

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(94) 85 final - COD 445

Brussels, 10.03.1994

## OPINION OF THE COMMISSION

pursuant to Article 189b(2)(d) of the EC Treaty  
on the European Parliament's amendments to the Council's common position  
regarding the proposal for a

EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE  
amending for the second time Directive 83/189/EEC  
laying down a procedure for the provision of information  
in the field of technical standards and regulations

## AMENDING THE PROPOSAL OF THE COMMISSION

pursuant to Article 189a(2) of the EC Treaty

**EXPLANATORY MEMORANDUM**

With the entry into force on 1 November 1993 of the Treaty on European Union, this proposal for a Directive now comes within the scope of the co-decision procedure (Article 189b of the EC Treaty).

Article 189b(2) (d) states that the Commission shall deliver an opinion on the amendments proposed at second reading by the European Parliament.

The Commission hereby presents its opinion on the two amendments proposed by the European Parliament and, in accordance with Article 189a(2) of the EC Treaty, an amended proposal including an amendment by the European Parliament, which the Commission has accepted.

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**I. BACKGROUND**

- a) On 27 November 1992 the Commission sent to the Council a proposal for a Council Directive amending for the second time Directive 83/189/EEC laying down a procedure for the provision of information in the field of technical standards and regulations (COM(92) 491 final - SYN 445).
- b) By letter of 30 November 1992 the Council consulted the European Parliament in accordance with Article 100a of the Treaty.
- c) The Council's Working Party met on 25 January, 3, 4 and 16 March, 1 and 2 April and 6 and 7 May 1993.
- d) On 5 May 1993 the Parliament Committee on Economic and Monetary Affairs and Industrial Policy adopted the draft report submitted by Mr Pierros.
- e) The Industrial Affairs section of the Economic and Social Committee adopted an opinion in favour of the proposal on 5 May 1993.
- f) In the May 1993 session (24 May 1993) Parliament unanimously approved the proposal at first reading subject to 12 amendments, of which the Commission accepted 9.
- g) On 6 October 1993 the Commission sent its amended proposal to the Council (COM(93) 444 final).
- h) At its meeting of 11 November 1993 the Council unanimously adopted a common position with which the Commission concurred.

- i) On 13 December 1993 the Council's common position was sent to Parliament. The period provided for under Article 189B of the Treaty began as from 17 December 1993.
- j) On 13 January the Committee on Economic and Monetary Affairs and Industrial Policy adopted the draft recommendation submitted by Mr Pierros with two amendments to the Council's common position.
- k) On 9 February 1994 the European Parliament, meeting in plenary session, approved the recommendation proposed by the Economic and Monetary Affairs Committee with two amendments to the Council's common position.

## 2. OBJECTIVE OF THE DIRECTIVE

The main objective of the proposal for a Directive is to increase transparency in order to remove or reduce difficulties in advance which might result from national technical specifications in trade between Member States of the Community.

The advent of the internal market on 1 January 1993 means that this important legal instrument, which was conceived in 1983 to help achieve the internal market, must be adapted to ensure the smooth operation of the market. It is therefore essential to strengthen the basic principles of the information procedure.

The aim of the proposal is as follows:

- for standards, to make the notification procedure more efficient by concentrating on standardization activities which could genuinely result in technical barriers to trade, and;
- for technical regulations, to increase the transparency of action at national level and strengthen discipline in the event of Community action.

## 3. THE COMMISSION'S POSITION ON PARLIAMENT'S AMENDMENTS

The Commission is generally inclined only to accept the amendment which contributes towards increasing the transparency of the procedure provided for by Directive 83/189 (amendment no. 2). On the other hand, it rejects the amendment which does not add to the transparency mentioned or generate any benefit for Parliament but certainly makes the procedure more cumbersome (amendment no. 1).

### 3.1 Amendments accepted by the Commission

Parliament's amendment no. 2 is accepted by the Commission.

Amendment no. 2 obliges the Commission to publish lists of standardization work entrusted to the European standardization organizations, as well as statistics on the notifications received by the Commission, on an annual basis in the Official Journal.

This request had already been presented at first reading and accepted by the Commission. As has been pointed out previously, the latter has always wished to keep the European Parliament as well informed as possible of the practical application of Directive 83/189.

