regarding the rules and regulations in force and regarding industry in the territory of the former German Democratic Republic is such that it is not possible to establish definitively the extent of the derogations; whereas, so that account can be taken of developments in that situation, a simplified procedure must be set up in accordance with the third indent of Article 145 of the Treaty for the purpose of adopting and administering the derogations,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. By way of derogation from the Directives listed in Annexes A and B, Germany is authorized to maintain in force in the territory of the former German Democratic Republic the existing rules and regulations in respect of products which have been or which are manufactured there, on condition that this does not affect the placing on the market and the free movement in that territory of products complying with Community Directives.

2. This authorization shall be applicable to the Community Directives listed in Annex A until 31 December 1992; in the case of the Directives listed in Annex B, it shall apply under the conditions laid down in that Annex.

3. The German authorities may extend the derogations provided for in paragraphs 1 and 2 to include products originating in and coming from third countries within the limits of traditional trade patterns.

Article 2

Germany shall take all measures necessary to ensure that products not complying with the Community Directives referred to in Article 1 are not placed on the market in the territory of the Community other than the territory of the former German Democratic Republic; such measures shall be compatible with the Treaty, and in particular with the objectives of Article 8a, and shall not give rise to any controls or formalities at frontiers between Member States.

Article 3

1. The rules and regulations whose maintenance in force is authorized under Article 1 and the control measures taken pursuant to Article 2 shall be notified to the Commission not later than on the date of German unification.

2. Germany shall report on the application of the measures taken pursuant to this Directive on 31 December 1991 and 31 December 1992, and, as regards the application of the measures taken pursuant to Article 1, in conjunction with Annex B, on 31 December 1995. The report shall be transmitted to the Community, which shall communicate it to the other Member States.

Article 4

1. A decision may be made in accordance with the procedure laid down in Article 5 to take measures involving additions and amendments to the measures taken pursuant to this Directive.

(1) OJ No C . . .
(2) OJ No C . . .
(3) OJ No C . . .

2. Such additions and amendments shall be designed to ensure the consistent application of the Community legislation in the sector covered by the present Directive in the territory of the former German Democratic Republic, taken into account the specific situation obtaining in that territory and the particular difficulties attending implementation of this legislation.

They shall respect the principles underlying this legislation.

3. The measures referred to in paragraph 1 may be taken until 31 December 1991. They shall cease to be operative on that date.

Article 5

For the purposes of Article 4, the Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States wihthin the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of one month from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 6

This Directive is addressed to the Member States.

Done at Brussels, . . .

For the Council

The President

ANNEX A

1. FOODSTUFFS

1. *Council Directive*

Colouring matters

Date of adoption: 23. 10. 1962
OJ No 115, 11. 11. 1962, p. 2645/62

Council Directive 65/469/EEC

First amendment of the Directive of 23. 10. 1962

Date of adoption: 25. 10. 1965
OJ No 178, 26. 10. 1965, p. 2793/65

Council Directive 81/20/EEC

Seventh amendment of the Directive of 23. 10. 1962

Date of adoption: 20. 1. 1981
OJ No L 43, 14. 2. 1981, p. 11

2. *Council Directive 64/54/EEC*

Preservatives

Date of adoption: 5. 11. 1963
OJ No 12, 27. 1. 1964, p. 161/64

Council Directive 71/160/EEC

Amendment of Directive 64/54/EEC

Date of adoption: 30. 3. 1971
OJ No L 87, 17. 4. 1971, p. 12

Council Directive 14/62/EEC

Ninth amendment of Directive 64/54/EEC

Date of adoption: 17. 12. 1973
OJ No L 38, 11. 2. 1974, p. 29

Council Directive 74/394/EEC

Tenth amendment of Directive 64/54/EEC

Date of adoption: 22. 7. 1974
OJ No L 208, 30. 7. 1974, p. 25

Council Directive 76/462/EEC

Eleventh amendment of Directive 64/54/EEC

Date of adoption: 4. 5. 1976
OJ No L 126, 14. 5. 1976, p. 31

3. *Council Directive 65/66/EEC*

Preservatives — criteria of purity

Date of adoption: 26. 1. 1965
OJ No 2, 9. 2. 1965, p. 373/65

Council Directive 67/66/EEC

Amendment of Directive 65/66/EEC

Date of adoption: 27. 6. 1967
OJ No L 148, 11. 7. 1967, p. 10

Council Directive 76/463/EEC

Second amendment of Directive 65/66/EEC

Date of adoption: 4. 5. 1976
OJ No L 126, 14. 5. 1976, p. 33

Council Directive 86/604/EEC

Amendment of Directive 65/66/EEC

Date of adoption: 8. 12. 1986
OJ No L 352, 13. 12. 1986, p. 45

Council Directive 67/427/EEC

Use of certain preservatives for the surface treatment of citrus fruit and the control measures to be used for the qualitative and quantitative analysis of preservatives in and on citrus fruit

