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I *Acts whose publication is obligatory*

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EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other Acts are printed in bold type and preceded by an asterisk.

I

(Acts whose publication is obligatory)

DIRECTIVE 95/28/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 24 October 1995

relating to the burning behaviour of materials used in the interior construction of certain categories of motor vehicle

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

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

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure laid down in Article 189b of the Treaty ⁽³⁾,

Whereas the internal market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured; whereas it is important to adopt measures to that end;

Whereas the technical requirements which certain vehicle categories must satisfy pursuant to national law relate, *inter alia*, to the burning behaviour of materials used in the interior construction of certain categories of motor vehicle;

Whereas these requirements differ from one Member State to another;

Whereas it is therefore necessary that all Member States adopt the same requirements either in addition to or in place of their existing rules in order, in particular, to allow the EEC type-approval procedure which was the

subject of Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers ⁽⁴⁾, to be further implemented;

Whereas this Directive will be one of the separate Directives of the EEC type-approval procedure which has been established by Directive 70/156/EEC; whereas, consequently, the provisions laid down in Directive 70/156/EEC relating to vehicle systems, components and separate technical units shall apply for the purposes of this Directive;

Whereas it is appropriate to refer to Council Directive 77/649/EEC ⁽⁵⁾, which contains the procedure for determining the position of the seating reference point (the 'R-point');

Whereas, with a view to ensuring occupant and road safety, it is important that the materials used in the construction of the inside of bus and coach bodywork satisfy minimum requirements in order to avoid or at least retard development of flames such that it allows occupants to evacuate the vehicle in the event of fire;

Whereas it is desirable to introduce alternative routes for the type-approval of vehicles as systems pursuant to this Directive, i. e. either on the basis of tests of the burning behaviour of the interior materials used in motor vehicles or on the basis of an EEC component type-approval for each material and/or equipment such as seats, curtains, etc. to be fitted in the interior construction of these

⁽¹⁾ OJ No C 154, 19. 6. 1992, p. 4.

⁽²⁾ OJ No C 332, 16. 12. 1992, p. 12.

⁽³⁾ Opinion of the European Parliament of 29 October 1992 (OJ No C 305, 23. 11. 1992, p. 109), Council common position of 8 December 1994 (OJ No C 384, 31. 12. 1994, p. 1) and Decision of the European Parliament of 15 June 1995 (OJ No C 166, 3. 7. 1995).

⁽⁴⁾ OJ No L 42, 23. 2. 1970, p. 1. Directive as last amended by Commission Directive 93/81/EEC (OJ No L 264, 23. 10. 1993, p. 49).

⁽⁵⁾ OJ No L 267, 19. 10. 1977, p. 1. Directive last amended by Commission Directive 90/630/EEC (OJ No L 341, 6. 12. 1990, p. 20).

vehicles whereby the correct installation of such approved materials and/or equipment has to be checked,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

For the purposes of this Directive:

- 'vehicle': means any vehicle as defined in Article 2 of Directive 70/156/EEC,
- 'component': means a device as defined in Article 2 of Directive 70/156/EEC.

Article 2

Member States may not refuse:

- EEC type-approval or national type-approval for a vehicle or refuse or prohibit the sale, registration, entry into service or use of a vehicle on grounds relating to the burning behaviour of materials used in the interior construction of its bodywork,
- EEC type-approval or national type-approval for a component used in the interior construction of the vehicle bodywork or prohibit its sale or use on grounds relating to the burning behaviour of the materials used in its construction,

if the relevant requirements set out in Annexes I, IV, V and VI to this Directive are satisfied.

Article 3

1. Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive within 18 months of the date of its adoption. They shall forthwith inform the Commission thereof.

From the abovementioned date, Member States may no longer prohibit the initial entry into service of vehicles or the sale or use of components complying with this Directive.

They shall apply these provisions 48 months following the date of adoption of this Directive.

2. When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The method of making such reference shall be laid down by Member States.

Article 4

This Directive is addressed to the Member States.

Done at Luxembourg, 24 October 1995.

For the European Parliament

The President

K. HÄNSCH

For the Council

The President

L. ATIENZA SERNA

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ANNEX I

SCOPE, DEFINITIONS, APPLICATION FOR EEC TYPE-APPROVAL, GRANTING OF EEC-TYPE-APPROVAL, SPECIFICATIONS, MODIFICATIONS OF THE TYPE, CONFORMITY OF PRODUCTION, REQUIREMENTS CONCERNING INSTALLATION IN THE VEHICLE**1. Scope**

This Directive applies to the burning behaviour (ignitability, burning rate and melting behaviour) of interior materials used in vehicles of category M₃ carrying more than 22 passengers, not being designed for standing passengers and urban use (city buses).

Member States which, prior to the date mentioned in Article 3 (1), third subparagraph of the Directive, had legislation applying to vehicle categories other than that mentioned above may continue to apply that legislation provided that they accept type-approval for other vehicle categories which comply with the provisions of this Directive.

2. Definitions

For the purpose of this Directive:

- 2.1. 'Approval of a vehicle' means the approval of a vehicle type such as defined in point 2.2 with regard to the burning behaviour of the interior components used in the passenger compartment.
- 2.2. 'Vehicle type' means vehicles which do not differ in such essential respects as:
 - 2.2.1. The devices such as materials, seats, curtains, separation walls, etc. used in the passenger compartment.
 - 2.2.2. The mass of the devices used, in so far as they have an effect on the performance prescribed in this Directive.
 - 2.2.3. The optional arrangements or fittings in so far as they have no detrimental effect on the performance prescribed in this Directive.
- 2.3. 'Approval of a component' means an approval for devices, such as materials, seats, curtains, separation walls, etc.
- 2.4. 'Type of a component' means components which do not differ in such essential respects as:
 - 2.4.1. the base material(s) (e. g. wool, plastic, rubber, blended materials).
 - 2.4.2. the intended use (seat upholstery, roof lining, etc.).
 - 2.4.3. the manufacturer's type designation.
 - 2.4.4. the number of layers in the case of composite materials.
 - 2.4.5. other characteristics in so far as they have an appreciable effect on the performance prescribed in this Directive.
- 2.5. 'Passenger compartment' means the space for occupant accommodation (including bar, kitchen, toilet, etc.), bounded by:
 - the roof,
 - the floor,
 - the side walls,
 - the doors,
 - the outside glazing,
 - the rear compartment bulkhead, or the plane of the rear seat back support,
 - at the driver's side of the longitudinal vertical median plane of the vehicle, the vertical transversal plane through the driver's R-point as defined in Annex III to Directive 77/649/EEC,
 - at the opposite side of the longitudinal vertical median plane of the vehicle, the front bulkhead.

- 2.6. 'Seat' means a structure which may or may not be integral with the vehicle structure, complete with trim, intended to seat one adult person. The term covers both an individual seat or part of a bench seat intended to seat one adult person.
- 2.7. 'Group of seats' means either a bench-type seat, or seats which are separate but side by side (i. e. with the foremost anchorages of one seat in line with or forward of the rearmost anchorages and in line with or behind the foremost anchorages of another seat) and which accommodate one or more seated adult persons.
- 2.8. 'Bench seat' means a structure complete with trim, intended to seat more than one adult person.
- 2.9. 'Burning rate' means the quotient of the burnt distance measured according to Annex IV and/or VI to this Directive and the time taken to burn this distance. It is expressed in millimetres per minute.
- 2.10. 'Composite material' means a material composed of several layers of similar or different materials intimately held together at their surfaces by cementing, bonding, cladding, welding, etc.
- When different materials are connected together intermittently (for example, by sewing, high-frequency welting, riveting), such materials shall not be considered as composite materials.
- 2.11. 'Exposed face' means the side of a material which is facing towards the passenger compartment when the material is mounted in the vehicle.
- 2.12. 'Upholstery' means the combination of interior padding and surface finish material which together constitute the cushioning of the seat frame.
- 2.13. 'Interior lining(s)' means material(s) that (together) constitute(s) the surface finish and substrate of a roof, wall or floor.

3. Application for EEC vehicle type-approval

- 3.1. The application for EEC type-approval pursuant to Article 3 (4) of Directive 70/156/EEC of a vehicle type with regard to the burning behaviour of the materials used in the passenger compartment shall be submitted by the vehicle manufacturer.
- 3.2. A model of the information document is given in Annex II, Appendix 1.
- 3.3. The following must be submitted to the technical service responsible for conducting the type-approval tests:
- 3.3.1. in the case of interior components without EEC type-approval: samples, the number of which is specified in items 7.2, 7.3 and 7.4 below, of the components used in the vehicles, which are representative of the type to be approved;
- 3.3.2. in the case of interior components already type-approved: the type approvals are to be enclosed in the application for the vehicle type-approval;
- 3.3.3. a vehicle representative of the type to be approved.

4. Application for EEC component type-approval

- 4.1. The application of EEC component type-approval pursuant to Article 3 (4) of Directive 70/156/EEC for a type of interior material with regard to its burning behaviour shall be submitted by the manufacturer.
- 4.2. A model for the information document is given in Annex II, Appendix 2.
- 4.3. The following must be submitted to the technical service responsible for conducting the type-approval tests:
- 4.3.1. samples, the number of which is specified in items 7.2, 7.3 and 7.4 below. The samples shall be clearly and indelibly marked with the applicant's trade name or mark and the type designation;
- 4.3.2. for devices such as seats, curtains, separation walls, etc., the samples specified in 4.3.1 plus one complete device as mentioned above.

5. **Granting of EEC type-approval**
- 5.1. If the relevant requirements are satisfied, EEC type-approval pursuant to Article 4 (3) and, if applicable, 4 (4), of Directive 70/156/EEC shall be granted.
- 5.2. A model for the EEC type-approval certificate is given in:
- 5.2.1. Annex III, Appendix 1 for applications referred to in 3.1.
- 5.2.2. Annex III, Appendix 2 for applications referred to in 4.1.
- 5.3. An approval number in accordance with Annex VII to Directive 70/156/EEC shall be assigned to each type of vehicle and to each type of component approved. The same Member State shall not assign the same number to another type of vehicle or to another type of component.
6. **Marking**
- 6.1. Every component conforming to a type approved under this Directive shall bear an EEC type-approval mark. This mark shall consist of:
- 6.1.1. a rectangle surrounding the lower case letter 'e' followed by the distinguishing number or letters of the Member State which has granted component type-approval:
- 1 for Germany
 - 2 for France
 - 3 for Italy
 - 4 for Netherlands
 - 5 for Sweden
 - 6 for Belgium
 - 9 for Spain
 - 11 for the United Kingdom
 - 12 for Austria
 - 13 for Luxembourg
 - 17 for Finland
 - 18 for Denmark
 - 21 for Portugal
 - 23 for Greece
 - IRL for Ireland;
- 6.1.2. in the vicinity of the rectangle:
- 6.1.2.1. the base approval number contained in Section 4 of the type-approval number referred to in Annex VII to Directive 70/156/EEC preceded by the two figures indicating the sequence number assigned to the most recent major technical amendment to Directive . . . /EEC on the date EEC component type-approval was granted. In this Directive the sequence number is 00 (unamended form of the Directive);
- 6.1.2.2. symbols indicating the direction for which the burning rate has been determined:
- \longleftrightarrow for the horizontal direction (Annex IV),
 - \updownarrow for the vertical direction (Annex VI),
 - $\leftrightarrow\updownarrow$ for the horizontal and vertical direction (Annexes IV and VI);
- 6.1.2.3. the symbol \textcircled{V} indicating that the component has been approved according to its melting behaviour (Annex V) and /or the symbol \textcircled{CD} indicating that the component has been approved as a complete device, such as seats, separation walls, luggage racks, etc.
- 6.2. Where the seat has been approved as a component or where the cushion and the back of a seat or bench seat are covered with the same material, it is sufficient if the mark appears only once per seat or bench seat.

6.3. The mark must be affixed to the material in such a way as to be clearly legible and indelible even if the material is installed in a vehicle.

6.4. A model for the EEC component type-approval mark is shown in the Appendix of this Annex.

7. Specifications

7.1. The interior materials of the passenger compartment used in the vehicle to be type-approved shall undergo one or more of the tests mentioned in Annexes IV, V and VI.

7.2. From the following material(s) five samples in the case of an isotropic material or 10 samples in the case of a non-isotropic material (five for each direction), shall undergo the test described in Annex IV to this Directive:

- material(s) used for the upholstery of any seat and its accessories (including the driver's seat),
- material(s) used for the interior lining of the roof,
- material(s) used for the interior lining of the side and rear walls, including separation walls,
- material(s) with thermal and/or acoustic function,
- material(s) used for the interior lining of the floor,
- material(s) used for the interior lining of luggage-racks, heating and ventilation pipes,
- material(s) used for the light fittings.

Furthermore, one sample shall be submitted to the technical service for future reference purposes.

7.2.1. The result of the test shall be considered satisfactory if, taking the worst test results into account, the horizontal burning rate is not more than 100 mm/minute or if the flame extinguishes before reaching the last measuring point.

7.3. From the following material(s) four samples, for both faces (if they are not identical), shall undergo the test described in Annex V:

- material(s) used for the interior lining of the roof,
- material(s) used for the interior lining of the luggage-racks, heating and ventilation pipes situated in the roof,
- material(s) used for the lights situated in the luggage-racks and/or roof.

Furthermore, one sample shall be submitted to the technical services for future reference purposes.

7.3.1. The result of the test shall be considered satisfactory if, taking the worst test results into account, no drop is formed which ignites the cotton wool.

7.4. Three samples in the case of an isotropic material, or six samples in the case of a non-isotropic material, of the material(s) used for the curtains and blinds (and/or other hanging materials) shall undergo the test described in Annex VI.

Furthermore, one sample shall be submitted to the technical service for future reference purposes.

7.4.1. The result of the test shall be considered satisfactory if, taking the worst test results into account, the vertical burning rate is not more than 100 mm/minute.

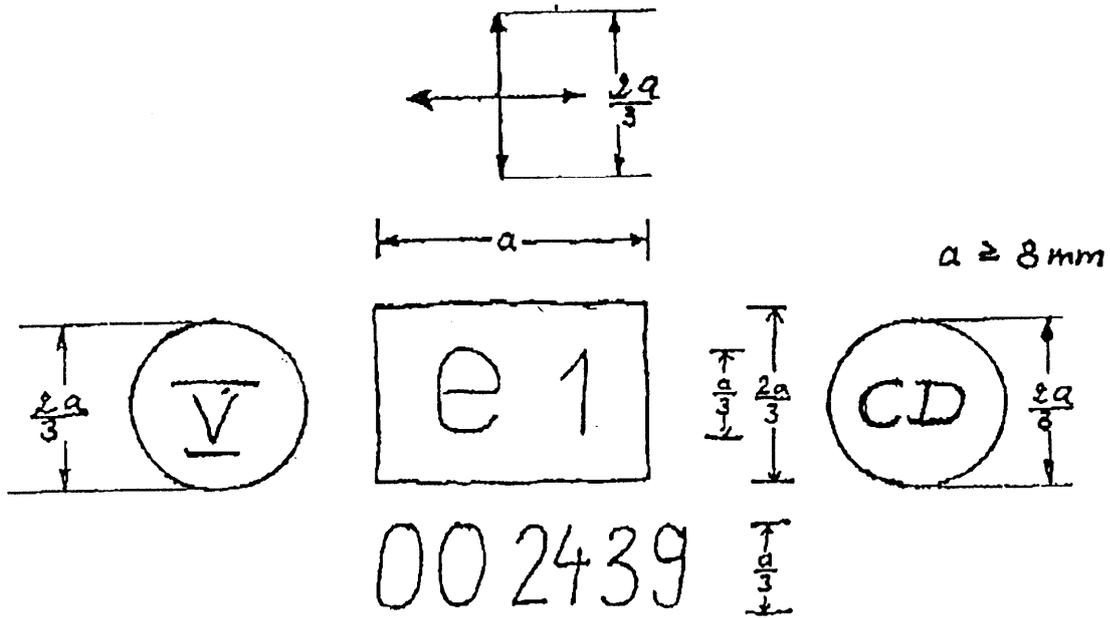
7.5. Materials which are not required to undergo the tests described in Annexes IV to VI are:

- 7.5.1. parts made of metal or glass;
- 7.5.2. each individual seat accessory with a mass of non-metallic material less than 200 g. If the total mass of these accessories exceeds 400 g of non-metallic material per seat, then each material must be tested;
- 7.5.3. elements of which the surface area or the volume does not exceed respectively:

- 7.5.3.1. 100 cm² or 40 cm³ for the elements which are connected to an individual seating place;
 - 7.5.3.2. 300 cm² or 120 cm³ per seat row and, at a maximum, per linear metre of the interior of the passenger compartment for these elements which are distributed in the vehicle and which are not connected to an individual seating place;
 - 7.5.4. electric cables;
 - 7.5.5. elements for which it is not possible to extract a sample in the prescribed dimensions as specified in paragraph 3.1 of Annex IV, paragraph 3 of Annex V and paragraph 3.1 of Annex VI.
8. **Modification of the vehicle and material type and amendments to these approvals**
- 8.1. In the case of modifications of the type approved pursuant to this Directive, the provisions of Article 5 of Directive 70/156/EEC shall apply.
9. **Conformity of production**
- 9.1. Measures to ensure the conformity of production shall be taken in accordance with the provisions laid down in Article 10 of Directive 70/156/EEC.
10. **Requirements concerning installation of materials and equipment in the vehicle and/or in the devices approved as components**
- 10.1. The materials and/or equipment used in the passenger compartment and/or in devices approved as components shall be so installed as to minimize the risk of flame development and flame propagation.
 - 10.2. Such interior materials and/or equipment shall only be installed in accordance with their intended purposes and the test(s) which they have undergone (see 7.2, 7.3 and 7.4), especially in relation to their burning and melting behaviour (horizontal/vertical direction).
 - 10.3. Any adhesive agent used to affix the interior material to its supporting structure shall not, as far as possible, exacerbate the burning behaviour of the material.
-

Appendix

Model for the EEC component type-approval mark



The above component type-approval mark shows that the interior material in question has been approved in Germany (e1) pursuant to this Directive (00) under the approval number 2439. The first two digits indicate that this component was approved according to the original form of this Directive. The additional symbol $\left[\begin{smallmatrix} \updownarrow \\ \leftarrow \rightarrow \end{smallmatrix} \right]$ indicates that this type of material has been approved according to its horizontal and vertical burning rate.