In addition, the Commission already raised this point at the Council meeting held on 11 November. The Council came out in favour of this provision but decided to postpone the decision until the final adoption of the proposal, whilst providing for presentation by Parliament of this amendment at second reading.

### 3.2 Amendments rejected by the Commission

Amendment no. 1 is rejected by the Commission.

Amendment no. 1 lays down the obligation to inform Parliament of the progress of the emergency procedure. The Commission cannot accept this amendment.

First, it should be stressed that the Commission considers that it already publicizes application of Directive 83/189/EEC sufficiently and Parliament has easy access to such information. The Commission has always sought to keep Parliament well informed about the functioning of the procedure established by the directive. Apart from providing weekly information on notifications received, including where the emergency procedure has been applied, the Commission informs Parliament on an annual basis about the functioning of the Directive in practice by means of the annual report on the internal market, the annual report to Parliament and the two-yearly report on the operation of the procedure. Amendment no. 2, which is accepted by the Commission, providing for annual publication in the Official Journal of the list of standardization work and statistics on notifications received by the Commission, confirms this approach.

As regards the emergency procedure itself, the Commission already publishes the references of all drafts communicated by Member States in the Official Journal each week. The references are accompanied by:

- (i) standstill deadlines for examination by the Commission and the other Member States;
- (ii) applications for the emergency procedure where they have been accepted by the Commission.

If this information is taken in conjunction with the legal conditions underpinning the Commission's opinion based on Article 9(5) of the Directive, a detailed picture is obtained of the workings of the emergency procedure.

The Commission considers in particular that publication in the Official Journal is the most effective way of informing the European Parliament of the results of this procedure. There is actually a very short period between delivery of the Commission's opinion and its publication in the Official Journal. An individual report to Parliament, on the other hand, would take much longer, resulting in delays in the provision of information to Parliament on notifications dating from several weeks previously. To be informed more quickly, Parliament too should refer to the information published in the Official Journal. The sole effect, therefore, of the subsequent information report would be to impede the progress of the ordinary examination of the specifications communicated under the Directive, without providing any benefit for Parliament which does not already derive from publication in the Official Journal.

The Commission also considers that publication in the Official Journal is the most transparent method and the one which best meets the requirements of legal certainty for informing Parliament. In this way, the Commission officially gives its opinion not just to the Member States but also to the other European institutions and third parties. The Commission therefore considers that even if Parliament was informed separately it should in any case refer to the information published in the Official Journal to establish all the legal implications of the opinion. In conclusion, the Commission thinks that duplication of the provision of information here could create confusion which might be detrimental to Parliament itself, and it is to avoid such confusion that it rejects this amendment.

4. CONCLUSION

The Commission is of the opinion that amendment no. 2 presented by the European Parliament enhances the transparency of the procedure laid down by Directive 83/189.

The amended proposal includes this amendment.

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**Amended proposal for a**

**EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE**

**amending for the second time Directive 83/189/EEC  
laying down a procedure for the provision of information  
in the field of technical standards and regulations**

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

**EXPLANATORY MEMORANDUM**

With the entry into force on 1 November 1993 of the Treaty on European Union, this proposal for a Directive now comes within the scope of the co-decision procedure (Article 189b of the EC Treaty).

Under Article 189b(2)(d) of the EC Treaty, the Commission delivers an opinion on the amendments to the Council's position proposed by the European Parliament. The Commission has accepted one of the European Parliament's two amendments, for the reasons set out in section 3.1 of the opinion above.

In accordance with Article 189a(2) of the EC Treaty, the Commission hereby presents an amended proposal including an amendment by the European Parliament to the Council's common position, which the Commission has accepted.

Article 1(9)

(Article 11 of Directive 83/189/EEC)

The Commission shall report every two years to the European Parliament, the Council and the Economic and Social Committee on the results of the application of this Directive.

The Commission shall report every two years to the European Parliament, the Council and the Economic and Social Committee on the results of the application of this Directive. Lists of standardization work entrusted to the European standardization organisations pursuant to this Directive, as well as statistics on the notifications received shall be published on an annual basis in the Official Journal.

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# DOCUMENTS

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