Date of adoption: 27. 6. 1967
OJ No L 148, 11. 7. 1967, p. 1

4. *Council Directive 70/357/EEC*

Antioxidants

Date of adoption: 13. 7. 1970
OJ No L 157, 18. 7. 1970, p. 31

5. *Council Directive 78/664/EEC*

Antioxidants — criteria of purity

Date of adoption: 25. 7. 1978
OJ No L 223, 14. 8. 1978, p. 30

Council Directive 82/712/EEC

Amendment of Directive 78/664/EEC

Date of adoption: 18. 10. 1982
OJ No L 297, 23. 10. 1982, p. 31

6. *Council Directive 73/241/EEC*

Cocoa and chocolate products

Date of adoption: 24. 7. 1973
OJ No L 228, 16. 8. 1973, p. 23

Council Directive 75/155/EEC

Third amendment of Directive 73/241/EEC

Date of adoption: 4. 3. 1975
OJ No L 64, 11. 3. 1975, p. 21

Council Directive 76/628/EEC

Fourth amendment of Directive 73/241/EEC

Date of adoption: 20. 7. 1976
OJ No L 223, 16. 8. 1976, p. 1

Council Directive 78/609/EEC

Fifth amendment of Directive 73/241/EEC

Date of adoption: 29. 6. 1978
OJ No L 197, 22. 7. 1978, p. 10

Council Directive 80/608/EEC

Seventh amendment of Directive 31/241/EEC

Date of adoption: 30. 6. 1980
OJ No L 170, 3. 7. 1980, p. 33

Council Directive 89/344/EEC

Amendment of Directive 73/241/EEC

Date of adoption: 3. 5. 1989
OJ No L 142, 25. 5. 1989, p. 19

7. *Council Directive 74/329/EEC*

Emulsifiers, stabilizers, thickeners and gelling agents

Date of adoption: 29. 6. 1978
OJ No L 197, 22. 7. 1978, p. 22

Council Directive 78/612/EEC

First amendment of Directive 74/329/EEC

Date of adoption: 29. 6. 1978
OJ No L 197, 22. 7. 1978, p. 22

Council Directive 80/597/EEC

Second amendment of Directive 74/329/EEC

Date of adoption: 29. 5. 1980
OJ No L 155, 23. 6. 1980, p. 23

Council Directive 86/102/EEC

Fourth amendment of Directive 74/329/EEC

Date of adoption: 24. 3. 1986
OJ No L 88, 3. 4. 1986, p. 40

8. *Council Directive 78/663/EEC*

Emulsifiers, stabilizers, thickeners and gelling agents — criteria of purity

Date of adoption: 25. 7. 1978
OJ No L 223, 14. 8. 1978, p. 7

Council Directive 82/504/EEC

Amendment of Directive 78/663/EEC

Date of adoption: 12. 7. 1982
OJ No L 230, 5. 8. 1982, p. 35

9. *Council Directive 77/436/EEC*

Coffee extracts and chicory extracts

Date of adoption: 27. 6. 1977
OJ No L 172, 12. 7. 1977, p. 20

Council Directive 85/573/EEC

Amendment of Directive 77/436/EEC

Date of adoption: 19. 12. 1985
OJ No L 372, 31. 12. 1985, p. 22

10. *Council Directive 78/142/EEC*

Materials and articles which contain vinyl chloride monomer

Date of adoption: 30. 1. 1978
OJ No L 44, 15. 2. 1978, p. 15

11. *Council Directive 79/112/EEC*

Labelling and presentation

Date of adoption: 18. 12. 1978
OJ No L 33, 8. 2. 1978, p. 1

Council Directive 86/197/EEC

Amendment of Directive 79/112/EEC

Date of adoption: 26. 5. 1986
OJ No L 144, 29. 5. 1986, p. 38

Council Directive 89/395/EEC

Amendment of Directive 79/112/EEC

Date of adoption: 14. 6. 1989
OJ No L 186, 30. 6. 1980, p. 17

12. *Council Directive 80/777/EEC*

Mineral waters

Date of adoption: 15. 7. 1980
OJ No L 229, 30. 8. 1980, p. 1

13. *Council Directive 89/107/EEC*

Additives

Date of adoption: 21. 12. 1988
OJ No L 40, 11. 2. 1989, p. 27

14. *Council Directive 82/711/EEC*

Migration of the constituents of plastic materials and articles

Date of adoption: 18. 10. 1982
OJ No L 297, 23. 10. 1982, p. 26

Council Directive 85/572/EEC

List of stimulants to be used for testing migration of the constituents of plastic materials and articles intended to come into contact with foodstuffs