The symbols \textcircled{V} and/or \textcircled{CD} indicate an approval according to Annex V and/or an approval as a complete device such as seats, separation walls, etc. The additional symbols are only used if applicable.

ANNEX II

INFORMATION DOCUMENTS

Appendix 1

Information document No ...

pursuant to Annex I of Council Directive 70/156/EEC relating to EEC type-approval of a vehicle with respect to the burning behaviour of materials used in the interior construction of certain categories of motor vehicle (Directive .../EEC, as last amended by Directive .../EEC)

The following information, if applicable, must be supplied in triplicate and include a list of contents. Any drawings must be supplied in appropriate scale and in sufficient detail on size A4 paper or in a folder of the format. Photographs, if any, must show sufficient detail.

If the systems, components or separate technical units have electronic controls, information concerning their performance must be supplied.

- 0. GENERAL
 - 0.1. Make (trade name of manufacturer):
 - 0.2. Type and general commercial description(s):
 - 0.3. Means of identification of type, if marked on the vehicle:
 - 0.3.1. Location of that marking:
 - 0.4. Category of vehicle:
 - 0.5. Name and address of manufacturer:
 - 0.8. Address(es) of assembly plant(s):
- 1. GENERAL CONSTRUCTION CHARACTERISTICS OF THE VEHICLE
 - 1.1. Photographs and/or drawings of a representative vehicle:
- 9. BODYWORK
 - 9.10. Interior fittings
 - 9.10.3. Seats
 - 9.10.3.1. Number:
 - 9.10.7. Burning behaviour of materials used in the interior construction of certain categories of motor vehicle
 - 9.10.7.1. Material(s) used for the interior lining of the roof
 - 9.10.7.1.1. Component type-approval number(s), if available:
 - 9.10.7.1.2. For materials or components not approved
 - 9.10.7.1.2.1. Base materials(s)/designation: .../...
 - 9.10.7.1.2.2. Composite/single ⁽¹⁾ material, number of layers ⁽¹⁾:
 - 9.10.7.1.2.3. Type of coating ⁽¹⁾:

The item numbering and footnotes used in this information document correspond to those contained in Annex I to Directive 70/156/EEC. Items which are not relevant to this Directive are omitted.

- 9.10.7.1.2.4. Maximum/minimum thickness: . . . mm
- 9.10.7.2. Material(s) used for the rear and side walls
 - 9.10.7.2.1. Component type-approval number(s), if available:
 - 9.10.7.2.2. For materials not approved
 - 9.10.7.2.2.1. Base material(s)/designation: /
 - 9.10.7.2.2.2. Composite/single ⁽¹⁾ material, number of layers ⁽¹⁾:
 - 9.10.7.2.2.3. Type of coating ⁽¹⁾
 - 9.10.7.2.2.4. Maximum/minimum thickness: . . . mm
 - 9.10.7.3. Material(s) used for the floor
 - 9.10.7.3.1. Component type-approval number(s), if available:
 - 9.10.7.3.2. For materials not approved
 - 9.10.7.3.2.1. Base material(s)/designation: . . / . .
 - 9.10.7.3.2.2. Composite/single ⁽¹⁾ material, number of layers ⁽¹⁾:
 - 9.10.7.3.2.3. Type of coating ⁽¹⁾:
 - 9.10.7.3.2.4. Maximum/minimum thickness . . . mm
 - 9.10.7.4. Material(s) used for the upholstery of the seats
 - 9.10.7.4.1. Component type-approval number(s), if available:
 - 9.10.7.4.2. For materials not approved
 - 9.10.7.4.2.1. Base material(s)/designation . . / . .
 - 9.10.7.4.2.2. Composite/single ⁽¹⁾ material, number of layers ⁽¹⁾:
 - 9.10.7.4.2.3. Type of coating ⁽¹⁾:
 - 9.10.7.4.2.4. Maximum/minimum thickness . . . mm
 - 9.10.7.5. Material(s) used for heating and ventilation pipes
 - 9.10.7.5.1. Component type-approval number(s), if available:
 - 9.10.7.5.2. For materials not approved
 - 9.10.7.5.2.1. Base material(s)/designation: . . / . .
 - 9.10.7.5.2.2. Composite/single ⁽¹⁾ material, number of layers ⁽¹⁾:
 - 9.10.7.5.2.3. Type of coating ⁽¹⁾:
 - 9.10.7.5.2.4. Maximum/minimum thickness . . . mm
 - 9.10.7.6. Material(s) used for luggage racks
 - 9.10.7.6.1. Component type-approval number(s), if available:
 - 9.10.7.6.2. For materials not approved
 - 9.10.7.6.2.1. Base material(s)/designation: . . / . .
 - 9.10.7.6.2.2. Composite/single ⁽¹⁾ material, number of layers ⁽¹⁾:
 - 9.10.7.6.2.3. Type of coating ⁽¹⁾:

-
- 9.10.7.6.2.4. Maximum/minimum thickness . . . mm
 - 9.10.7.7. Material(s) used for other purposes
 - 9.10.7.7.1. Intended purposes:
 - 9.10.7.7.2. Component type-approval number(s), if available:
 - 9.10.7.7.3. For materials not approved
 - 9.10.7.7.3.1. Base material(s)(designation: . . ./ . . .
 - 9.10.7.7.3.2. Composite/single ⁽¹⁾ material, number of layers ⁽¹⁾:
 - 9.10.7.7.3.3. Type of coating ⁽¹⁾:
 - 9.10.7.7.3.4. Maximum/minimum thickness . . . mm
 - 9.10.7.8. Components approved as complete devices (seats, separation walls, luggage racks, etc.)
 - 9.10.7.8.1. Component type-approval number(s):
 - 9.10.7.8.2. For the complete device: seat, separation wall, luggage racks, etc. ⁽¹⁾.
-

⁽¹⁾ Delete where not applicable.

Appendix 2

Information document No ...

relating to EEC component type-approval of interior materials for certain categories of motor vehicles with respect to their burning behaviour (Directive .../EEC, as last amended by Directive .../EEC)

The following information, if applicable, must be supplied in triplicate and include a list of contents. Any drawings must be supplied in appropriate scale and in sufficient detail on size A4 paper or in a folder of that format. Photographs, if any, must show sufficient detail.

If the systems, components or separate technical units have electronic controls, information concerning their performance must be supplied.

0. GENERAL

- 0.1. Make (trade name of manufacturer):
- 0.2. Type and general commercial description(s):
- 0.5. Name and address of manufacturer:
- 0.7. In the case of components and separate technical units, location and method of affixing of the EEC approval mark:
- 0.8. Address(es) of assembly plant(s):

1. INTERIOR MATERIALS

- 1.1. Material(s) used for the interior lining of the roof
 - 1.1.1. Base material(s)/designation: .../...
 - 1.1.2. Composite/single ⁽¹⁾ material, number of layers ⁽¹⁾:
 - 1.1.3. Type of coating ⁽¹⁾:
 - 1.1.4. Maximum/minimum thickness ... mm
 - 1.1.5. Type-approval number, if available:
- 1.2. Material(s) used for the rear and side walls
 - 1.2.1. Base material(s)/designation: .../...
 - 1.2.2. Composite/single ⁽¹⁾ material, number of layers ⁽¹⁾:
 - 1.2.3. Type of coating ⁽¹⁾:
 - 1.2.4. Maximum/minimum thickness ... mm
 - 1.2.5. Type-approval number, if available:
- 1.3. Material(s) used for the floor
 - 1.3.1. Base material(s)/designation: .../...
 - 1.3.2. Composite/single ⁽¹⁾ material, number of layers ⁽¹⁾:
 - 1.3.3. Type of coating ⁽¹⁾:
 - 1.3.4. Maximum/minimum thickness ... mm
 - 1.3.5. Type-approval number, if available:
- 1.4. Material(s) used for the upholstery of the seats:
 - 1.4.1. Base material(s)/designation: .../...

- 1.4.2. Composite/single ⁽¹⁾ material, number of layers ⁽¹⁾:
 - 1.4.3. Type of coating ⁽¹⁾:
 - 1.4.4. Maximum/minimum thickness . . . mm
 - 1.4.5. Type-approval number, if available:
 - 1.5. Material(s) used for heating and ventilation pipes
 - 1.5.1. Base material(s)/designation: . . . / . . .
 - 1.5.2. Composite/single ⁽¹⁾ material, number of layers ⁽¹⁾:
 - 1.5.3. Type of coating ⁽¹⁾:
 - 1.5.4. Maximum/minimum thickness . . . mm
 - 1.5.5. Type-approval number, if available:
 - 1.6. Material(s) used for luggage racks
 - 1.6.1. Component and device type-approval number(s)
 - 1.6.2. Base material(s)/designation: . . . / . . .
 - 1.6.3. Type of coating ⁽¹⁾:
 - 1.6.4. Maximum/minimum thickness . . . mm
 - 1.6.5. Type-approval number, if available:
 - 1.7. Materials used for other purpose(s)
 - 1.7.1. Intended purpose:
 - 1.7.2. Base material(s)/designation: . . . / . . .
 - 1.7.3. Composite/single ⁽¹⁾ material, number of layers ⁽¹⁾:
 - 1.7.4. Type of coating ⁽¹⁾:
 - 1.7.5. Maximum/minimum thickness . . . mm
 - 1.7.6. Type-approval number, if available:
-

⁽¹⁾ Delete where not applicable.

ANNEX III

EEC TYPE-APPROVAL CERTIFICATES

Appendix 1

MODEL

(maximum format: A4 (210 × 297 mm))

EEC Type-approval certificate

Communication concerning the

- type-approval ⁽¹⁾
- extension of type-approval ⁽¹⁾
- refusal of type-approval ⁽¹⁾
- withdrawal of type-approval ⁽¹⁾

of a type of vehicle/component/separate technical unit ⁽¹⁾ with regard to Directive . . . /EEC.

Type-approval number:

Reason for extension:

SECTION I

- 0.1. Make (trade name of manufacturer):
- 0.2. Type and commercial description(s):
- 0.3. Means of identification of type if marked on the vehicle/component/separate technical unit ⁽¹⁾ ⁽²⁾:
 - 0.3.1. Location of that marking:
- 0.4. Category of vehicle ⁽³⁾:
- 0.5. Name and address of manufacturer:
- 0.7. In the case of components and separate technical units, location and method of affixing of the EEC approval mark:
- 0.8. Address(es) of assembly plant(s):

SECTION II

1. Additional information (where applicable): See Addendum
2. Technical service responsible for carrying out the tests:
3. Date of test report:
4. Number of test report:
5. Remarks (if any): See Addendum
6. Place:
7. Date:
8. Signature:
9. The index to the information package lodged with the approval authority, which may be obtained on request, is attached.

⁽¹⁾ Delete where not applicable.

⁽²⁾ If the means of identification of type contains characters not relevant to the description of the vehicle, component or separate technical unit types covered by this type-approval certificate such characters shall be represented in the documentation by the symbol: '?' (e.g.: ABC?? 123??).

⁽³⁾ As defined in Annex IIA to Directive 70/156/EEC.

Addendum

to EEC type-approval certificate No ... concerning the type-approval of a vehicle with regard to Directive
. . . /EEC as last amended by Directive . . . /EEC

1. ADDITIONAL INFORMATION
 - 1.1. Burning behaviour of materials used in the interior construction of certain categories of motor vehicle
 - 1.1.1. Material(s) used for the interior lining of the roof
Component and/or device type-approval number(s):
or
Base material(s)/designation: .../...
 - 1.1.2. Material(s) used for the rear and side walls
Component and/or device type-approval number(s):
or
Base material(s)/designation: .../...
 - 1.1.3. Material(s) used for the floor
Component and/or device type-approval number(s):
or
Base material(s)/designation: .../...
 - 1.1.4. Material(s) used for the upholstery of the seats
Component and/or device type-approval number(s):
or
Base material(s)/designation: .../...
 - 1.1.5. Material(s) used for heating and ventilation pipes
Component and/or device type-approval number(s):
or
Base material(s)/designation: .../...
 - 1.1.6. Material(s) used for luggage racks
Component and/or device type-approval number(s):
or
Base material(s)/designation: .../...
 - 1.1.7. Material(s) used for other purposes
Intended purpose(s):
Component and/or device type-approval number(s):
or
Base material(s)/designation: .../...
 - 1.1.8. Components approved as complete devices
Component type-approval number:
for a seat, separation wall, luggage rack, etc. ⁽¹⁾ or specify
 5. Remarks:

⁽¹⁾ Delete where not applicable.

Appendix 2

MODEL

(maximum format: A4 (210 × 297 mm))

EEC type-approval certificate

Communication concerning the

- type-approval ⁽¹⁾
- extension of type-approval ⁽¹⁾
- refusal of type-approval ⁽¹⁾
- withdrawal of type-approval ⁽¹⁾

of a type of vehicle/component/separate technical unit ⁽¹⁾ with regard to Directive . . . /EEC.

Type approval number:

Reason for extension:

SECTION I

- 0.1. Make (trade name of manufacturer):
- 0.2. Type and commercial description(s):
- 0.3. Means of identification of type if marked on the vehicle/component/separate technical unit ⁽¹⁾ ⁽²⁾:
 - 0.3.1. Location of that marking:
- 0.4. Category of vehicle ⁽³⁾:
- 0.5. Name and address of manufacturer:
- 0.7. In the case of components and separate technical units, location and method of affixing of the EEC approval mark:
- 0.8. Address(es) of assembly plant(s):

SECTION II

1. Additional information (where applicable): See Addendum
2. Technical service responsible for carrying out the tests:
3. Date of the report:
4. Number of test report:
5. Remarks (if any): See Addendum
6. Place:
7. Date:
8. Signature:
9. The index to the information package lodged with the approval authority, which may be obtained on request, is attached.

⁽¹⁾ Delete where not applicable.

⁽²⁾ If the means of identification of type contains characters not relevant to the description of the vehicle, component or separate technical unit types covered by this type-approval certificate such characters shall be represented in the documentation by the symbol: '?' (e.g.: ABC?? 123??).

⁽³⁾ As defined in Annex IIA to Directive 70/156/EEC.

Addendum

to EEC type-approval certificate No ... concerning the type-approval of interior materials with regard to Directive .../EEC as last amended by Directive .../EEC

1. ADDITIONAL INFORMATION

1.1. Material is suitable for installation

- as roof lining ⁽¹⁾
- as rear or side wall lining ⁽¹⁾
- as floor covering ⁽¹⁾
- as seat upholstery ⁽¹⁾ or covering ⁽¹⁾
- as heating and ventilation pipe ⁽¹⁾
- as luggage rack ⁽¹⁾
- for other purpose(s) (please specify):

Components as complete devices (seats, separation walls, luggage racks, etc. ⁽¹⁾) are suitable for installation in M₂/M₃ vehicles ⁽¹⁾.

1.2. Compliance with the burning rate requirements has been checked in

the horizontal (↔)

vertical (↑↓)

both horizontal and vertical direction(s) (↔[↑]↔[↓]) ⁽¹⁾.

Compliance with the melting rate has been checked for components according Annex V, symbol

Ⓟ.

Compliance has been checked for components approved as complete devices, symbol Ⓢ.

1.3. Any restrictions of use and installation requirements:

5. Remarks:

⁽¹⁾ Delete where not applicable.

ANNEX IV

TEST TO DETERMINE THE HORIZONTAL BURNING RATE OF MATERIALS

1. Principle

A sample is held horizontally in a U-shaped holder and is exposed to the action of a defined low-energy flame for 15 seconds in a combustion chamber, the flame acting on the free end of the sample. The test determines if and when the flame extinguishes or the time in which the flame passes a measured distance.

