

## I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

## DIRECTIVES

## DIRECTIVE 2009/48/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 18 June 2009

on the safety of toys

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(2)</sup>,

Whereas:

(1) Council Directive 88/378/EEC of 3 May 1988 on the approximation of the laws of the Member States concerning the safety of toys <sup>(3)</sup> was adopted in the context of establishing the internal market in order to harmonise the safety levels of toys throughout the Member States and to remove obstacles to trade in toys between Member States.

(2) Directive 88/378/EEC is based on the New Approach principles, as set out in the Council Resolution of 7 May 1985 on a new approach to technical harmonisation and standards <sup>(4)</sup>. Thus, it sets out only the essential safety requirements with regard to toys, including the particular safety requirements regarding physical and mechanical properties, flammability, chemical properties, electrical properties, hygiene and radioactivity. Technical details are adopted by the European Committee for Standardisation (CEN) and the

European Committee for Electrotechnical Standardisation (Cenelec) in accordance with 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 <sup>(5)</sup>. Conformity with harmonised standards so set, the reference number of which is published in the *Official Journal of the European Union*, provides a presumption of conformity with the requirements of Directive 88/378/EEC. Experience has shown that these basic principles have worked well in the toys sector and should be maintained.

(3) Technological developments in the toys market have, however, raised new issues with respect to the safety of toys and have given rise to increased consumer concerns. In order to take account of those developments and to provide clarification in relation to the framework within which toys may be marketed, certain aspects of Directive 88/378/EEC should be revised and enhanced and, in the interests of clarity, that Directive should be replaced by this Directive.

(4) Toys are also subject to Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety <sup>(6)</sup>, which applies in a complementary manner to specific sectoral legislation.

(5) Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products <sup>(7)</sup> lays down horizontal provisions on the accreditation of conformity assessment bodies, on the CE marking and on the Community market surveillance framework for, and controls of, products entering the Community market which also apply to the toys sector.

<sup>(1)</sup> OJ C 77, 31.3.2009, p. 8.

<sup>(2)</sup> Opinion of the European Parliament of 18 December 2008 (not yet published in the Official Journal) and Council Decision of 11 May 2009.

<sup>(3)</sup> OJ L 187, 16.7.1988, p. 1.

<sup>(4)</sup> OJ C 136, 4.6.1985, p. 1.

<sup>(5)</sup> OJ L 204, 21.7.1998, p. 37.

<sup>(6)</sup> OJ L 11, 15.1.2002, p. 4.

<sup>(7)</sup> OJ L 218, 13.8.2008, p. 30.