Date of adoption: 19. 12. 1985
OJ No L 85, 31. 12. 1985, p. 372

15. *Council Directive 83/417/EEC*

Lactoproteins — caseins and caseinates

Date of adoption: 25. 7. 1983
OJ No L 237, 26. 8. 1983, p. 25

16. *Council Directive 84/500/EEC*

Ceramic articles

Date of adoption: 15. 10. 1984
OJ No L 277, 20. 10. 1984, p. 12

17. *Council Directive 85/591/EEC*

Methods of sampling and analysis

Date of adoption: 20. 12. 1985
OJ No L 372, 31. 12. 1985, p. 50

18. *Council Directive 83/229/EEC*

Materials and articles made of regenerated cellulose film

Date of adoption: 25. 4. 1983
OJ No L 123, 14. 8. 1986, p. 31

Council Directive 86/388/EEC

Amendment of Directive 83/229/EEC

Date of adoption: 23. 7. 1986
OJ No L 228, 14. 8. 1986, p. 32

19. *Council Directive 88/344/EEC*

Extraction solvents

Date of adoption: 13. 6. 1988
OJ No L 157, 24. 6. 1988, p. 28

20. *Council Directive 88/388/EEC*

Flavourings

Date of adoption: 22. 6. 1988
OJ No L 184, 15. 7. 1988, p. 61

21. *Council Directive 89/108/EEC*

Quick-frozen foodstuffs

Date of adoption: 21. 12. 1988
OJ No L 40, 11. 2. 1989, p. 34

22. *Council Directive 89/396/EEC*

Indications or marks identifying the lot to which a foodstuff belongs

Date of adoption: 14. 6. 1989
OJ No L 186, 30. 6. 1989, p. 21

23. *Council Directive 89/398/EEC*

Foodstuffs intended for particular nutritional uses

Date of adoption: 3. 5. 1989
OJ No L 186, 30. 6. 1989, p. 21

2. CHEMICAL SUBSTANCES AND PREPARATIONS

1. *Council Directive 73/173/EEC*

(superseded from 7. 6. 1991 by 88/379/EEC)

Classification, packaging and labelling of dangerous substances (solvents)

Date of adoption: 4. 6. 1973
OJ No L 189, 11. 7. 1973, p. 7

Council Directive 80/781/EEC

(superseded from 7. 6. 1991 by 88/379/EEC)

Amendment of Directive 73/173/EEC

Date of adoption: 22. 7. 1980
OJ No L 229, 30. 8. 1980, p. 57

Council Directive 82/473/EEC

(superseded from 7. 6. 1991 by 88/379/EEC)

Adaptation to technical progress of Directive 73/173/EEC

Date of adoption: 10. 6. 1982
OJ No L 213, 21. 7. 1982, p. 17

2. *Council Directive 73/404/EEC*

Detergents

Date of adoption: 22. 11. 1973
OJ No L 347, 17. 12. 1973, p. 51

Council Directive 82/242/EEC

First amendment of Directive 73/404/EEC relating to methods of testing the biodegradability of non-ionic surfactants

Date of adoption: 31. 3. 1982
OJ No L 109, 22. 4. 1982, p. 1

Council Directive 86/94/EEC

Second amendment of Directive 73/404/EEC

Date of adoption: 10. 3. 1986
OJ No L 80, 25. 3. 1986, p. 51

3. *Council Directive 73/405/EEC*

Methods of testing the biodegradability of anionic surfactants

Date of adoption: 22. 11. 1973
OJ No L 347, 17. 12. 1973, p. 53

Council Directive 82/243/EEC

Amendment of Directive 73/405/EEC

Date of adoption: 31. 3. 1982
OJ No L 109, 22. 4. 1982, p. 18

4. *Council Directive 76/769/EEC*

Restrictions on the marketing and use of certain dangerous substances and preparations

Date of adoption: 27. 7. 1976
OJ No L 262, 27. 9. 1976, p. 201

Council Directive 79/663/EEC

Supplement to the first amendment of Directive 76/769/EEC (extension of the list of restrictions)

Date of adoption: 24. 7. 1979
OJ No L 197, 3. 8. 1979, p. 37

Council Directive 82/806/EEC

Second amendment (benzene) of Directive 76/769/EEC

Date of adoption: 22. 11. 1982
OJ No L 339, 1. 12. 1982, p. 55

Council Directive 82/828/EEC

Third amendment (PCT) of Directive 76/769/EEC

Date of adoption: 3. 12. 1982
OJ No L 350, 10. 12. 1982, p. 34

Council Directive 83/264/EEC

Fourth amendment of Directive 76/769/EEC

Date of adoption: 16. 5. 1983
OJ No L 147, 6. 6. 1983, p. 9

Council Directive 83/478/EEC

Fifth amendment (asbestos) of Directive 76/769/EEC

Date of adoption: 19. 9. 1983
OJ No L 263, 24. 9. 1983, p. 33

Council Directive 85/467/EEC

Sixth amendment (PCBS/PCTS) of Directive 76/769/EEC

Date of adoption: 1. 10. 1985
OJ No L 269, 1. 10. 1985, p. 56

Council Directive 85/610/EEC

Seventh amendment (asbestos) of Directive 76/769/EEC

Date of adoption: 20. 12. 1985
OJ No L 375, 31. 12. 1985, p. 1

Council Directive 89/677/EEC

Eighth amendment of Directive 81/677/EEC

Date of adoption: 21. 12. 1989
OJ No L 398, 30. 12. 1989, p. 19

5. *Council Directive 77/728/EEC*

(superseded from 7. 6. 1991 by Directive 88/379/EEC)