2. Apparatus

- 2.1. Combustion chamber (figure 1), preferably of stainless steel and having the dimensions given in figure 2. The front of the chamber contains a flame-resistant observation window, which may cover the front and which can be constructed as an access panel.

The bottom of the chamber has vent holes, and the top has a vent slot all around. The combustion chamber is placed on four feet, 10 mm high.

The chamber may have a hole at one end for the introduction of the sample holder containing the sample; in the opposite end, a hole is provided for the gas line. Melted material is caught in a pan (see figure 3) which is placed on the bottom of the chamber between vent holes without covering any vent hole area.

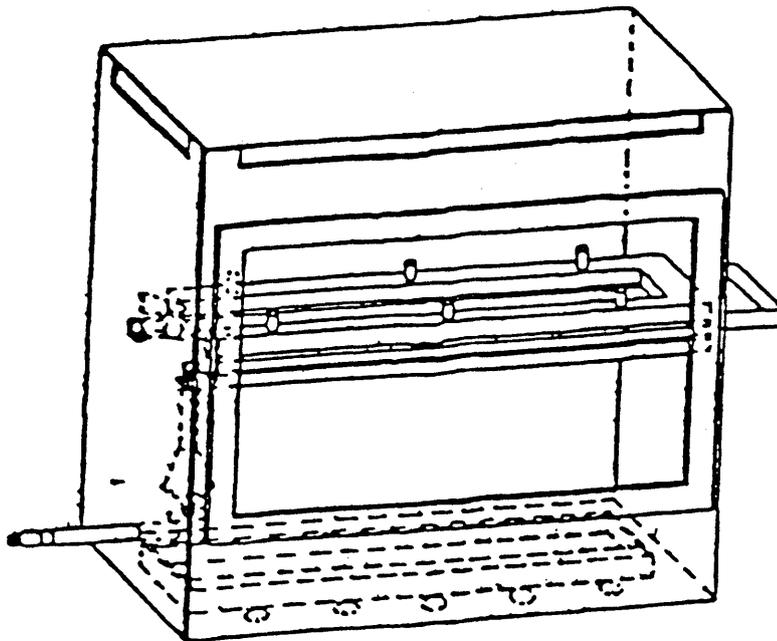


Figure 1

Example of combustion chamber with sample holder and drip tray

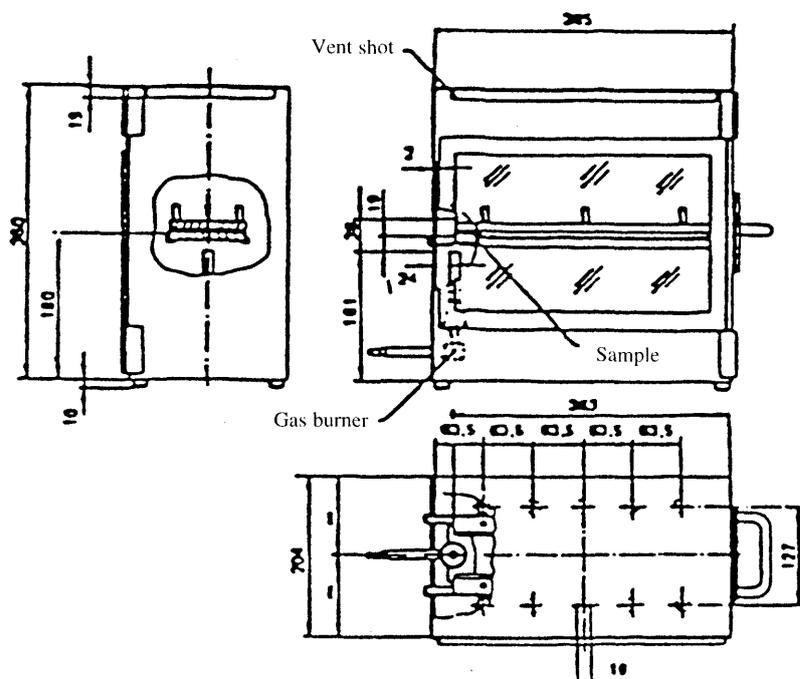


Figure 2

Example of combustion chamber
(Dimensions in millimetres)

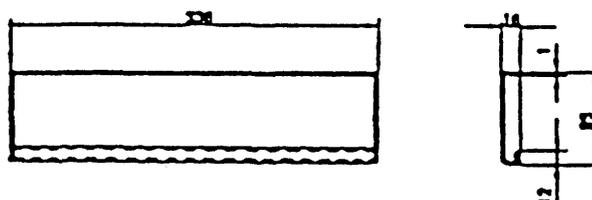


Figure 3

Typical drip pan
(Dimensions in millimetres)

- 2.2. Sample holder, consisting of two U-shaped metal plates or frames of corrosion-proof material. Dimensions are given in figure 4.

The lower plate is equipped with pins, the upper one with corresponding holes in order to ensure a consistent holding of the sample. The pins also serve as the measuring points at the beginning and end of the burning distance.

A support shall be provided in the form of 0,25 mm diameter heat resistant wires spanning the frame at 25 mm intervals over the bottom U-shaped frame (see figure 5).

The plane of the lower side of samples shall be 178 mm above the floor plate. The distance of the front edge of the sample holder from the end of the chamber shall be 22 mm; the distance of the longitudinal sides of the sample holder from the sides of the chamber shall be 50 mm (all inside dimensions). (See figures 1 and 2).

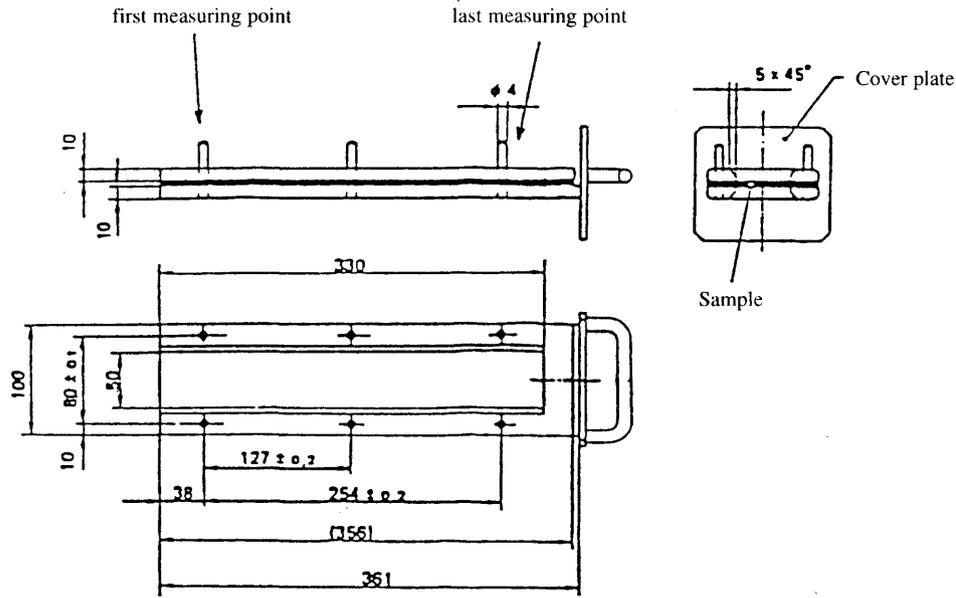


Figure 4

Example of sample holder
(Dimensions in millimetres)

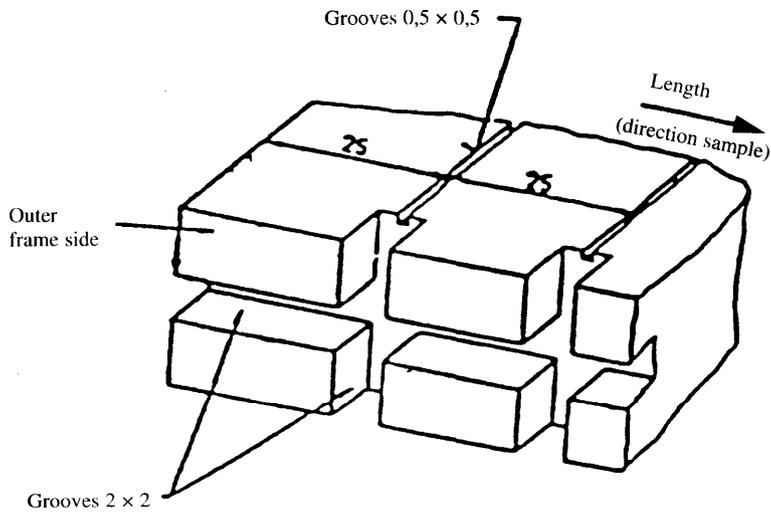


Figure 5

Example of section of lower U-frame design for wire support facility
(Dimensions in millimetres)

- 2.3. Gas burner. The small ignition source is provided by a Bunsen burner having an inside diameter of $9,5 \pm 0,5$ mm. It is located in the test cabinet so that the centre of its nozzle is 19 mm below the centre of the bottom edge of the open end of the sample (see figure 2).
- 2.4. Test gas. The gas supplied to the burner shall have a calorific value near 38 MJ/m^3 (for example natural gas).
- 2.5. Metal comb, at least 110 mm in length, with seven to eight smooth rounded teeth per 25 mm.
- 2.6. Stop-watch, accurate to 0,5 seconds.
- 2.7. Fume cupboard. The combustion chamber may be placed in a fume cupboard assembly provided that the internal volume is at least 20 times, but not more than 110 times, greater than the volume of the combustion chamber and provided that no single height, width, or length dimension of the fume cupboard is greater than $2 \frac{1}{2}$ times either of the other two dimensions.

Before the test, the vertical velocity of the air through the fume cupboard shall be measured 100 mm in front of and behind the final position where the combustion chamber will be located. It shall be between 0,10 and 0,30 m/s in order to avoid possible discomfort, by combustion products, to the operator. It is possible to use a fume cupboard with a natural ventilation and an appropriate air velocity.

3. Samples

3.1. *Shape and dimensions*

- 3.1.1. The shape and dimensions of samples are given in figure 6. The thickness of the sample corresponds to the thickness of the product to be tested. It shall not be more than 13 mm. When taking the sample permits, the sample shall have a constant section over its entire length.

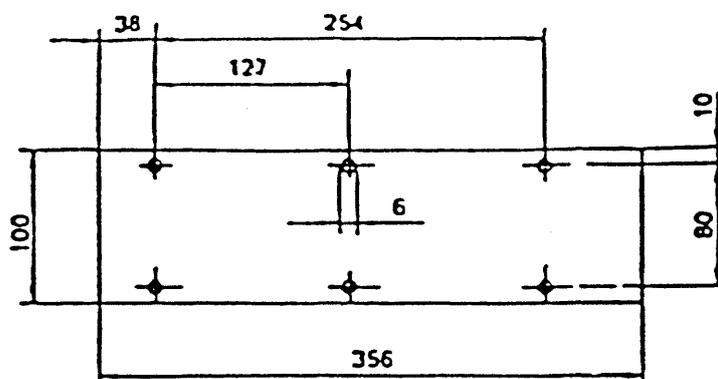


Figure 6

Sample

(Dimensions in millimetres)

- 3.1.2. If the shape and dimensions of a product do not permit taking a sample of the given size, the following minimum dimensions shall be maintained:
 - (a) for samples having a width of 3 to 60 mm, the length shall be 356 mm. In this case the material is tested in the product's width;
 - (b) for samples having a width of 60 to 100 mm, the length shall be at least 138 mm. In this case the potential burning distance corresponds to the length of the sample, the measurement starting at the first measuring point.
- 3.2. *Sampling*

The samples shall be taken from the material under test. In materials having different burning rates in different material directions, each direction has to be tested. The samples are to be taken and placed in the test apparatus so that the highest burning rate will be measured.

When the material is supplied in widths, a length of at least 500 mm shall be cut covering the entire width. From this the samples shall be taken so as to be at least 100 mm from the material edge and equidistant from each other.

Samples shall be taken in the same way from finished products, when the shape of the product permits. When the thickness of the product is more than 13 mm, it shall be reduced to 13 mm by a mechanical process applied to the side which does not face the occupant compartment. If it is impossible, the test shall be carried out, in accordance with the Technical Service, on the initial width of the material which shall be mentioned in the test report.

Composite materials (see point 2.10 of Annex I) shall be tested as if they were of uniform construction.

In the case of materials made of superimposed layers of different composition which are not composite materials, all the layers of material included within a depth of 13 mm from the surface facing towards the passenger compartment shall be tested individually.

3.3. *Conditioning*

The samples shall be conditioned for at least 24 hours but not more than 7 days at a temperature of 23 ± 2 °C and a relative humidity of 50 ± 5 % and shall be maintained under these conditions until immediately prior to testing.

4. **Procedure**

- 4.1. Place samples with napped or tufted surfaces on a flat surface and comb twice against the nap using the comb (2.5).
- 4.2. Place the sample in the sample holder (2.2) so that the exposed side will be downwards to the flame.
- 4.3. Adjust the gas flame to a height of 38 mm using the mark in the chamber, the air intake of the burner being closed. Before starting the first test, the flame shall burn at least for 1 min for stabilization.
- 4.4. Push the sample-holder into the combustion chamber so that the end of the sample is exposed to the flame, and after 15 seconds cut off the gas flow.
- 4.5. The measurement of the burning time starts at the moment when the foot of the flame passes the first measuring point. Observe the flame propagation on the side burning faster than the other (upper or lower side).
- 4.6. Measurement of burning time is completed when the flame has come to the last measuring point or when the flame extinguishes before coming to the last measuring point. If the flame does not reach the last measuring point, measure the burnt distance up to the point where the flame extinguished. Burnt distance is the decomposed part of the sample, which is destroyed on its surface or in the interior by burning.
- 4.7. In so far as the sample does not ignite or does not continue burning after the burner has been extinguished, or when the flame extinguishes before reaching the first measuring point, so that no burning time is measured note in the test report that the burning rate is 0 mm/min.
- 4.8. When running a series of tests or repeat tests, ensure that the combustion chamber and sample holder have a maximum temperature of 30 °C before starting the next test.

5. **Calculation**

The burning rate, B ⁽¹⁾, in millimetres per minute, is given by the formula

$$B = \frac{s}{t} \times 60$$

where:

s is the burnt distance, in millimetres;

t is the time, in seconds, to burn distance s.

⁽¹⁾ The burning rate (B) for each sample is only calculated in the case where the flame reaches the last measuring point or the end of the sample.

ANNEX V

TEST TO DETERMINE THE MELTING BEHAVIOUR OF MATERIALS

1. Principle

A sample is placed in a horizontal position and is exposed to an electric radiator. A receptacle is positioned under the specimen to collect the resultant drops.

Some cotton wool is put in this receptacle in order to verify if any drop is flaming.

2. Apparatus

The apparatus shall consist of (figure 1):

- (a) an electric radiator;
- (b) a support for the sample with grill;
- (c) a receptacle (for resultant drops);
- (d) a support (for the apparatus).

2.1. The source of heat is an electric radiator with a useful output of 500 W. The radiating surface must be made of a transparent quartz plate with a diameter of 100 ± 5 mm.

The radiated heat from the apparatus, measured on a surface which is situated parallel to the surface of the radiator at a distance of 30 mm, shall be 3 W/cm^2 .

2.2. Calibration

For calibration of the radiator, a heat flux meter (radiometer) of the Gardon (foil) type with a design range not exceeding 10 W/cm^2 shall be used.

The target receiving radiation, and possibly to a small extent convection, shall be flat, circular, not more than 10 mm in diameter and coated with a durable matt black finish. The target shall be contained within a watercooled body the front face of which shall be of highly polished metal, flat, coinciding with the plane of the target and circular, with a diameter of about 25 mm.

Radiation shall not pass through any window before reaching the target. The instrument shall be robust, simple to set up and use, insensitive to draughts, and stable in calibration. The instrument shall have an accuracy of within $\pm 3\%$ and a repeatability within 0,5 %.

The calibration of the heat flux meter shall be checked whenever a recalibration of the radiator is carried out, by comparison with an instrument held as a reference standard and not used for any other purpose. The reference standard instrument shall be fully calibrated at yearly intervals in accordance with a national standard.

2.2.1. Calibration check

The irradiance produced by the power input which the initial calibration has shown to correspond to an irradiance of 3 W/cm^2 shall be frequently checked (at least once every 50 operating hours) and the apparatus shall be recalibrated if such a check reveals a deviation greater than $0,06 \text{ W/cm}^2$.

2.2.2. Calibration procedure

The apparatus shall be placed in an environment essentially free of air currents (not more than 0,2 m/s).

Place the heat flux meter in the apparatus in the specimen position so that the target of the heat flux meter is located centrally within the radiator surface.

Switch on the electricity supply and establish the power input of the controller required to produce irradiance at the centre of the radiator surface of 3 W/cm^2 . Adjustment to the power unit to record 3 W/cm^2 should be followed by a five minute-period without further adjustment to ensure equilibrium.

- 2.3. The support for the samples shall be a metallic ring (figure 1). On top of this support a grill, made of stainless steel-wire, is placed with the following dimensions:
- interior diameter: 118 mm,
 - dimension of the holes: 2,10 mm square,
 - diameter of the steel-wire: 0,70 mm.

- 2.4. The receptacle shall consist of a cylindrical tube with an interior diameter of 118 mm and a depth of 12 mm.

The receptacle shall be filled with cotton wool.

- 2.5. A vertical column shall support the items specified in paragraph 2.1, 2.3 and 2.4.

The radiator is placed on top of the support in a manner such that the radiating surface is horizontal and the radiation is downwards.

A lever/pedal shall be provided in the column to lift the support of the radiator slowly. It shall also be provided with a catch in order to ensure that the radiator can be brought back in its normal position.

In their normal position, the axes of the radiator, the support for the sample and the receptacle must coincide.

3. Samples

The test samples shall measure: 70 mm x 70 mm.

Samples shall be taken in the same way from finished products, when the shape of the product permits. When the thickness of the product is more than 13 mm, it shall be reduced to 13 mm by a mechanical process applied to the side which does not face the occupant compartment. If it is impossible, the test shall be carried out, in accordance with the Technical Service, on the initial width of the material which shall be mentioned in the test report.

Composite materials (see 2.8 of Annex I) shall be tested as if they were of uniform construction.

In the case of materials made of superimposed layers of different composition which are not composite materials, all the layers of material included within a depth of 13 mm from the surface facing towards the passenger compartment shall be tested individually.

The total mass of the sample to be tested shall be at least 2 g. If the mass of one sample is less, a sufficient number of samples shall be added.

If the two faces of the material differ, both faces must be tested, which means that eight samples are to be tested.

The samples and the cotton wool shall be conditioned for at least 24 hours at a temperature 23 ± 2 ° C and a relative humidity of 50 ± 5 % and shall be maintained under these conditions until immediately prior to testing.

4. Procedure

The sample is placed on the support and the latter is so positioned that the distance between the surface of the radiator and the upperside of the sample is 30 mm.

The receptacle, including the cotton wool, is placed beneath the grill of the support at a distance of 300 mm.

The radiator is put aside, so that it cannot radiate on the sample, and switched on. When it is on full capacity it is positioned above the sample and timing is started.

If the material melts or deforms, the height of the radiator is modified to maintain the distance of 30 mm.

If the material ignites, the radiator is put aside three seconds afterwards. It is brought back in position when the flame has extinguished and the same procedure is repeated as frequently as necessary during the first five minutes of the test.

After the fifth minute of the test:

- (i) If the sample has extinguished (whether or not it has ignited during the first five minutes of the test) leave the radiator in position even if the sample reignites.

(ii) If the material is flaming, await extinction before bringing the radiator into position again.
 In either case, the test must be continued for an additional five minutes.

5. **Results**

Observed phenomena shall be noted in the test-report, such as:

- the fall of drops, if any, whether flaming or not,
- if ignition of the cotton wool has taken place

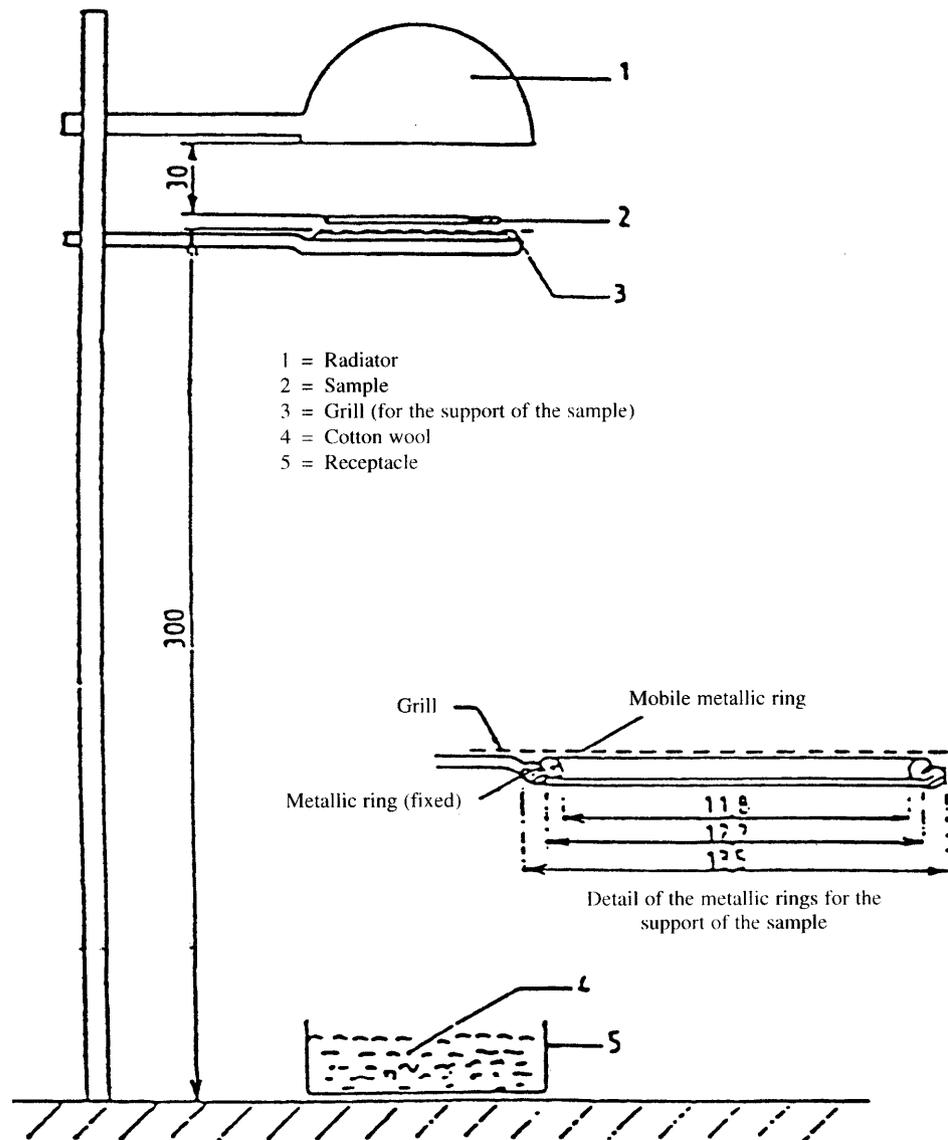


Figure 1

(Dimensions in millimeters)

ANNEX VI

TEST TO DETERMINE THE VERTICAL BURNING RATE OF MATERIALS

1. Principle

This test consists of exposing samples, held in a vertical position, to a flame and determining the speed of propagation of the flame over the material to be tested.

2. Apparatus

The apparatus shall consist of:

- (a) a specimen holder;
- (b) a burner;
- (c) a ventilation system to extract gas and combustion products;
- (d) a template;
- (e) marker threads of white mercerized cotton threads having a maximum linear density of 50 tex.

2.1. The specimen holder shall consist of a rectangular frame 560 mm high and shall have two rigidly connected parallel rods spaced 150 mm apart on which pins shall be fitted for mounting the test specimen which is located in a plane at least 20 mm from the frame. The mounting pins shall be not greater than 2 mm in diameter and at least 27 mm long. The pins shall be located on the parallel rods at locations shown in figure 1. The frame shall be fitted onto a suitable support to maintain the rods in a vertical orientation during testing. (For the purpose of locating the specimen on the pins in a plane away from the frame, spacer stubs 2 mm in diameter may be provided adjacent to the pins).

2.2. The burner is described in figure 3.

The gas supplied to the burner can be either commercial propane gas or commercial butane gas.

The burner shall be positioned in front of, but below, the specimen such that it lies in a plane passing through the vertical centreline of the specimen and perpendicular to its face (see figure 2), such that the longitudinal axis is inclined upwards at 30 ° to the vertical towards the lower edge of the specimen. The distance between the tip of the burner and the lower edge of the specimen shall be 20 mm.

2.3. The test apparatus may be placed in a fume cupboard assembly provided that the internal volume is at least 20 times, but not more than 110 times, greater than the volume of the test apparatus and provided that no single height, width, or length dimension of the fume cupboard is greater than 2 ½ times either of the other two dimensions. Before the test, the vertical velocity of the air through the fume cupboard shall be measured 100 mm in front of and behind the final position where the test apparatus will be located. It shall be between 0,10 and 0,30 m/s in order to avoid possible discomfort, by combustion products, to the operator. It is possible to use a fume cupboard with a natural ventilation and an appropriate air velocity.

2.4. A flat rigid template made of suitable material and of a size corresponding to the size of the specimen shall be used. Holes approximately 2 mm in diameter shall be drilled in the template and positioned so that the distances between the centres of the holes correspond to the distances between the pins on the frames (see figure 1). The holes shall be located equidistant about the vertical centrelines of the template.

3. Samples

3.1. The samples dimensions are: 560 x 170 mm.

3.2. The samples shall be conditioned for at least 24 hours at a temperature of 23 ± 2 °C and a relative humidity of 50 ± 5 % and shall be maintained under these conditions until immediately prior to testing.

4. Procedure

4.1. The test shall be carried out in an atmosphere having a temperature between 10° and 30 °C and a relative humidity between 15 % and 80 %.

- 4.2. The burner shall be preheated for 2 minutes. The flame height shall be adjusted to 40 ± 2 mm measured as the distance between the top of the burner tube and the tip of the yellow part of the flame when the burner is vertically oriented and the flame is viewed in dim light.
- 4.3. The specimen shall be placed on the pins of the test frame, making certain that the pins pass through the points marked off from the template and that the specimen is at least 20 mm removed from the frame. The frame shall be fitted on the support so that the specimen is vertical.
- 4.4. The marker threads shall be attached horizontally in front of the specimen at the locations shown in figure 1. At each location, a loop of thread shall be mounted so that the two segments are spaced 1 mm and 5 mm from the plane of the front of the specimen.

Each loop shall be attached to a suitable timing device. Sufficient tension shall be imposed to the thread to maintain its position relative to the specimen.

- 4.5. The flame shall be applied to the specimen for 5 seconds. Ignition shall be deemed to have occurred if flaming of the specimen continues for 5 seconds after removal of the igniting flame. If ignition does not occur, the flame shall be applied for 15 seconds to another conditioned specimen.
- 4.6. If any result in any set of three specimens exceeds the minimum result by 50 %, another set of three specimens shall be tested for that direction or face. If one or two specimens in any set of three specimens fail to burn to the top marker thread, another set of three specimens shall be tested for that direction or face.
- 4.7. The following times, in seconds, shall be measured:
- (a) from the start of the application of the igniting flame to the severance of the first marker thread (t_1);
 - (b) from the start of the application of the igniting flame to the severance of the second marker thread (t_2);
 - (c) from the start of the application of the igniting flame to the severance of the third marker thread (t_3).

5. Results

The observed phenomena shall be written down in the test-report, to include:

- the durations of combustion: t_1 , t_2 and t_3 in seconds,
- the corresponding burnt distances: d_1 , d_2 and d_3 in mm.

The burning rate V_1 and the rates V_2 and V_3 , if applicable, shall be calculated (for each sample if the flame reaches at least the first marker thread) as follows:

$$v_i = \frac{d_i}{t_i} \times 60 \text{ (mm/min)}$$

The highest burning rate of V_1 , V_2 and V_3 shall be taken into account.

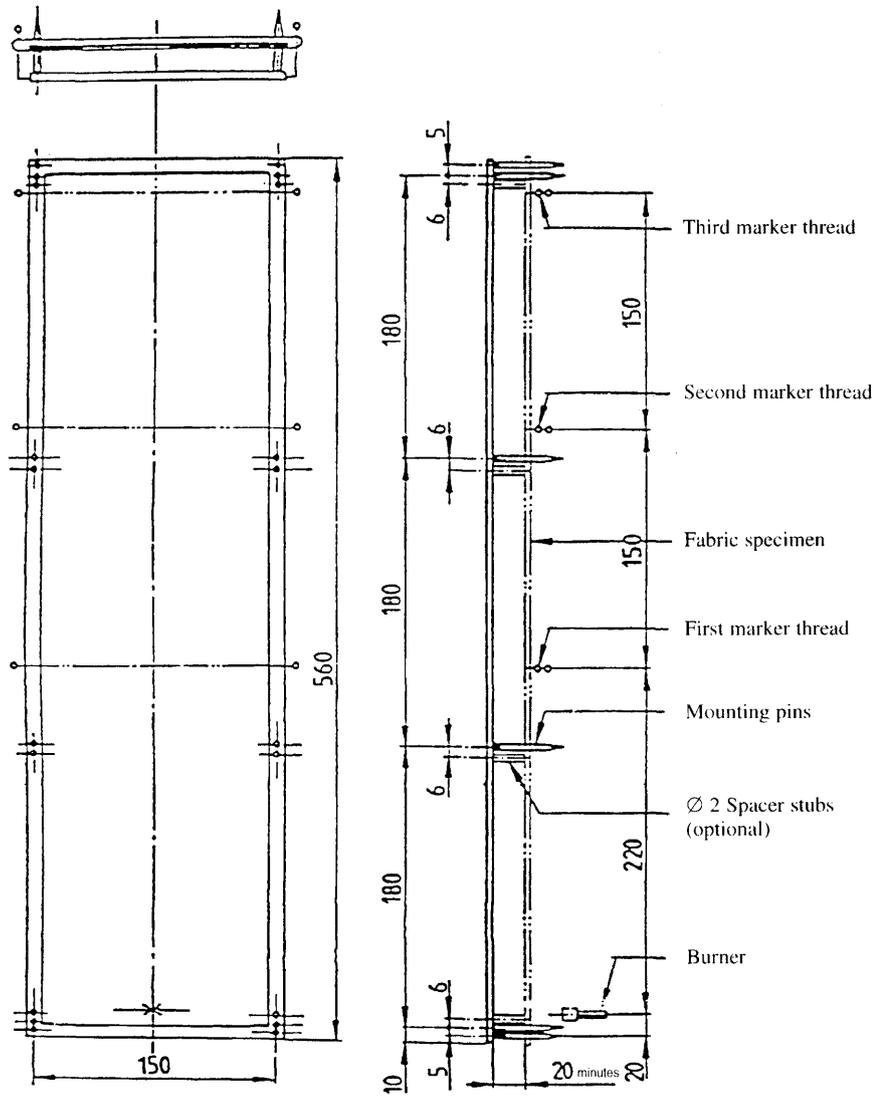


Figure 1

Specimen holder

(Dimensions in millimetres)