Classification, packaging and labelling of paints, varnishes, printing inks, adhesives and similar products

Date of adoption: 7. 11. 1977
OJ No L 303, 28. 11. 1977, p. 23

Council Directive 83/265/EEC

(superseded from 7. 6. 1991 by Directive 88/379/EEC)

Amendment of Directive 77/728/EEC

Date of adoption: 16. 5. 1983
OJ No L 147, 6. 6. 1983, p. 11

Council Directive 86/508/EEC

(superseded from 7. 6. 1991 by Directive 88/379/EEC)

Second adaptation to technical progress of Directive 77/728/EEC

Date of adoption: 7. 10. 1986
OJ No L 295, 18. 10. 1986, p. 31

6. *Council Directive 78/631/EEC*

Classification, packaging and labelling of dangerous substances (pesticides)

Date of adoption: 26. 6. 1978
OJ No L 206, 29. 7. 1978, p. 13

Council Directive 81/187/EEC

Amendment of Directive 78/631/EEC

Date of adoption: 26. 3. 1981
OJ No L 88, 2. 4. 1981, p. 29

7. *Council Directive 88/379/EEC*

Approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations

Date of adoption: 7. 6. 1988
OJ No L 187, 16. 7. 1988, p. 14

3. PHARMACEUTICAL PRODUCTS

1. *Chapter IV of Council Directive 75/319/EEC*

Approximation of the provisions laid down by law, regulation, or administrative action relating to proprietary medicinal products

Date of adoption: 20. 5. 1975
OJ No L 147, 9. 6. 1975, p. 13

2. *Chapter V of Council Directive 81/851/EEC*

Approximation of the laws of the Member States relating to veterinary medicinal products

Date of adoption: 28. 9. 1981
OJ No L 317, 6. 11. 1981, p. 1

4. COSMETICS

1. *Council Directive 76/768/EEC*

Cosmetic products

Date of adoption: 27. 7. 1976
OJ No L 262, 27. 9. 1976

Council Directive 79/661/EEC

First amendment of Directive 76/768/EEC

Date of adoption: 24. 7. 1979
OJ No L 192, 31. 7. 1979

Council Directive 82/368/EEC

Second amendment of Directive 76/768/EEC

Date of adoption: 17. 5. 1982
OJ No L 167, 15. 6. 1982

Council Directive 83/574/EEC

Third amendment of Directive 76/768/EEC

Date of adoption: 26. 10. 1983
OJ No L 332, 28. 11. 1983

Council Directive 88/667/EEC

Fourth amendment of Directive 76/768/EEC

Date of adoption: 21. 12. 1988
OJ No L 382, 31. 12. 1988

Council Directive 89/679/EEC

Fifth amendment of Directive 76/768/EEC

Date of adoption: 21. 12. 1989
OJ No L 398, 30. 12. 1989

5. TELECOMMUNICATIONS

Council Directive 87/372/EEC

Public pan-European cellular digital land-based mobile communications — frequency bands

Date of adoption: 25. 6. 1987
OJ No L 196, 17. 7. 1987

6. MACHINERY AND ELECTRICAL EQUIPMENT

1. *Council Directive 86/295/EEC*

Roll-over protective structures (ROPS) for certain construction plant

Date of adoption: 25. 5. 1986
OJ No L 186, 8. 7. 1986

2. *Council Directive 86/296/EEC*

Falling-object protective structures (FOPS) for certain construction plant

Date of adoption: 26. 5. 1986
OJ No L 186, 8. 7. 1986

3. *Council Directive 86/663/EEC*

Self-propelled industrial trucks

Date of adoption: 22. 12. 1986
OJ No L 384, 31. 12. 1986

4. *Council Directive 82/130/EEC*

Electrical equipment for use in potentially explosive atmospheres in mines susceptible to firedamp