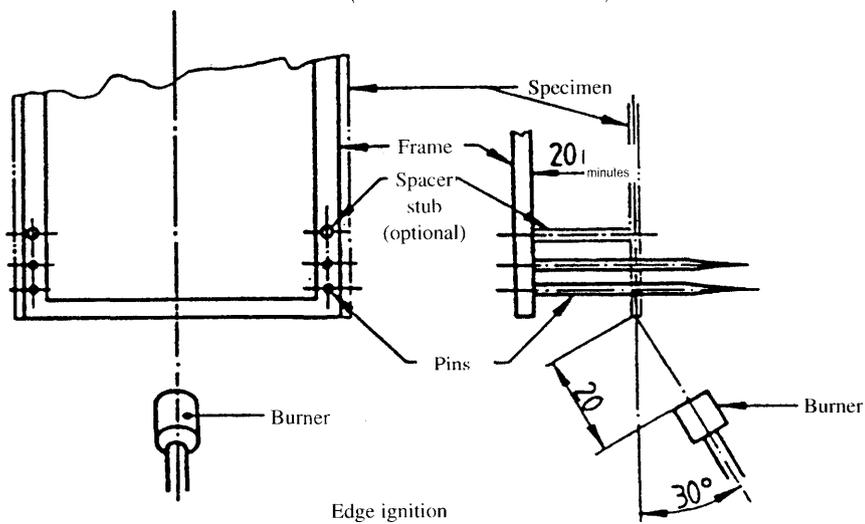


Figure 2

Burner ignition location

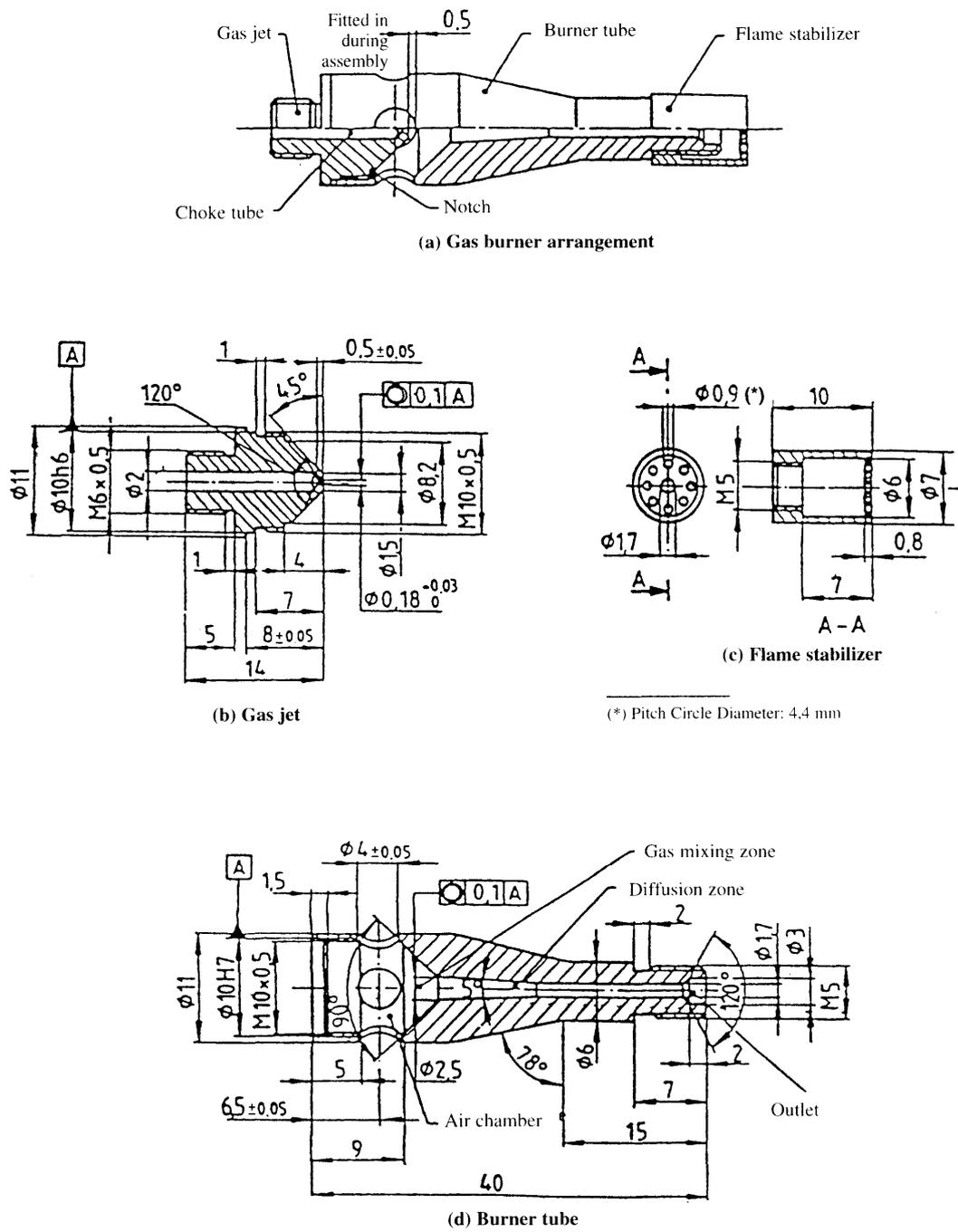


Figure 3
 Gas burner
 (Dimensions in millimetres)

DIRECTIVE 95/46/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 24 October 1995
on the protection of individuals with regard to the processing of personal data and on the free
movement of such data

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF
 THE EUROPEAN UNION,

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

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

Having regard to the opinion of the Economic and Social
 Committee ⁽²⁾,

Acting in accordance with the procedure referred to in
 Article 189b of the Treaty ⁽³⁾,

(1) Whereas the objectives of the Community, as laid
 down in the Treaty, as amended by the Treaty on
 European Union, include creating an ever closer
 union among the peoples of Europe, fostering
 closer relations between the States belonging to the
 Community, ensuring economic and social progress
 by common action to eliminate the barriers which
 divide Europe, encouraging the constant
 improvement of the living conditions of its peoples,
 preserving and strengthening peace and liberty and
 promoting democracy on the basis of the
 fundamental rights recognized in the constitution
 and laws of the Member States and in the
 European Convention for the Protection of Human
 Rights and Fundamental Freedoms;

(2) Whereas data-processing systems are designed to
 serve man; whereas they must, whatever the
 nationality or residence of natural persons, respect
 their fundamental rights and freedoms, notably the
 right to privacy, and contribute to economic and
 social progress, trade expansion and the well-being
 of individuals;

(3) Whereas the establishment and functioning of an
 internal market in which, in accordance with

Article 7a of the Treaty, the free movement of
 goods, persons, services and capital is ensured
 require not only that personal data should be able
 to flow freely from one Member State to another,
 but also that the fundamental rights of individuals
 should be safeguarded;

(4) Whereas increasingly frequent recourse is being
 had in the Community to the processing of
 personal data in the various spheres of economic
 and social activity; whereas the progress made in
 information technology is making the processing
 and exchange of such data considerably easier;

(5) Whereas the economic and social integration
 resulting from the establishment and functioning of
 the internal market within the meaning of Article
 7a of the Treaty will necessarily lead to a
 substantial increase in cross-border flows of
 personal data between all those involved in a
 private or public capacity in economic and social
 activity in the Member States; whereas the
 exchange of personal data between undertakings in
 different Member States is set to increase; whereas
 the national authorities in the various Member
 States are being called upon by virtue of
 Community law to collaborate and exchange
 personal data so as to be able to perform their
 duties or carry out tasks on behalf of an authority
 in another Member State within the context of the
 area without internal frontiers as constituted by
 the internal market;

(6) Whereas, furthermore, the increase in scientific and
 technical cooperation and the coordinated
 introduction of new telecommunications networks
 in the Community necessitate and facilitate
 cross-border flows of personal data;

(7) Whereas the difference in levels of protection of
 the rights and freedoms of individuals, notably the
 right to privacy, with regard to the processing of
 personal data afforded in the Member States may
 prevent the transmission of such data from the
 territory of one Member State to that of another
 Member State; whereas this difference may
 therefore constitute an obstacle to the pursuit of a
 number of economic activities at Community level,

⁽¹⁾ OJ No C 277, 5. 11. 1990, p. 3 and OJ No C 311, 27. 11.
 1992, p. 30.

⁽²⁾ OJ No C 159, 17. 6. 1991, p. 38.

⁽³⁾ Opinion of the European Parliament of 11 March 1992 (OJ
 No C 94, 13. 4. 1992, p. 198), confirmed on 2 December
 1993 (OJ No C 342, 20. 12. 1993, p. 30); Council common
 position of 20 February 1995 (OJ No C 93, 13. 4. 1995,
 p. 1) and Decision of the European Parliament of 15 June
 1995 (OJ No C 166, 3. 7. 1995).

- distort competition and impede authorities in the discharge of their responsibilities under Community law; whereas this difference in levels of protection is due to the existence of a wide variety of national laws, regulations and administrative provisions;
- (8) Whereas, in order to remove the obstacles to flows of personal data, the level of protection of the rights and freedoms of individuals with regard to the processing of such data must be equivalent in all Member States; whereas this objective is vital to the internal market but cannot be achieved by the Member States alone, especially in view of the scale of the divergences which currently exist between the relevant laws in the Member States and the need to coordinate the laws of the Member States so as to ensure that the cross-border flow of personal data is regulated in a consistent manner that is in keeping with the objective of the internal market as provided for in Article 7a of the Treaty; whereas Community action to approximate those laws is therefore needed;
- (9) Whereas, given the equivalent protection resulting from the approximation of national laws, the Member States will no longer be able to inhibit the free movement between them of personal data on grounds relating to protection of the rights and freedoms of individuals, and in particular the right to privacy; whereas Member States will be left a margin for manoeuvre, which may, in the context of implementation of the Directive, also be exercised by the business and social partners; whereas Member States will therefore be able to specify in their national law the general conditions governing the lawfulness of data processing; whereas in doing so the Member States shall strive to improve the protection currently provided by their legislation; whereas, within the limits of this margin for manoeuvre and in accordance with Community law, disparities could arise in the implementation of the Directive, and this could have an effect on the movement of data within a Member State as well as within the Community;
- (10) Whereas the object of the national laws on the processing of personal data is to protect fundamental rights and freedoms, notably the right to privacy, which is recognized both in Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and in the general principles of Community law; whereas, for that reason, the approximation of those laws must not result in any lessening of the protection they afford but must, on the contrary, seek to ensure a high level of protection in the Community;
- (11) Whereas the principles of the protection of the rights and freedoms of individuals, notably the right to privacy, which are contained in this Directive, give substance to and amplify those contained in the Council of Europe Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data;
- (12) Whereas the protection principles must apply to all processing of personal data by any person whose activities are governed by Community law; whereas there should be excluded the processing of data carried out by a natural person in the exercise of activities which are exclusively personal or domestic, such as correspondence and the holding of records of addresses;
- (13) Whereas the activities referred to in Titles V and VI of the Treaty on European Union regarding public safety, defence, State security or the activities of the State in the area of criminal laws fall outside the scope of Community law, without prejudice to the obligations incumbent upon Member States under Article 56 (2), Article 57 or Article 100a of the Treaty establishing the European Community; whereas the processing of personal data that is necessary to safeguard the economic well-being of the State does not fall within the scope of this Directive where such processing relates to State security matters;
- (14) Whereas, given the importance of the developments under way, in the framework of the information society, of the techniques used to capture, transmit, manipulate, record, store or communicate sound and image data relating to natural persons, this Directive should be applicable to processing involving such data;
- (15) Whereas the processing of such data is covered by this Directive only if it is automated or if the data processed are contained or are intended to be contained in a filing system structured according to specific criteria relating to individuals, so as to permit easy access to the personal data in question;
- (16) Whereas the processing of sound and image data, such as in cases of video surveillance, does not come within the scope of this Directive if it is carried out for the purposes of public security, defence, national security or in the course of State activities relating to the area of criminal law or of other activities which do not come within the scope of Community law;
- (17) Whereas, as far as the processing of sound and image data carried out for purposes of journalism

or the purposes of literary or artistic expression is concerned, in particular in the audiovisual field, the principles of the Directive are to apply in a restricted manner according to the provisions laid down in Article 9;

- (18) Whereas, in order to ensure that individuals are not deprived of the protection to which they are entitled under this Directive, any processing of personal data in the Community must be carried out in accordance with the law of one of the Member States; whereas, in this connection, processing carried out under the responsibility of a controller who is established in a Member State should be governed by the law of that State;
- (19) Whereas establishment on the territory of a Member State implies the effective and real exercise of activity through stable arrangements; whereas the legal form of such an establishment, whether simply branch or a subsidiary with a legal personality, is not the determining factor in this respect; whereas, when a single controller is established on the territory of several Member States, particularly by means of subsidiaries, he must ensure, in order to avoid any circumvention of national rules, that each of the establishments fulfils the obligations imposed by the national law applicable to its activities;
- (20) Whereas the fact that the processing of data is carried out by a person established in a third country must not stand in the way of the protection of individuals provided for in this Directive; whereas in these cases, the processing should be governed by the law of the Member State in which the means used are located, and there should be guarantees to ensure that the rights and obligations provided for in this Directive are respected in practice;
- (21) Whereas this Directive is without prejudice to the rules of territoriality applicable in criminal matters;
- (22) Whereas Member States shall more precisely define in the laws they enact or when bringing into force the measures taken under this Directive the general circumstances in which processing is lawful; whereas in particular Article 5, in conjunction with Articles 7 and 8, allows Member States, independently of general rules, to provide for special processing conditions for specific sectors and for the various categories of data covered by Article 8;
- (23) Whereas Member States are empowered to ensure the implementation of the protection of individuals both by means of a general law on the protection of individuals as regards the processing of personal data and by sectorial laws such as those relating, for example, to statistical institutes;
- (24) Whereas the legislation concerning the protection of legal persons with regard to the processing data which concerns them is not affected by this Directive;
- (25) Whereas the principles of protection must be reflected, on the one hand, in the obligations imposed on persons, public authorities, enterprises, agencies or other bodies responsible for processing, in particular regarding data quality, technical security, notification to the supervisory authority, and the circumstances under which processing can be carried out, and, on the other hand, in the right conferred on individuals, the data on whom are the subject of processing, to be informed that processing is taking place, to consult the data, to request corrections and even to object to processing in certain circumstances;
- (26) Whereas the principles of protection must apply to any information concerning an identified or identifiable person; whereas, to determine whether a person is identifiable, account should be taken of all the means likely reasonably to be used either by the controller or by any other person to identify the said person; whereas the principles of protection shall not apply to data rendered anonymous in such a way that the data subject is no longer identifiable; whereas codes of conduct within the meaning of Article 27 may be a useful instrument for providing guidance as to the ways in which data may be rendered anonymous and retained in a form in which identification of the data subject is no longer possible;
- (27) Whereas the protection of individuals must apply as much to automatic processing of data as to manual processing; whereas the scope of this protection must not in effect depend on the techniques used, otherwise this would create a serious risk of circumvention; whereas, nonetheless, as regards manual processing, this Directive covers only filing systems, not unstructured files; whereas, in particular, the content of a filing system must be structured according to specific criteria relating to individuals allowing easy access to the personal data; whereas, in line with the definition in Article 2 (c), the different criteria for determining the constituents of a structured set of personal data, and the different criteria governing access to such a set,

- may be laid down by each Member State; whereas files or sets of files as well as their cover pages, which are not structured according to specific criteria, shall under no circumstances fall within the scope of this Directive;
- (28) Whereas any processing of personal data must be lawful and fair to the individuals concerned; whereas, in particular, the data must be adequate, relevant and not excessive in relation to the purposes for which they are processed; whereas such purposes must be explicit and legitimate and must be determined at the time of collection of the data; whereas the purposes of processing further to collection shall not be incompatible with the purposes as they were originally specified;
- (29) Whereas the further processing of personal data for historical, statistical or scientific purposes is not generally to be considered incompatible with the purposes for which the data have previously been collected provided that Member States furnish suitable safeguards; whereas these safeguards must in particular rule out the use of the data in support of measures or decisions regarding any particular individual;
- (30) Whereas, in order to be lawful, the processing of personal data must in addition be carried out with the consent of the data subject or be necessary for the conclusion or performance of a contract binding on the data subject, or as a legal requirement, or for the performance of a task carried out in the public interest or in the exercise of official authority, or in the legitimate interests of a natural or legal person, provided that the interests or the rights and freedoms of the data subject are not overriding; whereas, in particular, in order to maintain a balance between the interests involved while guaranteeing effective competition, Member States may determine the circumstances in which personal data may be used or disclosed to a third party in the context of the legitimate ordinary business activities of companies and other bodies; whereas Member States may similarly specify the conditions under which personal data may be disclosed to a third party for the purposes of marketing whether carried out commercially or by a charitable organization or by any other association or foundation, of a political nature for example, subject to the provisions allowing a data subject to object to the processing of data regarding him, at no cost and without having to state his reasons;
- (31) Whereas the processing of personal data must equally be regarded as lawful where it is carried out in order to protect an interest which is essential for the data subject's life;
- (32) Whereas it is for national legislation to determine whether the controller performing a task carried out in the public interest or in the exercise of official authority should be a public administration or another natural or legal person governed by public law, or by private law such as a professional association;
- (33) Whereas data which are capable by their nature of infringing fundamental freedoms or privacy should not be processed unless the data subject gives his explicit consent; whereas, however, derogations from this prohibition must be explicitly provided for in respect of specific needs, in particular where the processing of these data is carried out for certain health-related purposes by persons subject to a legal obligation of professional secrecy or in the course of legitimate activities by certain associations or foundations the purpose of which is to permit the exercise of fundamental freedoms;
- (34) Whereas Member States must also be authorized, when justified by grounds of important public interest, to derogate from the prohibition on processing sensitive categories of data where important reasons of public interest so justify in areas such as public health and social protection - especially in order to ensure the quality and cost-effectiveness of the procedures used for settling claims for benefits and services in the health insurance system - scientific research and government statistics; whereas it is incumbent on them, however, to provide specific and suitable safeguards so as to protect the fundamental rights and the privacy of individuals;
- (35) Whereas, moreover, the processing of personal data by official authorities for achieving aims, laid down in constitutional law or international public law, of officially recognized religious associations is carried out on important grounds of public interest;
- (36) Whereas where, in the course of electoral activities, the operation of the democratic system requires in certain Member States that political parties compile data on people's political opinion, the processing of such data may be permitted for reasons of important public interest, provided that appropriate safeguards are established;
- (37) Whereas the processing of personal data for purposes of journalism or for purposes of literary or artistic expression, in particular in the audiovisual field, should qualify for exemption from the requirements of certain provisions of this Directive in so far as this is necessary to reconcile

the fundamental rights of individuals with freedom of information and notably the right to receive and impart information, as guaranteed in particular in Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms; whereas Member States should therefore lay down exemptions and derogations necessary for the purpose of balance between fundamental rights as regards general measures on the legitimacy of data processing, measures on the transfer of data to third countries and the power of the supervisory authority; whereas this should not, however, lead Member States to lay down exemptions from the measures to ensure security of processing; whereas at least the supervisory authority responsible for this sector should also be provided with certain ex-post powers, e.g. to publish a regular report or to refer matters to the judicial authorities;

- (38) Whereas, if the processing of data is to be fair, the data subject must be in a position to learn of the existence of a processing operation and, where data are collected from him, must be given accurate and full information, bearing in mind the circumstances of the collection;
- (39) Whereas certain processing operations involve data which the controller has not collected directly from the data subject; whereas, furthermore, data can be legitimately disclosed to a third party, even if the disclosure was not anticipated at the time the data were collected from the data subject; whereas, in all these cases, the data subject should be informed when the data are recorded or at the latest when the data are first disclosed to a third party;
- (40) Whereas, however, it is not necessary to impose this obligation of the data subject already has the information; whereas, moreover, there will be no such obligation if the recording or disclosure are expressly provided for by law or if the provision of information to the data subject proves impossible or would involve disproportionate efforts, which could be the case where processing is for historical, statistical or scientific purposes; whereas, in this regard, the number of data subjects, the age of the data, and any compensatory measures adopted may be taken into consideration;
- (41) Whereas any person must be able to exercise the right of access to data relating to him which are being processed, in order to verify in particular the accuracy of the data and the lawfulness of the processing; whereas, for the same reasons, every data subject must also have the right to know the logic involved in the automatic processing of data

concerning him, at least in the case of the automated decisions referred to in Article 15 (1); whereas this right must not adversely affect trade secrets or intellectual property and in particular the copyright protecting the software; whereas these considerations must not, however, result in the data subject being refused all information;

- (42) Whereas Member States may, in the interest of the data subject or so as to protect the rights and freedoms of others, restrict rights of access and information; whereas they may, for example, specify that access to medical data may be obtained only through a health professional;
- (43) Whereas restrictions on the rights of access and information and on certain obligations of the controller may similarly be imposed by Member States in so far as they are necessary to safeguard, for example, national security, defence, public safety, or important economic or financial interests of a Member State or the Union, as well as criminal investigations and prosecutions and action in respect of breaches of ethics in the regulated professions; whereas the list of exceptions and limitations should include the tasks of monitoring, inspection or regulation necessary in the three last-mentioned areas concerning public security, economic or financial interests and crime prevention; whereas the listing of tasks in these three areas does not affect the legitimacy of exceptions or restrictions for reasons of State security or defence;
- (44) Whereas Member States may also be led, by virtue of the provisions of Community law, to derogate from the provisions of this Directive concerning the right of access, the obligation to inform individuals, and the quality of data, in order to secure certain of the purposes referred to above;
- (45) Whereas, in cases where data might lawfully be processed on grounds of public interest, official authority or the legitimate interests of a natural or legal person, any data subject should nevertheless be entitled; on legitimate and compelling grounds relating to his particular situation, to object to the processing of any data relating to himself; whereas Member States may nevertheless lay down national provisions to the contrary;
- (46) Whereas the protection of the rights and freedoms of data subjects with regard to the processing of personal data requires that appropriate technical

- and organizational measures be taken, both at the time of the design of the processing system and at the time of the processing itself, particularly in order to maintain security and thereby to prevent any unauthorized processing; whereas it is incumbent on the Member States to ensure that controllers comply with these measures; whereas these measures must ensure an appropriate level of security, taking into account the state of the art and the costs of their implementation in relation to the risks inherent in the processing and the nature of the data to be protected;
- (47) Whereas where a message containing personal data is transmitted by means of a telecommunications or electronic mail service, the sole purpose of which is the transmission of such messages, the controller in respect of the personal data contained in the message will normally be considered to be the person from whom the message originates, rather than the person offering the transmission services; whereas, nevertheless, those offering such services will normally be considered controllers in respect of the processing of the additional personal data necessary for the operation of the service;
- (48) Whereas the procedures for notifying the supervisory authority are designed to ensure disclosure of the purposes and main features of any processing operation for the purpose of verification that the operation is in accordance with the national measures taken under this Directive;
- (49) Whereas, in order to avoid unsuitable administrative formalities, exemptions from the obligation to notify and simplification of the notification required may be provided for by Member States in cases where processing is unlikely adversely to affect the rights and freedoms of data subjects, provided that it is in accordance with a measure taken by a Member State specifying its limits; whereas exemption or simplification may similarly be provided for by Member States where a person appointed by the controller ensures that the processing carried out is not likely adversely to affect the rights and freedoms of data subjects; whereas such a data protection official, whether or not an employee of the controller, must be in a position to exercise his functions in complete independence;
- (50) Whereas exemption or simplification could be provided for in cases of processing operations whose sole purpose is the keeping of a register intended, according to national law, to provide information to the public and open to consultation by the public or by any person demonstrating a legitimate interest;
- (51) Whereas, nevertheless, simplification or exemption from the obligation to notify shall not release the controller from any of the other obligations resulting from this Directive;
- (52) Whereas, in this context, *ex post facto* verification by the competent authorities must in general be considered a sufficient measure;
- (53) Whereas, however, certain processing operations are likely to pose specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, such as that of excluding individuals from a right, benefit or a contract, or by virtue of the specific use of new technologies; whereas it is for Member States, if they so wish, to specify such risks in their legislation;
- (54) Whereas with regard to all the processing undertaken in society, the amount posing such specific risks should be very limited; whereas Member States must provide that the supervisory authority, or the data protection official in cooperation with the authority, check such processing prior to it being carried out; whereas following this prior check, the supervisory authority may, according to its national law, give an opinion or an authorization regarding the processing; whereas such checking may equally take place in the course of the preparation either of a measure of the national parliament or of a measure based on such a legislative measure, which defines the nature of the processing and lays down appropriate safeguards;
- (55) Whereas, if the controller fails to respect the rights of data subjects, national legislation must provide for a judicial remedy; whereas any damage which a person may suffer as a result of unlawful processing must be compensated for by the controller, who may be exempted from liability if he proves that he is not responsible for the damage, in particular in cases where he establishes fault on the part of the data subject or in case of *force majeure*; whereas sanctions must be imposed on any person, whether governed by private or public law, who fails to comply with the national measures taken under this Directive;
- (56) Whereas cross-border flows of personal data are necessary to the expansion of international trade; whereas the protection of individuals guaranteed in the Community by this Directive does not stand in the way of transfers of personal data to third

- countries which ensure an adequate level of protection; whereas the adequacy of the level of protection afforded by a third country must be assessed in the light of all the circumstances surrounding the transfer operation or set of transfer operations;
- (57) Whereas, on the other hand, the transfer of personal data to a third country which does not ensure an adequate level of protection must be prohibited;
- (58) Whereas provisions should be made for exemptions from this prohibition in certain circumstances where the data subject has given his consent, where the transfer is necessary in relation to a contract or a legal claim, where protection of an important public interest so requires, for example in cases of international transfers of data between tax or customs administrations or between services competent for social security matters, or where the transfer is made from a register established by law and intended for consultation by the public or persons having a legitimate interest; whereas in this case such a transfer should not involve the entirety of the data or entire categories of the data contained in the register and, when the register is intended for consultation by persons having a legitimate interest, the transfer should be made only at the request of those persons or if they are to be the recipients;
- (59) Whereas particular measures may be taken to compensate for the lack of protection in a third country in cases where the controller offers appropriate safeguards; whereas, moreover, provision must be made for procedures for negotiations between the Community and such third countries;
- (60) Whereas, in any event, transfers to third countries may be effected only in full compliance with the provisions adopted by the Member States pursuant to this Directive, and in particular Article 8 thereof;
- (61) Whereas Member States and the Commission, in their respective spheres of competence, must encourage the trade associations and other representative organizations concerned to draw up codes of conduct so as to facilitate the application of this Directive, taking account of the specific characteristics of the processing carried out in certain sectors, and respecting the national provisions adopted for its implementation;
- (62) Whereas the establishment in Member States of supervisory authorities, exercising their functions with complete independence, is an essential component of the protection of individuals with regard to the processing of personal data;
- (63) Whereas such authorities must have the necessary means to perform their duties, including powers of investigation and intervention, particularly in cases of complaints from individuals, and powers to engage in legal proceedings; whereas such authorities must help to ensure transparency of processing in the Member States within whose jurisdiction they fall;
- (64) Whereas the authorities in the different Member States will need to assist one another in performing their duties so as to ensure that the rules of protection are properly respected throughout the European Union;
- (65) Whereas, at Community level, a Working Party on the Protection of Individuals with regard to the Processing of Personal Data must be set up and be completely independent in the performance of its functions; whereas, having regard to its specific nature, it must advise the Commission and, in particular, contribute to the uniform application of the national rules adopted pursuant to this Directive;
- (66) Whereas, with regard to the transfer of data to third countries, the application of this Directive calls for the conferment of powers of implementation on the Commission and the establishment of a procedure as laid down in Council Decision 87/373/EEC⁽¹⁾;
- (67) Whereas an agreement on a *modus vivendi* between the European Parliament, the Council and the Commission concerning the implementing measures for acts adopted in accordance with the procedure laid down in Article 189b of the EC Treaty was reached on 20 December 1994;
- (68) Whereas the principles set out in this Directive regarding the protection of the rights and freedoms of individuals, notably their right to privacy, with regard to the processing of personal data may be supplemented or clarified, in particular as far as certain sectors are concerned, by specific rules based on those principles;
- (69) Whereas Member States should be allowed a period of not more than three years from the entry into force of the national measures transposing this Directive in which to apply such new national rules progressively to all processing operations already under way; whereas, in order to facilitate their cost-effective implementation, a further period

(¹) OJ No L 197, 18. 7. 1987, p. 33.

expiring 12 years after the date on which this Directive is adopted will be allowed to Member States to ensure the conformity of existing manual filing systems with certain of the Directive's provisions; whereas, where data contained in such filing systems are manually processed during this extended transition period, those systems must be brought into conformity with these provisions at the time of such processing;

- (70) Whereas it is not necessary for the data subject to give his consent again so as to allow the controller to continue to process, after the national provisions taken pursuant to this Directive enter into force, any sensitive data necessary for the

performance of a contract concluded on the basis of free and informed consent before the entry into force of these provisions;

- (71) Whereas this Directive does not stand in the way of a Member State's regulating marketing activities aimed at consumers residing in territory in so far as such regulation does not concern the protection of individuals with regard to the processing of personal data;
- (72) Whereas this Directive allows the principle of public access to official documents to be taken into account when implementing the principles set out in this Directive,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

GENERAL PROVISIONS

Article 1

Object of the Directive

1. In accordance with this Directive, Member States shall protect the fundamental rights and freedoms of natural persons, and in particular their right to privacy with respect to the processing of personal data.

2. Member States shall neither restrict nor prohibit the free flow of personal data between Member States for reasons connected with the protection afforded under paragraph 1.

means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction;

- (c) 'personal data filing system' ('filing system') shall mean any structured set of personal data which are accessible according to specific criteria, whether centralized, decentralized or dispersed on a functional or geographical basis;

Article 2

Definitions

For the purposes of this Directive:

- (a) 'personal data' shall mean any information relating to an identified or identifiable natural person ('data subject'); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity;

- (b) 'processing of personal data' ('processing') shall mean any operation or set of operations which is performed upon personal data, whether or not by automatic

- (d) 'controller' shall mean the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes and means of the processing of personal data; where the purposes and means of processing are determined by national or Community laws or regulations, the controller or the specific criteria for his nomination may be designated by national or Community law;

- (e) 'processor' shall mean a natural or legal person, public authority, agency or any other body which processes personal data on behalf of the controller;

(f) 'third party' shall mean any natural or legal person, public authority, agency or any other body other than the data subject, the controller, the processor and the persons who, under the direct authority of the controller or the processor, are authorized to process the data;

(g) 'recipient' shall mean a natural or legal person, public authority, agency or any other body to whom data are disclosed, whether a third party or not; however, authorities which may receive data in the framework of a particular inquiry shall not be regarded as recipients;

(h) 'the data subject's consent' shall mean any freely given specific and informed indication of his wishes by which the data subject signifies his agreement to personal data relating to him being processed.

Article 3

Scope

1. This Directive shall apply to the processing of personal data wholly or partly by automatic means, and to the processing otherwise than by automatic means of personal data which form part of a filing system or are intended to form part of a filing system.

2. This Directive shall not apply to the processing of personal data:

— in the course of an activity which falls outside the scope of Community law, such as those provided for by Titles V and VI of the Treaty on European Union and in any case to processing operations concerning public security, defence, State security (including the

economic well-being of the State when the processing operation relates to State security matters) and the activities of the State in areas of criminal law,

— by a natural person in the course of a purely personal or household activity.

Article 4

National law applicable

1. Each Member State shall apply the national provisions it adopts pursuant to this Directive to the processing of personal data where:

(a) the processing is carried out in the context of the activities of an establishment of the controller on the territory of the Member State; when the same controller is established on the territory of several Member States, he must take the necessary measures to ensure that each of these establishments complies with the obligations laid down by the national law applicable;

(b) the controller is not established on the Member State's territory, but in a place where its national law applies by virtue of international public law;

(c) the controller is not established on Community territory and, for purposes of processing personal data makes use of equipment, automated or otherwise, situated on the territory of the said Member State, unless such equipment is used only for purposes of transit through the territory of the Community.

2. In the circumstances referred to in paragraph 1 (c), the controller must designate a representative established in the territory of that Member State, without prejudice to legal actions which could be initiated against the controller himself.

CHAPTER II

GENERAL RULES ON THE LAWFULNESS OF THE PROCESSING OF PERSONAL DATA

Article 5

Member States shall, within the limits of the provisions of this Chapter, determine more precisely the conditions under which the processing of personal data is lawful.

SECTION I

PRINCIPLES RELATING TO DATA QUALITY

Article 6

1. Member States shall provide that personal data must be:

- (a) processed fairly and lawfully;
- (b) collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes. Further processing of data for historical, statistical or scientific purposes shall not be considered as incompatible provided that Member States provide appropriate safeguards;
- (c) adequate, relevant and not excessive in relation to the purposes for which they are collected and/or further processed;
- (d) accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that data which are inaccurate or incomplete, having regard to the purposes for which they were collected or for which they are further processed, are erased or rectified;
- (e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the data were collected or for which they are further processed. Member States shall lay down appropriate safeguards for personal data stored for longer periods for historical, statistical or scientific use.

2. It shall be for the controller to ensure that paragraph 1 is complied with.

SECTION II

CRITERIA FOR MAKING DATA PROCESSING
LEGITIMATE*Article 7*

Member States shall provide that personal data may be processed only if:

- (a) the data subject has unambiguously given his consent; or
- (b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract; or
- (c) processing is necessary for compliance with a legal obligation to which the controller is subject; or

(d) processing is necessary in order to protect the vital interests of the data subject; or

(e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller or in a third party to whom the data are disclosed; or

(f) processing is necessary for the purposes of the legitimate interests pursued by the controller or by the third party or parties to whom the data are disclosed, except where such interests are overridden by the interests for fundamental rights and freedoms of the data subject which require protection under Article 1 (1).

SECTION III

SPECIAL CATEGORIES OF PROCESSING

Article 8

The processing of special categories of data

1. Member States shall prohibit the processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, and the processing of data concerning health or sex life.

2. Paragraph 1 shall not apply where:

(a) the data subject has given his explicit consent to the processing of those data, except where the laws of the Member State provide that the prohibition referred to in paragraph 1 may not be lifted by the data subject's giving his consent; or

(b) processing is necessary for the purposes of carrying out the obligations and specific rights of the controller in the field of employment law in so far as it is authorized by national law providing for adequate safeguards; or

(c) processing is necessary to protect the vital interests of the data subject or of another person where the data subject is physically or legally incapable of giving his consent; or

(d) processing is carried out in the course of its legitimate activities with appropriate guarantees by a foundation, association or any other non-profit-seeking body with a political, philosophical, religious or trade-union aim and on condition that the processing relates solely to the members of the body or to persons who have regular

contact with it in connection with its purposes and that the data are not disclosed to a third party without the consent of the data subjects; or

- (e) the processing relates to data which are manifestly made public by the data subject or is necessary for the establishment, exercise or defence of legal claims.

3. Paragraph 1 shall not apply where processing of the data is required for the purposes of preventive medicine, medical diagnosis, the provision of care or treatment or the management of health-care services, and where those data are processed by a health professional subject under national law or rules established by national competent bodies to the obligation of professional secrecy or by another person also subject to an equivalent obligation of secrecy.

4. Subject to the provision of suitable safeguards, Member States may, for reasons of substantial public interest, lay down exemptions in addition to those laid down in paragraph 2 either by national law or by decision of the supervisory authority.

5. Processing of data relating to offences, criminal convictions or security measures may be carried out only under the control of official authority, or if suitable specific safeguards are provided under national law, subject to derogations which may be granted by the Member State under national provisions providing suitable specific safeguards. However, a complete register of criminal convictions may be kept only under the control of official authority.

Member States may provide that data relating to administrative sanctions or judgements in civil cases shall also be processed under the control of official authority.