Date of adoption: 15. 2. 1982
OJ No L 59, 2. 3. 1982

7. TEXTILES

1. *Council Directive 71/307/EEC*

Textiles names

Date of adoption: 26. 7. 1971
OJ No L 185, 16. 8. 1971

Council Directive 75/36/EEC

First amendment of Directive 71/307/EEC

Date of adoption: 17. 12. 1974
OJ No L 14, 20. 1. 1975

Council Directive 83/623/EEC

Second amendment of Directive 71/307/EEC

Date of adoption: 25. 11. 1983
OJ No L 353, 15. 12. 1983

2. *Council Directive 72/276/EEC*

Methods for the quantitative analysis of binary textile fibre mixtures

Date of adoption: 17. 7. 1972
OJ No L 173, 31. 7. 1972

Council Directive 81/75/EEC

Amendment of Directive 72/276/EEC

Date of adoption: 17. 2. 1981
OJ No L 57, 4. 3. 1981

3. *Council Directive 73/44/EEC*

Methods for the quantitative analysis of ternary textile fibre mixtures

Date of adoption: 26. 2. 1973
OJ No L 83, 30. 3. 1973

8. PREPACKAGES

Council Directive 75/106/EEC, as last amended by Directive 89/676/EEC

Making-up by volume of certain prepackaged liquids

Date of adoption: 19. 12. 1974
OJ No L 42, 15. 2. 1975, p. 1

and as regards the 0,70 cl packages referred to at points 1(a) and 2(a) of Annex III.

Date of adoption: 21. 12. 1989
OJ No L 398, 30. 12. 1989, p. 18

9. CRYSTAL GLASS

Council Directive 69/495/EEC

Crystal glass

Date of adoption: 15. 12. 1969
OJ No L 326, 29. 12. 1969

10. TOBACCO PRODUCTS

1. *Council Directive 89/622/EEC*

Labelling of tobacco products

Date of adoption: 13. 11. 1989
OJ No L 357, 8. 12. 1989

2. *Council Directive 90/239/EEC*

Maximum tar yield of cigarettes

Date of adoption: 17. 5. 1990
OJ No L 137, 30. 5. 1990

ANNEX B

Council Directive 75/319/EEC

Approximation of provisions laid down by law, regulation or administrative action relating to proprietary medicinal products

Date of adoption: 20. 5. 1975
OJ No L 147, 9. 6. 1975, p. 13

The provisions of this Directive, other than those of Chapter IV, are being applied progressively to medicinal products placed on the market by virtue of previous provisions, to the effect that all products will have been reviewed by 31 December 1995.

Council Directive 81/851/EEC

Approximation of the laws of the Member States relating to veterinary medicinal products

Date of adoption: 28. 9. 1981
OJ No L 317, 6. 11. 1981

The provisions of this Directive, other than those of Chapter V, are being applied progressively to medicinal products placed on the market by virtue of previous provisions, to the effect that all products will have been reviewed by 31 December 1995.

Proposal for a

COUNCIL DIRECTIVE

of . . .

amending certain Directives on the recognition of professional qualifications with a view to the unification of Germany

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 49, 57 (1) and (2), first and third sentences, and 66 thereof,

Having regard to the proposal from the Commission (1),

In cooperation with the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas, by reason of the unification of Germany, certain amendments should be made to Council Directives 75/362/EEC (4), 77/452/EEC (5), 78/686/EEC (6), 78/1026/EEC (7) and 80/154/EEC (8), as last amended by Directive 89/594/EEC (9) concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications as doctors, nurses responsible for general care, dental practitioners, veterinary surgeons and midwives respectively, and to Council Directive 85/433/ECC (10), as amended by Directive 85/584/EEC (11), and Council Directive 85/384/EEC (12), as last amended by Directive 86/17/EEC (13), concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in the field of pharmacy and architecture respectively and finally to Council Directive 75/363/EEC (14), as last amended by Directive 89/594/EEC, concerning the coordination of provisions laid down by law, regulation or administrative action relating to the activities of doctors,

Whereas from the date of German unification Community law will be fully applicable to the territory of the former German Democratic Republic;

Whereas it is necessary to make changes to the abovementioned Directives to take account of the specific situation in that territory;

Whereas, in accordance with the principle of acquired rights, the diplomas, certificates or other evidence of formal qualifications held by German nationals in that territory who are pursuing their professional activities on the basis of training which began before unification and does not conform to Community rules on training should be granted recognition under similar conditions to those applied to other nationals of Member States at the time of the adoption of the Directives or enlargement of the Community;

Whereas it is necessary to protect at Community level the rights acquired by the holders of former qualifications which are no longer awarded as a result of changes which have taken place in the rules of the Member States which awarded the qualification to them; whereas such a provision was introduced by Directive 89/594/EEC into most Directives on the mutual recognition of diplomas, certificates and other evidence of formal qualifications; whereas it could also be applied, unamended, to German nationals from the territory of the former German Democratic Republic; whereas a similar provision should also be incorporated into Directive 85/433/EEC relating to the mutual recognition of diplomas, certificates and other evidence of formal qualifications in pharmacy;

Whereas most of the specific provisions relating to the recognition of diplomas, certificates or other evidence of formal qualifications awarded by the former German Democratic Republic cease to be relevant as a result of German unification; whereas they should be repealed.

HAS ADOPTED THIS DIRECTIVE:

Article 1

In Article 3 of Directive 75/362/EEC, point 3 under heading '(a) in Germany' is hereby deleted.

Article 2

The following Article 9a is hereby inserted in Directive 75/362/EEC:

(1) OJ No C . . .
(2) OJ No C . . .
(3) OJ No C . . .
(4) OJ No L 167, 30. 6. 1975, p. 1.
(5) OJ No L 176, 15. 7. 1977, p. 1.
(6) OJ No L 233, 24. 8. 1978, p. 1.
(7) OJ No L 362, 23. 12. 1978, p. 1.
(8) OJ No L 33, 11. 2. 1980, p. 1.
(9) OJ No L 341, 23. 11. 1989, p. 19.
(10) OJ No L 253, 24. 9. 1985, p. 37.
(11) OJ No L 372, 31. 12. 1985, p. 42.
(12) OJ No L 223, 21. 8. 1985, p. 15.
(13) OJ No L 27, 1. 2. 1986, p. 71.
(14) OJ No L 167, 30. 6. 1975, p. 14.

'Article 9a

1. In the case of nationals of Member States whose diplomas, certificates and other evidence of formal qualifications in medicine attest to training received on the territory of the former German Democratic Republic which does not satisfy all the minimum training requirements laid down in Article 1 of Directive 75/363/EEC, Member States other than Germany shall recognize those diplomas, certificates and other evidence of formal qualifications as being sufficient proof if

— they attest to training commenced before German unification,

— they entitle the holder to pursue the activities of a doctor throughout the territory of Germany under the same conditions as the qualifications awarded by the competent German authorities and referred to in points 1 and 2 of Article 3 (a), and

— they are accompanied by a certificate issued by the competent German authorities stating that those nationals have effectively and lawfully been engaged in the activities in question in Germany for at least three consecutive years during the five years prior to the date of issue of the certificate.

2. In the case of nationals of Member States whose diplomas, certificates and other evidence of formal qualifications in specialized medicine attest to training received on the territory of the former German Democratic Republic which does not satisfy the minimum training requirements laid down in Articles 2 to 5 of Directive 75/363/EEC, Member States other than Germany shall recognize those diplomas, certificates and other evidence of formal qualifications as being sufficient proof if:

— they attest to training commenced before the expiry of the time limit laid down in Article 9 (1), second subparagraph, of Directive 75/363/EEC, and

— they permit the pursuit, as a specialist, of the activity in question throughout the territory of Germany under the same conditions as the qualifications awarded by the competent German authorities and reffered to in Articles 5 and 7.

They may, however, require that these diplomas, certificates or other evidence of formal qualifications be accompanied by a certificate issued by the competent German authorities or bodies stating that the holders have, as specialists, been engaged in the activity in question for a period equivalent to twice the difference between the period of specialized training received on German territory and the minimum duration of training laid down in Directive 75/363/EEC, where they do not satisfy the minimum requirements regarding the duration of training laid down in Articles 4 and 5 of Directive 75/363/EEC.'

Article 3

The following second subparagraph is hereby added to Article 9 (1) of Directive 75/363/EEC:

'For the territory of the former German Democratic Republic, however, Germany shall take the measures necessary to comply with Articles 2 to 5 within 18 months of unification.'

Article 4

In Article 3 of Directive 77/452/EEC, the second indent under heading '(a) in Germany' is hereby deleted.

Article 5

The following Article 4a is hereby inserted in Directive 77/452/EEC:

'Article 4a

In the case of nationals of Member States whose diplomas, certificates and other evidence of formal qualifications as nureses responsible for general care attest to training received on the territory of the former German Democratic Republic which does not satisfy all the minimum training requirements laid down in Article 1 of Directive 77/453/EEC, Member States other than Germany shall recognize those diplomas, certificates and other evidence of formal qualifications as being sufficient proof if:

— they attest to training commenced before German unification,

— they entitle the holder to pursue the activities of a nurse responsible for general care throughout the territory of Germany under the same conditions as the qualifications awarded by the competent German authorities and referred to in Article 3 (a), and

— they are accompanied by a certificate issued by the competent German authorities stating that those nationals have effectively and lawfully been engaged in the activities of nurse responsible for general care in Germany for at least three years during the five years prior to the date of issue of the certificate.

These activities have included taking full responsibility for the planning, organization and carrying-out of the nursing care of the patient.'

Article 6

In Article 3 of Directive 78/686/EEC, the following shall be deleted in heading '(a) in Germany':

— presentation in the form of two numbered points,

— the text of point 2.

Article 7

The following Article 7a is hereby inserted in Directive 78/686/EEC:

'Article 7 a

1. In the case of nationals of Member States whose diplomas, certificates and other evidence of formal qualifications as dental practitioner attest to training received on the territory of the former German Democratic Republic which does not satisfy all the minimum training requirements laid down in Article 1 of Directive 78/687/EEC, Member States other than Germany shall recognize those diplomas, certificates and other evidence of formal qualifications as being sufficient proof if:

— they attest to training commenced before German unification,

— they entitle the holder to pursue the activities of a dental practitioner throughout the territory of Germany under the same conditions as the qualifications awarded by the competent German authorities and referred to in Article 3 (a), and

— they are accompanied by a certificate issued by the competent German authorities stating that those nationals have effectively and lawfully been engaged in the activities in question in Germany for at least three consecutive years during the five years prior to the date of issue of the certificate.