6. Derogations from paragraph 1 provided for in paragraphs 4 and 5 shall be notified to the Commission.

7. Member States shall determine the conditions under which a national identification number or any other identifier of general application may be processed.

Article 9

Processing of personal data and freedom of expression

Member States shall provide for exemptions or derogations from the provisions of this Chapter, Chapter IV and Chapter VI for the processing of personal data carried out solely for journalistic purposes or the purpose

of artistic or literary expression only if they are necessary to reconcile the right to privacy with the rules governing freedom of expression.

SECTION IV

INFORMATION TO BE GIVEN TO THE DATA SUBJECT

Article 10

Information in cases of collection of data from the data subject

Member States shall provide that the controller or his representative must provide a data subject from whom data relating to himself are collected with at least the following information, except where he already has it:

- (a) the identity of the controller and of his representative, if any;
- (b) the purposes of the processing for which the data are intended;
- (c) any further information such as
 - the recipients or categories of recipients of the data,
 - whether replies to the questions are obligatory or voluntary, as well as the possible consequences of failure to reply,
 - the existence of the right of access to and the right to rectify the data concerning him

in so far as such further information is necessary, having regard to the specific circumstances in which the data are collected, to guarantee fair processing in respect of the data subject.

Article 11

Information where the data have not been obtained from the data subject

1. Where the data have not been obtained from the data subject, Member States shall provide that the controller or his representative must at the time of undertaking the recording of personal data or if a disclosure to a third party is envisaged, no later than the time when the data are first disclosed provide the data subject with at least the following information, except where he already has it:

- (a) the identity of the controller and of his representative, if any;
- (b) the purposes of the processing;

- (c) any further information such as
- the categories of data concerned,
 - the recipients or categories of recipients,
 - the existence of the right of access to and the right to rectify the data concerning him

in so far as such further information is necessary, having regard to the specific circumstances in which the data are processed, to guarantee fair processing in respect of the data subject.

2. Paragraph 1 shall not apply where, in particular for processing for statistical purposes or for the purposes of historical or scientific research, the provision of such information proves impossible or would involve a disproportionate effort or if recording or disclosure is expressly laid down by law. In these cases Member States shall provide appropriate safeguards.

SECTION V

THE DATA SUBJECT'S RIGHT OF ACCESS TO DATA

Article 12

Right of access

Member States shall guarantee every data subject the right to obtain from the controller:

- (a) without constraint at reasonable intervals and without excessive delay or expense:
- confirmation as to whether or not data relating to him are being processed and information at least as to the purposes of the processing, the categories of data concerned, and the recipients or categories of recipients to whom the data are disclosed,
 - communication to him in an intelligible form of the data undergoing processing and of any available information as to their source,
 - knowledge of the logic involved in any automatic processing of data concerning him at least in the case of the automated decisions referred to in Article 15 (1);
- (b) as appropriate the rectification, erasure or blocking of data the processing of which does not comply with the provisions of this Directive, in particular because of the incomplete or inaccurate nature of the data;
- (c) notification to third parties to whom the data have been disclosed of any rectification, erasure or blocking carried out in compliance with (b), unless this proves impossible or involves a disproportionate effort.

SECTION VI

EXEMPTIONS AND RESTRICTIONS

Article 13

Exemptions and restrictions

1. Member States may adopt legislative measures to restrict the scope of the obligations and rights provided for in Articles 6 (1), 10, 11 (1), 12 and 21 when such a restriction constitutes a necessary measures to safeguard:

- (a) national security;
- (b) defence;
- (c) public security;
- (d) the prevention, investigation, detection and prosecution of criminal offences, or of breaches of ethics for regulated professions;
- (e) an important economic or financial interest of a Member State or of the European Union, including monetary, budgetary and taxation matters;
- (f) a monitoring, inspection or regulatory function connected, even occasionally, with the exercise of official authority in cases referred to in (c), (d) and (e);
- (g) the protection of the data subject or of the rights and freedoms of others.

2. Subject to adequate legal safeguards, in particular that the data are not used for taking measures or decisions regarding any particular individual, Member States may, where there is clearly no risk of breaching the privacy of the data subject, restrict by a legislative measure the rights provided for in Article 12 when data are processed solely for purposes of scientific research or are kept in personal form for a period which does not exceed the period necessary for the sole purpose of creating statistics.

SECTION VII

THE DATA SUBJECT'S RIGHT TO OBJECT

Article 14

The data subject's right to object

Member States shall grant the data subject the right:

- (a) at least in the cases referred to in Article 7 (e) and (f), to object at any time on compelling legitimate grounds relating to his particular situation to the processing of data relating to him, save where

otherwise provided by national legislation. Where there is a justified objection, the processing instigated by the controller may no longer involve those data;

- (b) to object, on request and free of charge, to the processing of personal data relating to him which the controller anticipates being processed for the purposes of direct marketing, or to be informed before personal data are disclosed for the first time to third parties or used on their behalf for the purposes of direct marketing, and to be expressly offered the right to object free of charge to such disclosures or uses.

Member States shall take the necessary measures to ensure that data subjects are aware of the existence of the right referred to in the first subparagraph of (b).

Article 15

Automated individual decisions

1. Member States shall grant the right to every person not to be subject to a decision which produces legal effects concerning him or significantly affects him and which is based solely on automated processing of data intended to evaluate certain personal aspects relating to him, such as his performance at work, creditworthiness, reliability, conduct, etc.
2. Subject to the other Articles of this Directive, Member States shall provide that a person may be subjected to a decision of the kind referred to in paragraph 1 if that decision:
 - (a) is taken in the course of the entering into or performance of a contract, provided the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied or that there are suitable measures to safeguard his legitimate interests, such as arrangements allowing him to put his point of view; or
 - (b) is authorized by a law which also lays down measures to safeguard the data subject's legitimate interests.

SECTION VIII

CONFIDENTIALITY AND SECURITY OF PROCESSING

Article 16

Confidentiality of processing

Any person acting under the authority of the controller or of the processor, including the processor himself, who

has access to personal data must not process them except on instructions from the controller, unless he is required to do so by law.

Article 17

Security of processing

1. Member States shall provide that the controller must implement appropriate technical and organizational measures to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

Having regard to the state of the art and the cost of their implementation, such measures shall ensure a level of security appropriate to the risks represented by the processing and the nature of the data to be protected.

2. The Member States shall provide that the controller must, where processing is carried out on his behalf, choose a processor providing sufficient guarantees in respect of the technical security measures and organizational measures governing the processing to be carried out, and must ensure compliance with those measures.
3. The carrying out of processing by way of a processor must be governed by a contract or legal act binding the processor to the controller and stipulating in particular that:
 - the processor shall act only on instructions from the controller,
 - the obligations set out in paragraph 1, as defined by the law of the Member State in which the processor is established, shall also be incumbent on the processor.
4. For the purposes of keeping proof, the parts of the contract or the legal act relating to data protection and the requirements relating to the measures referred to in paragraph 1 shall be in writing or in another equivalent form.

SECTION IX

NOTIFICATION

Article 18

Obligation to notify the supervisory authority

1. Member States shall provide that the controller or his representative, if any, must notify the supervisory

authority referred to in Article 28 before carrying out any wholly or partly automatic processing operation or set of such operations intended to serve a single purpose or several related purposes.

2. Member States may provide for the simplification of or exemption from notification only in the following cases and under the following conditions:

- where, for categories of processing operations which are unlikely, taking account of the data to be processed, to affect adversely the rights and freedoms of data subjects, they specify the purposes of the processing, the data or categories of data undergoing processing, the category or categories of data subject, the recipients or categories of recipient to whom the data are to be disclosed and the length of time the data are to be stored, and/or
- where the controller, in compliance with the national law which governs him, appoints a personal data protection official, responsible in particular:
 - for ensuring in an independent manner the internal application of the national provisions taken pursuant to this Directive
 - for keeping the register of processing operations carried out by the controller, containing the items of information referred to in Article 21 (2),

thereby ensuring that the rights and freedoms of the data subjects are unlikely to be adversely affected by the processing operations.

3. Member States may provide that paragraph 1 does not apply to processing whose sole purpose is the keeping of a register which according to laws or regulations is intended to provide information to the public and which is open to consultation either by the public in general or by any person demonstrating a legitimate interest.

4. Member States may provide for an exemption from the obligation to notify or a simplification of the notification in the case of processing operations referred to in Article 8 (2) (d).

5. Member States may stipulate that certain or all non-automatic processing operations involving personal data shall be notified, or provide for these processing operations to be subject to simplified notification.

Article 19

Contents of notification

1. Member States shall specify the information to be given in the notification. It shall include at least:

- (a) the name and address of the controller and of his representative, if any;
- (b) the purpose or purposes of the processing;
- (c) a description of the category or categories of data subject and of the data or categories of data relating to them;
- (d) the recipients or categories of recipient to whom the data might be disclosed;
- (e) proposed transfers of data to third countries;
- (f) a general description allowing a preliminary assessment to be made of the appropriateness of the measures taken pursuant to Article 17 to ensure security of processing.

2. Member States shall specify the procedures under which any change affecting the information referred to in paragraph 1 must be notified to the supervisory authority.

Article 20

Prior checking

1. Member States shall determine the processing operations likely to present specific risks to the rights and freedoms of data subjects and shall check that these processing operations are examined prior to the start thereof.

2. Such prior checks shall be carried out by the supervisory authority following receipt of a notification from the controller or by the data protection official, who, in cases of doubt, must consult the supervisory authority.

3. Member States may also carry out such checks in the context of preparation either of a measure of the national parliament or of a measure based on such a legislative measure, which define the nature of the processing and lay down appropriate safeguards.

Article 21

Publicizing of processing operations

1. Member States shall take measures to ensure that processing operations are publicized.

2. Member States shall provide that a register of processing operations notified in accordance with Article 18 shall be kept by the supervisory authority.

The register shall contain at least the information listed in Article 19 (1) (a) to (e).

(1) (a) to (e) in an appropriate form to any person on request.

The register may be inspected by any person.

Member States may provide that this provision does not apply to processing whose sole purpose is the keeping of a register which according to laws or regulations is intended to provide information to the public and which is open to consultation either by the public in general or by any person who can provide proof of a legitimate interest.

3. Member States shall provide, in relation to processing operations not subject to notification, that controllers or another body appointed by the Member States make available at least the information referred to in Article 19

CHAPTER III

JUDICIAL REMEDIES, LIABILITY AND SANCTIONS

Article 22

Remedies

Without prejudice to any administrative remedy for which provision may be made, *inter alia* before the supervisory authority referred to in Article 28, prior to referral to the judicial authority, Member States shall provide for the right of every person to a judicial remedy for any breach of the rights guaranteed him by the national law applicable to the processing in question.

Article 23

Liability

1. Member States shall provide that any person who has suffered damage as a result of an unlawful processing operation or of any act incompatible with the national provisions adopted pursuant to this Directive is entitled to receive compensation from the controller for the damage suffered.

2. The controller may be exempted from this liability, in whole or in part, if he proves that he is not responsible for the event giving rise to the damage.

Article 24

Sanctions

The Member States shall adopt suitable measures to ensure the full implementation of the provisions of this Directive and shall in particular lay down the sanctions to be imposed in case of infringement of the provisions adopted pursuant to this Directive.

CHAPTER IV

TRANSFER OF PERSONAL DATA TO THIRD COUNTRIES

Article 25

Principles

1. The Member States shall provide that the transfer to a third country of personal data which are undergoing processing or are intended for processing after transfer may take place only if, without prejudice to compliance

with the national provisions adopted pursuant to the other provisions of this Directive, the third country in question ensures an adequate level of protection.

2. The adequacy of the level of protection afforded by a third country shall be assessed in the light of all the circumstances surrounding a data transfer operation or set of data transfer operations; particular consideration

shall be given to the nature of the data, the purpose and duration of the proposed processing operation or operations, the country of origin and country of final destination, the rules of law, both general and sectoral, in force in the third country in question and the professional rules and security measures which are complied with in that country.

3. The Member States and the Commission shall inform each other of cases where they consider that a third country does not ensure an adequate level of protection within the meaning of paragraph 2.

4. Where the Commission finds, under the procedure provided for in Article 31 (2), that a third country does not ensure an adequate level of protection within the meaning of paragraph 2 of this Article, Member States shall take the measures necessary to prevent any transfer of data of the same type to the third country in question.

5. At the appropriate time, the Commission shall enter into negotiations with a view to remedying the situation resulting from the finding made pursuant to paragraph 4.

6. The Commission may find, in accordance with the procedure referred to in Article 31 (2), that a third country ensures an adequate level of protection within the meaning of paragraph 2 of this Article, by reason of its domestic law or of the international commitments it has entered into, particularly upon conclusion of the negotiations referred to in paragraph 5, for the protection of the private lives and basic freedoms and rights of individuals.

Member States shall take the measures necessary to comply with the Commission's decision.

Article 26

Derogations

1. By way of derogation from Article 25 and save where otherwise provided by domestic law governing particular cases, Member States shall provide that a transfer or a set of transfers of personal data to a third country which does not ensure an adequate level of protection within the meaning of Article 25 (2) may take place on condition that:

- (a) the data subject has given his consent unambiguously to the proposed transfer; or
- (b) the transfer is necessary for the performance of a contract between the data subject and the controller

or the implementation of precontractual measures taken in response to the data subject's request; or

- (c) the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the data subject between the controller and a third party; or
- (d) the transfer is necessary or legally required on important public interest grounds, or for the establishment, exercise or defence of legal claims; or
- (e) the transfer is necessary in order to protect the vital interests of the data subject; or
- (f) the transfer is made from a register which according to laws or regulations is intended to provide information to the public and which is open to consultation either by the public in general or by any person who can demonstrate legitimate interest, to the extent that the conditions laid down in law for consultation are fulfilled in the particular case.

2. Without prejudice to paragraph 1, a Member State may authorize a transfer or a set of transfers of personal data to a third country which does not ensure an adequate level of protection within the meaning of Article 25 (2), where the controller adduces adequate safeguards with respect to the protection of the privacy and fundamental rights and freedoms of individuals and as regards the exercise of the corresponding rights; such safeguards may in particular result from appropriate contractual clauses.

3. The Member State shall inform the Commission and the other Member States of the authorizations it grants pursuant to paragraph 2.

If a Member State or the Commission objects on justified grounds involving the protection of the privacy and fundamental rights and freedoms of individuals, the Commission shall take appropriate measures in accordance with the procedure laid down in Article 31 (2).

Member States shall take the necessary measures to comply with the Commission's decision.

4. Where the Commission decides, in accordance with the procedure referred to in Article 31 (2), that certain standard contractual clauses offer sufficient safeguards as required by paragraph 2, Member States shall take the necessary measures to comply with the Commission's decision.

CHAPTER V

CODES OF CONDUCT

Article 27

1. The Member States and the Commission shall encourage the drawing up of codes of conduct intended to contribute to the proper implementation of the national provisions adopted by the Member States pursuant to this Directive, taking account of the specific features of the various sectors.

2. Member States shall make provision for trade associations and other bodies representing other categories of controllers which have drawn up draft national codes or which have the intention of amending or extending existing national codes to be able to submit them to the opinion of the national authority.

Member States shall make provision for this authority to ascertain, among other things, whether the drafts submitted to it are in accordance with the national provisions adopted pursuant to this Directive. If it sees fit, the authority shall seek the views of data subjects or their representatives.

3. Draft Community codes, and amendments or extensions to existing Community codes, may be submitted to the Working Party referred to in Article 29. This Working Party shall determine, among other things, whether the drafts submitted to it are in accordance with the national provisions adopted pursuant to this Directive. If it sees fit, the authority shall seek the views of data subjects or their representatives. The Commission may ensure appropriate publicity for the codes which have been approved by the Working Party.

CHAPTER VI

SUPERVISORY AUTHORITY AND WORKING PARTY ON THE PROTECTION OF INDIVIDUALS WITH REGARD TO THE PROCESSING OF PERSONAL DATA

Article 28

Supervisory authority

1. Each Member State shall provide that one or more public authorities are responsible for monitoring the application within its territory of the provisions adopted by the Member States pursuant to this Directive.

These authorities shall act with complete independence in exercising the functions entrusted to them.

2. Each Member State shall provide that the supervisory authorities are consulted when drawing up administrative measures or regulations relating to the protection of individuals' rights and freedoms with regard to the processing of personal data.

3. Each authority shall in particular be endowed with:

— investigative powers, such as powers of access to data forming the subject-matter of processing operations

and powers to collect all the information necessary for the performance of its supervisory duties,

— effective powers of intervention, such as, for example, that of delivering opinions before processing operations are carried out, in accordance with Article 20, and ensuring appropriate publication of such opinions, of ordering the blocking, erasure or destruction of data, of imposing a temporary or definitive ban on processing, of warning or admonishing the controller, or that of referring the matter to national parliaments or other political institutions,

— the power to engage in legal proceedings where the national provisions adopted pursuant to this Directive have been violated or to bring these violations to the attention of the judicial authorities.