2. In the case of nationals of Member States whose diplomas, certificates and other evidence of formal qualifications as specialist dental practitioners attest to training received in the territory of the former German Democratic Republic which does not satisfy the minimum training requirements laid down in Articles 2 and 3 of Directive 78/687/EEC, Member States other than Germany shall recognize those diplomas, certificates and other evidence of formal qualifications as being sufficient proof if:

— they attest to training commenced before German unification, and

— they entitle the holder to pursue, as a specialist dental practitioner, the activity in question throughout the territory of Germany under the same conditions as the qualifications awarded by the competent German authorities and referred to in Article 5 (1) and (2).

They may, however, require that these diplomas, certificates or other evidence of formal qualifications be accompanied by a certificate issued by the competent German authorities or bodies stating that the holder has, as a specialist dental practitioner, been engageged in the activity in question for a period equivalent to twice the difference between the period of specialized training received on German territory and the minimum duration of training laid down in Directive 78/687/EEC, where they do not satisfy the minimum requirements regarding the duration of training laid down in Article 2 of Directive 78/687/EEC.'

Article 8

In Article 3 of Directive 78/1026/EEC, the following shall be deleted under heading '(a) in Germany':

— presentation in the form of two numbered points;

— the text of point 2.

Article 9

The following Article 4 a is hereby inserted in Directive 78/1026/EEC:

'Article 4 a

In the case of nationals of Member State whose diplomas, certificates and other evidence of formal qualifications as veterinary surgeons attest to training received in the territory of the former German Democratic Republic which does not satisfy all the minimum training requirements laid down in Article 1 of Directive 78/1027/EEC, Member States other than Germany shall recognize those diplomas, certificates and other evidence of formal qualifications, as being sufficient proof if:

— they attest to training commenced before German unification,

— they entitle the holder to pursue the activities of a veterinary surgeon throughout the territory of Germany under the same conditions as the qualifications awarded by the competent German authorities and referred to in Article 3 (a), and

— they are accompanied by a certificate issued by the competent German authorities stating that those nationals have effectively and lawfully been engaged in the activities in question in Germany for at least three consecutive years during the five years prior to the date of issue of the certificate.'

Article 10

In Article 3 of Directive 80/154/EEC, the following shall be deleted in heading '(a) in Germany':

— presentation in the form of two indents,

— the text of the second indent.

Article 11

The following Article 5 a is hereby added in Directive 80/154/EEC

'Article 5 a

1. In the case of Member States whose diplomas, certificates and other evidence of formal qualifications as midwife attest to training received on the territory of the former German Democratic Republic which does not satisfy all the minimum training requirements laid down in Article 1 of Directive 80/155/EEC, Member States other than Germany shall recognize those diplomas, certificates and other evidence of formal qualifications as being sufficient proof if:

— they attest to training commenced before German unification,

— they entitle the holder to pursue the activities of a midwife throughout the territory of Germany under the same conditions as the qualifications awarded by the competent German authorities and referred to in Article 3 (a), and

— they are accompanied by a certificate issued by the competent German authorities stating that those nationals have effectively and lawfully been engaged in the activities in question in Germany for at least three years during the five years prior to the date of issue of the certificate.

2. In the case of nationals of Member States whose diplomas, certificates and other evidence of formal qualifications as midwives attest to training received in the territory of the former German Democratic Republic which satisfies all the minimum training requirements laid down in Article 1 of Directive 80/155/EEC but which, pursuant to Article 2, has to be recognized only if it is complemented by the professional practice referred to in Article 4, Member States other than Germany shall recognize those diplomas, certificates and other evidence of formal qualifications as being sufficient proof if:

— they attest to training commenced before German unification, and

— they are accompanied by a certificate stating that those nationals have effectively and lawfully been enganged in the activities in question in Germany for at least two years during the five years prior to the date of issue of the certificate.'

Article 12

In Article 4 of Directive 85/433/EEC on the mutual recognition of diplomas, certificates and other evidence of formal qualifications in pharmacy, the following shall be deleted in heading '(c) in Germany':

— presentation in the form of two numbered points,

— the text of point 2.

Article 13

Article 6 of Directive 85/433/EEC is hereby amended as follows:

— the present text of Article 6 becomes paragraph 1 of the said Article,

— the following paragraph 2 is added:

'2. Diplomas, certificates and other university or equivalent qualifications in pharmacy which were awarded to nationals of Member States by Member States and which satisfy all the minimum training requirements laid down in Article 2 of Directive 85/432/EEC but which do not conform to the designations set out in Article 4 shall be treated, for the purpose of the Directive, as the diplomas set out in that Article if they are accompanied by a certificate stating that they attest to training conforming to the provisions of Directive 85/432/EEC referred to in Article 2 of this Directive and shall be treated by the Member States which awarded them as those whose designations are set out in Article 4 of this Directive.