Decisions by the supervisory authority which give rise to complaints may be appealed against through the courts.

4. Each supervisory authority shall hear claims lodged by any person, or by an association representing that person, concerning the protection of his rights and freedoms in regard to the processing of personal data. The person concerned shall be informed of the outcome of the claim.

Each supervisory authority shall, in particular, hear claims for checks on the lawfulness of data processing lodged by any person when the national provisions adopted pursuant to Article 13 of this Directive apply. The person shall at any rate be informed that a check has taken place.

5. Each supervisory authority shall draw up a report on its activities at regular intervals. The report shall be made public.

6. Each supervisory authority is competent, whatever the national law applicable to the processing in question, to exercise, on the territory of its own Member State, the powers conferred on it in accordance with paragraph 3. Each authority may be requested to exercise its powers by an authority of another Member State.

The supervisory authorities shall cooperate with one another to the extent necessary for the performance of their duties, in particular by exchanging all useful information.

7. Member States shall provide that the members and staff of the supervisory authority, even after their employment has ended, are to be subject to a duty of professional secrecy with regard to confidential information to which they have access.

Article 29

Working Party on the Protection of Individuals with regard to the Processing of Personal Data

1. A Working Party on the Protection of Individuals with regard to the Processing of Personal Data, hereinafter referred to as 'the Working Party', is hereby set up.

It shall have advisory status and act independently.

2. The Working Party shall be composed of a representative of the supervisory authority or authorities designated by each Member State and of a representative of the authority or authorities established for the Community institutions and bodies, and of a representative of the Commission.

Each member of the Working Party shall be designated by the institution, authority or authorities which he represents. Where a Member State has designated more than one supervisory authority, they shall nominate a joint representative. The same shall apply to the authorities established for Community institutions and bodies.

3. The Working Party shall take decisions by a simple majority of the representatives of the supervisory authorities.

4. The Working Party shall elect its chairman. The chairman's term of office shall be two years. His appointment shall be renewable.

5. The Working Party's secretariat shall be provided by the Commission.

6. The Working Party shall adopt its own rules of procedure.

7. The Working Party shall consider items placed on its agenda by its chairman, either on his own initiative or at the request of a representative of the supervisory authorities or at the Commission's request.

Article 30

1. The Working Party shall:

- (a) examine any question covering the application of the national measures adopted under this Directive in order to contribute to the uniform application of such measures;
- (b) give the Commission an opinion on the level of protection in the Community and in third countries;
- (c) advise the Commission on any proposed amendment of this Directive, on any additional or specific measures to safeguard the rights and freedoms of natural persons with regard to the processing of personal data and on any other proposed Community measures affecting such rights and freedoms;
- (d) give an opinion on codes of conduct drawn up at Community level.

2. If the Working Party finds that divergences likely to affect the equivalence of protection for persons with regard to the processing of personal data in the Community are arising between the laws or practices of Member States, it shall inform the Commission accordingly.

3. The Working Party may, on its own initiative, make recommendations on all matters relating to the protection of persons with regard to the processing of personal data in the Community.

4. The Working Party's opinions and recommendations shall be forwarded to the Commission and to the committee referred to in Article 31.

5. The Commission shall inform the Working Party of the action it has taken in response to its opinions and recommendations. It shall do so in a report which shall

also be forwarded to the European Parliament and the Council. The report shall be made public.

6. The Working Party shall draw up an annual report on the situation regarding the protection of natural

persons with regard to the processing of personal data in the Community and in third countries, which it shall transmit to the Commission, the European Parliament and the Council. The report shall be made public.

CHAPTER VII

COMMUNITY IMPLEMENTING MEASURES

Article 31

The Committee

1. The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission.
2. 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. 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 apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith. In that event:

- the Commission shall defer application of the measures which it has decided for a period of three months from the date of communication,
- the Council, acting by a qualified majority, may take a different decision within the time limit referred to in the first indent.

FINAL PROVISIONS

Article 32

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive at the latest at the end of a period of three years from the date of its adoption.

When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.

2. Member States shall ensure that processing already under way on the date the national provisions adopted pursuant to this Directive enter into force, is brought into conformity with these provisions within three years of this date.

By way of derogation from the preceding subparagraph, Member States may provide that the processing of data already held in manual filing systems on the date of entry into force of the national provisions adopted in implementation of this Directive shall be brought into conformity with Articles 6, 7 and 8 of this Directive within 12 years of the date on which it is adopted. Member States shall, however, grant the data subject the right to obtain, at his request and in particular at the time of exercising his right of access, the rectification, erasure or blocking of data which are incomplete, inaccurate or stored in a way incompatible with the legitimate purposes pursued by the controller.

3. By way of derogation from paragraph 2, Member States may provide, subject to suitable safeguards, that data kept for the sole purpose of historical research need

not be brought into conformity with Articles 6, 7 and 8 of this Directive.

4. Member States shall communicate to the Commission the text of the provisions of domestic law which they adopt in the field covered by this Directive.

Article 33

The Commission shall report to the Council and the European Parliament at regular intervals, starting not later than three years after the date referred to in Article 32 (1), on the implementation of this Directive, attaching to its report, if necessary, suitable proposals for amendments. The report shall be made public.

The Commission shall examine, in particular, the application of this Directive to the data processing of

sound and image data relating to natural persons and shall submit any appropriate proposals which prove to be necessary, taking account of developments in information technology and in the light of the state of progress in the information society.

Article 34

This Directive is addressed to the Member States.

Done at Luxembourg, 24 October 1995.

For the European Parliament

The President

K. HÄNSCH

For the Council

The President

L. ATIENZA SERNA

DIRECTIVE 95/47/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 24 October 1995

on the use of standards for the transmission of television signals

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 57 (2), 66 and 100a thereof,

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

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure laid down in Article 189b of the Treaty ⁽³⁾,

Whereas, in Council Decisions 89/337/EEC ⁽⁴⁾ and 89/630/EEC ⁽⁵⁾, the Community recognized the strategic importance of advanced television and of High Definition Television (HDTV) services for the European consumer electronics industry and for the European television and film industries and established the strategy framework for the introduction of advanced television and HDTV services in Europe;

Whereas the objectives of the strategy for the introduction of HDTV in Europe are an integral part of the Community audiovisual policy, in respect of which the importance of Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities ⁽⁶⁾ should be reaffirmed, and whereas they must take into account other objectives of this policy within the perspective of the development of Europe's audiovisual capacity, which comprise structural objectives such as the development of production in countries or regions with more limited audiovisual capacity;

Whereas Council Directive 92/38/EEC of 11 May 1992 on the adoption of standards for satellite broadcasting of

television signals ⁽⁷⁾ set a regulatory framework of standards for advanced television broadcasting services for television programmes based on the HD-MAC standard ⁽⁸⁾ for European satellite and cable transmission for non-fully digital HDTV and the D2-MAC ⁽⁹⁾ standard for other not completely digital satellite and cable transmission in the wide-screen 16:9 aspect ratio format;

Whereas Council Decision 93/424/EEC of 22 July 1993 on an action plan for the introduction of advanced television services in Europe ⁽¹⁰⁾ aims at promoting the wide-screen 16:9 format (625 or 1250 lines), irrespective of the European television standard used and irrespective of the broadcasting mode (terrestrial, satellite or cable);

Whereas Article 7 of Directive 92/38/EEC called on the Commission to report on the effects of the application of that Directive, on the evolution of the market, in particular on market penetration measured by objective criteria, and the use of the Community funding, and to make proposals to the Council to adapt that Directive to these developments if necessary;

Whereas, in order to attain the Community's goals as set out in the abovementioned Decisions and to contribute to the proper functioning of the internal market, as provided for in Article 7a of the Treaty, in the broadcasting of television signals, it is necessary to take steps to adopt a common format for wide-screen transmissions;

Whereas the wide-screen 16:9 aspect ratio has been adopted at world level by the International Telecommunication Union (ITU) ⁽¹¹⁾ for HDTV and it is desirable and possible to develop the market for advanced television services and products having the same wide-screen 16:9 aspect ratio;

Whereas, for the purposes of this Directive, a wide-screen television service must meet the minimum requirements that it uses a transmission system delivering sufficient information to allow a dedicated receiver to display a full frame picture with full vertical resolution and whereas,

⁽¹⁾ OJ No C 341, 18. 12. 1993, p. 18 and OJ No C 321, 18. 11. 1994, p. 4.

⁽²⁾ OJ No C 148, 30. 5. 1994, p. 1.

⁽³⁾ Opinion of the European Parliament of 19 April 1994 (OJ No C 128, 9. 5. 1994, p. 54), common position of the Council of 22 December 1994 (OJ No C 384, 31. 12. 1994, p. 36) and decision of the European Parliament of 13 June 1995 (OJ No C 166, 3. 7. 1995).

⁽⁴⁾ OJ No L 142, 25. 5. 1989, p. 1.

⁽⁵⁾ OJ No L 363, 13. 12. 1989, p. 30.

⁽⁶⁾ OJ No L 298, 17. 10. 1989, p. 23.

⁽⁷⁾ OJ No L 137, 20. 5. 1992, p. 17.

⁽⁸⁾ ETSI standard reference : ETS 300 352.

⁽⁹⁾ ETSI standard reference : ETS 300 250.

⁽¹⁰⁾ OJ No L 196, 5. 8. 1993, p. 48.

⁽¹¹⁾ ITU-R recommendation 709 defines 'picture characteristics' including the wide-screen 16:9 aspect ratio.

for the same purposes, a television service using letterbox transmission in 4:3 frame which does not meet the abovementioned minimum criterion should not be considered as a wide-screen television service;

Whereas television services are currently delivered to the home by terrestrial systems, by satellite systems and by cable systems and it is essential that advanced wide-screen services should be made available to the largest possible number of viewers;

Whereas cable TV networks and their technical capabilities as defined by the Member States are an important feature in the television infrastructure of many Member States and will be crucial to the future of advanced television services;

Whereas master antenna systems as defined by Member States are not affected by this Directive;

Whereas it is essential to establish common standards for the digital transmission of television signals whether by cable or by satellite or by terrestrial means as an enabling element for effective free-market competition and this is best achieved by mandating a recognized European standardization body taking account, as appropriate, of the outcome of the consensus processes under way among market parties;

Whereas such standards should be drawn up in good time, before the introduction to the market of services linked to digital television;

Whereas conditional access is an important matter for the consumers and providers of pay television services and for the rights holders of programmes;

Whereas a widely based consultation process involving the relevant economic actors in the European market has resulted in agreements on a number of issues concerning conditional access to digital pay-television services;

Whereas the operators of conditional access services should be entitled to earn a return on their investments and for the provision of services to broadcasters as an incentive to continue to invest;

Whereas it is necessary to make compulsory the inclusion of the common European scrambling algorithm in appropriate consumer equipment in the Community in order to ensure that all pay-television service providers can, in principle, provide all digital pay-television consumers in the European Community with their programmes;

Whereas it is appropriate, furthermore, to make provision for transcontrol of conditional access at cable television network head-ends and for the licensing of conditional access technology to manufacturers;

Whereas in the European audiovisual digital environment, the scope for piracy will increase, with negative consequences for operators and programme providers, and whereas the introduction and enforcement of efficient anti-piracy legislation at European level will become increasingly necessary;

Whereas it is appropriate to repeal Directive 92/38/EEC and to issue a new Directive in the light of these developments in the market and technology;

Whereas technologies for advanced television services are developing rapidly and a common approach to their development is necessary; whereas separate and multiple action by the Member States could lead to undesirable fragmentation of the market for products and services and to duplication of effort; whereas consequently such action could be better achieved at Community level;

Whereas the Presidency's conclusions at the G7 Conference on the Information Society held in Brussels on 25 to 26 February 1995 highlighted the need for a regulatory framework ensuring open access networks and respect for competition rules,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Member States shall take appropriate measures to promote the accelerated development of advanced television services including wide-screen television services, high definition television services and television services using fully digital transmission systems.

Member States shall see to it that the transfer of wide-screen television services already in operation to digital transmission networks open to the public is made easier, in particular pursuant to Directive 92/38/EEC and Decision 93/424/EEC, in order to protect the interests of operators and television viewers who have invested to produce or receive such services.

Article 2

All television services transmitted to viewers in the Community whether by cable, satellite or terrestrial means shall:

- (a) if they are in wide-screen format and 625 lines, and are not fully digital, use the 16:9 D2-MAC transmission system, or a 16:9 transmission system which is fully compatible with PAL or SECAM.

A wide-screen television service consists of programmes produced and edited to be displayed on a wide-screen format.

The 16:9 format is the reference format for wide-format television services;

- (b) if they are in high definition, and are not fully digital, use the HD-MAC transmission system;
- (c) if they are fully digital, use a transmission system which has been standardized by a recognized European standardization body. In this context, a transmission system comprises the following elements: formation of programme signals (source coding of audio signals, source coding of video signals, multiplexing of signals) and adaptation for transmission media (channel coding, modulation and, if appropriate, energy dispersal).

Fully digital transmission networks open to the public for the distribution of television services must be capable of distributing wide-format services.

Article 3

Any television set with an integral viewing screen of visible diagonal greater than 42 cm which is put on the market for sale or rent in the Community shall be fitted with at least one open interface socket (as standardized by a recognized European standardization body) permitting simple connection of peripherals, especially additional decoders and digital receivers.

Article 4

In relation to conditional access to digital television services broadcast to viewers in the Community, irrespective of the means of transmission, the following conditions shall apply:

- (a) all consumer equipment, for sale or rent or otherwise made available in the Community, capable of descrambling digital television signals, shall possess the capability:
- to allow the descrambling of such signals according to the common European scrambling algorithm as administered by a recognized European standardization body,

- to display signals that have been transmitted in clear provided that, in the event that such equipment is rented, the rentee is in compliance with the relevant rental agreement;

- (b) conditional access systems operated on the market in the Community shall have the necessary technical capability for cost-effective transcontrol at cable head-ends allowing the possibility for full control by cable television operators at local or regional level of the services using such conditional access systems;

- (c) Member States shall take all the necessary measures to ensure that the operators of conditional access services, irrespective of the means of transmission, who produce and market access services to digital television services:

- offer to all broadcasters, on a fair, reasonable and non-discriminatory basis, technical services enabling the broadcasters' digitally-transmitted services to be received by viewers authorized by means of decoders administered by the service operators, and comply with Community competition law, in particular if a dominant position appears,
- keep separate financial accounts regarding their activity as conditional access providers.

Broadcasters shall publish a list of tariffs for the viewer which takes into account whether associated equipment is supplied or not.

A digital television service may take advantage of these provisions only if the services offered comply with the European legislation in force;

- (d) when granting licences to manufacturers of consumer equipment, holders of industrial property rights to conditional access products and systems shall ensure that this is done on fair, reasonable and non-discriminatory terms. Taking into account technical and commercial factors, holders of rights shall not subject the granting of licences to conditions prohibiting, deterring or discouraging the inclusion in the same product of:

- a common interface allowing connection with several other access systems, or
- means specific to another access system, provided that the licensee complies with the relevant and

reasonable conditions ensuring, as far as he is concerned, the security of transactions of conditional access system operators.

Where television sets contain an integrated digital decoder such sets must allow for the option of fitting at least one standardized socket permitting connection of conditional access and other elements of a digital television system of the digital decoder;

- (e) without prejudice to any action that the Commission or any Member State may take pursuant to the Treaty, Member States shall ensure that any party having an unresolved dispute concerning the application of the provisions established in this Article shall have easy, and in principle inexpensive, access to appropriate dispute resolution procedures with the objective of resolving such disputes in a fair, timely and transparent manner.

This procedure shall not preclude action for damages from either side. If the Commission is asked to give its opinion on the application of the Treaty, it shall do so at the earliest opportunity.

Article 5

Wide-screen 16:9 television services, within the meaning of Article 2, which are received by, and redistributed on, cable television systems shall be redistributed on such systems at least in the wide-screen 16:9 format.

Article 6

Before 1 July 1997, and every two years thereafter, the Commission shall examine the implementation of this Directive and the development of the market for digital television services throughout the European Union and submit a report to the European Parliament, to the Council and to the Economic and Social Committee. This report shall cover market developments, in particular relating to developments in digital technology and services and also to technical and commercial market developments on conditional access to digital television services.

If necessary the Commission shall make a proposal to the Council to adapt this Directive to these developments.

Article 7

Directive 92/38/EEC is hereby repealed with effect nine months after the date of the entry into force of this Directive.

Article 8

1. Member States shall bring into force the laws, regulations and administrative provisions necessary for them to comply with this Directive within nine months of its entry into force. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field governed by this Directive.

Article 9

This Directive shall enter into force on the date of its publication in the *Official Journal of the European Communities*.

Article 10

This Directive is addressed to the Member States.

Done at Luxembourg, 24 October 1995.

For the European Parliament

The President

K. HÄNSCH

For the Council

The President

L. ATIENZA SERNA