Article 14

The following Article 6 a is hereby inserted in Directive 85/433/EEC:

'Article 6 a

Diplomas, certifcates and other university or equivalent qualifications in pharmacy which attest to training received by nationals of the Member States on the territory of the former German Democratic Republic and which do not satisfy all the minimum training requirements laid down in Article 2 of Directive 85/432/EEC shall be treated as diplomas satisfying these requirements if:

— they attest to training commenced before German unification,

— they entitle the holder to pursue the activities of pharmacist throughout the territory of Germany under the same conditions as the qualifications awarded by the competent German authorities and referred to in Article 4 (c), and

— they are accompanied by a certificate stating that their holders have effectively and lawfully been engaged in Germany in one of the activities referred to in Article 1 (2) of Directive 85/432/EEC for at least three consecutive years during the five years prior to the date of issue of the certificate, provided that such activity is regulated in the State in question.'

Article 15

Article 6 of Directive 85/384/EEC is hereby deleted.

Article 16

Member States shall take the necessary measures to comply with this Directive by 1 July 1991. They shall forthwith inform the Commission thereof.

Article 17

This Directive is addressed to the Member States.

Done at Brussels, . . .

For the Council

The President

Proposal for a

COUNCIL DIRECTIVE

of . . .

relating to the transitional measures applicable in Germany in the field of workers' health and safety

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 118 a thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the European Economic Community has adopted a number of rules on the health and safety of workers;

Whereas, from the date of German unification onwards, Community law will be fully applicable to the territory of the former German Democratic Republic;

Whereas a special period must be provided for bringing the rules in force in the territory of the former German Democratic Republic into line with Community acts;

Whereas the information on the rules applicable and the social and industrial situation in the former German Democratic Republic is insufficient to permit the extent of the derogations to be definitively established; whereas, to allow for changes in the situation, a simplified procedure must be laid down pursuant to the third indent of Article 145 of the Treaty for adopting and administering such derogations,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Germany shall adopt, in respect of the territory of the former German Democratic Republic, the laws, regulations and administrative provisions necessary to comply with the Directives referred to in the Annex before 31 December 1992. It shall immediately inform the Commission thereof, which shall inform the other Member States.

Article 2

The Commission may, in accordance with the procedure set out in Article 3, make any technical amendments necessary to the derogations from Community rules referred to in this Directive in order to ensure that all the Community rules in the field covered by this Directive are applied in the territory of the former German Democratic Republic. The aim of such amendments must be to ensure consistency in taking account of the special circumstances of that territory as regards complying with the basic principles contained in this Directive.

Article 3

For the purposes of Article 2, the Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the representative of the Commission.

The Commission representative shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 4

Germany shall report on the implementation of this Directive before 31 December 1991 and 31 December 1992.

Its reports shall be forwarded to the Commission which shall communicate them to the other Member States.

Article 5

This Directive is addressed to the Member States.

Done at Brussels, . . .

For the Council

The President

ANNEX

Directives to which a derogation applies until 31 December 1992 on the territory of the former German Democratic Republic

— Council Directive 78/610/EEC of 29 June 1978 on the approximation of the laws, regulations and administrative provisions of the Member States on the protection of the health of workers exposed to vinyl chloride monomer (OJ No L 197, 22. 7. 1978, p. 12)

— Council Directive 80/1107/EEC of 27 November 1980 on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work (OJ No L 327, 3. 12. 1980, p. 8)

— Council Directive 82/605/EEC of 28 July 1982 on the protection of workers from the risks related to exposure to metallic lead and its ionic compounds at work (first individual Directive within the meaning of Article 8 of Directive 80/1107/EEC) (OJ No L 247, 23. 8. 1982, p. 12)

— Council Directive 83/447/EEC of 19 September 1983 on the protection of workers from the risks related to exposure to asbestos at work (second individual Directive within the meaning of Article 8 of Directive 80/1107/EEC) (OJ No L 263, 24. 9. 1983, p. 25)

— Council Directive 86/188/EEC of 12 May 1986 on the protection of workers from the risks related to exposure to noise at work (OJ No L 137, 24. 5. 1986, p. 28)

— Council Directive 88/364/EEC on the protection of workers by the banning of certain specified agents and/or certain work activities (fourth individual Directive within the meaning of Article 8 of Directive 80/1107/EEC) (OJ No L 179, 9. 7. 1988, p. 44)

— Council Directive 88/642/EEC of 16 December 1988 amending Directive 80/1107/EEC on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work (OJ No L 356, 24. 12. 1988, p. 74)