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THE EUROPEAN UNION**

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#### **INFORMATION NOTE**

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from: General Secretariat  
to: Permanent Representatives Committee/Council

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Subject: Proposal for a Directive of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to the making available on the market of pyrotechnic articles (recast)  
- Outcome of the European Parliament's first reading  
(Strasbourg, 20 to 24 May 2013)

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#### **I. INTRODUCTION**

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure <sup>1</sup>, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

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<sup>1</sup> OJ C 145, 30.6.2007, p.5

In this context, the rapporteur, Zuzana ROITHOVÁ (EPP, CZ) presented a single compromise amendment (amendment 52) to the proposal for a Directive of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to the making available on the market of pyrotechnic articles, on behalf of the Committee on the Internal Market and Consumer Protection. This amendment had been agreed during the informal contacts referred to above.

## II. VOTE

When it voted on 22 May 2013, the plenary adopted the single compromise amendment (amendment 52) to the proposal for a Directive. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto<sup>1</sup>.

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

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<sup>1</sup> The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in *bold and italics*. The symbol "■" indicates deleted text.

## Pyrotechnic articles \*\*\*I

**European Parliament legislative resolution of 22 May 2013 on the proposal for a directive of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to the making available on the market of pyrotechnic articles (recast) (COM(2011)0764 – C7-0425/2011 – 2011/0358(COD))**

**(Ordinary legislative procedure – recast)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0764),
  - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0425/2011),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Economic and Social Committee of 28 March 2012<sup>1</sup>,
  - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts<sup>2</sup>,
  - having regard to the letter of 6 November 2012 from the Committee on Legal Affairs to the Committee on the Internal Market and Consumer Protection in accordance with Rule 87(3) of its Rules of Procedure,
  - having regard to the undertaking given by the Council representative by letter of 27 March 2013 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
  - having regard to Rules 87 and 55 of its Rules of Procedure,
  - having regard to the report of the Committee on the Internal Market and Consumer Protection (A7-0375/2012),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those

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<sup>1</sup> OJ C 181, 21.6.2012, p. 105.

<sup>2</sup> OJ C 77, 28.3.2002, p. 1.

amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;

1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;
2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

**P7\_TC1-COD(2011)0358**

**Position of the European Parliament adopted at first reading on 22 May 2013 with a view to the adoption of Directive 2013/.../EU of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to the making available on the market of pyrotechnic articles (recast)**

**(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

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

Acting in accordance with the ordinary legislative procedure<sup>2</sup>,

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<sup>1</sup> OJ C 181, 21.6.2012, p. 105.

<sup>2</sup> Position of the European Parliament of 22 May 2013.

Whereas:

- (1) Directive 2007/23/EC of the European Parliament and of the Council of 23 May 2007 on the placing on the market of pyrotechnic articles<sup>1</sup> *has been substantially amended*<sup>2</sup>. *Since further amendments are to be made*, that Directive should be recast *in the interests of clarity*.
- (2) Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products<sup>3</sup> lays down rules on the accreditation of conformity assessment bodies, provides a framework for the market surveillance of products and for controls on products from third countries, and lays down the general principles of the CE marking.
- (3) Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products<sup>4</sup> lays down common principles and reference provisions intended to apply across sectoral legislation in order to provide a coherent basis for revision or recasts of that legislation. Directive 2007/23/EC should be adapted to that Decision.

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<sup>1</sup> OJ L 154, 14.6.2007, p. 1.

<sup>2</sup> See Annex IV, Part A.

<sup>3</sup> OJ L 218, 13.8.2008, p. 30.

<sup>4</sup> OJ L 218, 13.8.2008, p. 82.

- (4) The laws, regulations and administrative provisions in force in the Member States with regard to the making available on the market of pyrotechnic articles are divergent, in particular as regards aspects such as safety and performance characteristics.
- (5) The laws, regulations and administrative provisions of Member States, being liable to cause barriers to trade within the Union, need to be harmonised in order to guarantee the free movement of pyrotechnic articles within the internal market *while* ensuring a high level of protection of human health and safety and the protection of consumers and professional end-users. ***Such high level of protection should include the relevant age limits associated with users of pyrotechnic articles being adhered to.***
- (6) Council Directive 93/15/EEC of 5 April 1993 on the harmonisation of the provisions relating to the placing on the market and supervision of explosives for civil uses<sup>1</sup> excludes pyrotechnic articles from its scope.

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<sup>1</sup> OJ L 121, 15.5.1993, p. 20.

- (7) Safety during storage is governed by Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances<sup>1</sup> which sets out safety requirements for establishments where explosives, including pyrotechnic substances, are present.
- (8) As regards safety in transportation, the rules concerning the transport of pyrotechnic articles are covered by international conventions and agreements, including the United Nations recommendations on the transport of dangerous goods. Those aspects should therefore not fall within the scope of this Directive.
- (9) *This Directive should apply to all forms of supply, including distance selling.***
- (10) This Directive should not apply to pyrotechnic articles to which Council Directive 96/98/EC of 20 December 1996 on marine equipment<sup>2</sup> and the relevant international conventions referred to therein apply. It should also not apply to percussion caps intended for toys falling within the scope of Directive 2009/48/EC of the European Parliament and of the Council of 18 June 2009 on the safety of toys<sup>3</sup>.

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<sup>1</sup> OJ L 10, 14.1.1997, p. 13.

<sup>2</sup> OJ L 46, 17.2.1997, p. 25.

<sup>3</sup> OJ L 170, 30.6.2009, p. 1.



- (11) **█** Fireworks *which are* built by *a* manufacturer for his own use and **█** approved *for use exclusively on its territory* by *the* Member State *in which the manufacturer is established, and which remain on the territory of that Member State*, should not be considered as having been made available on the market and should therefore not need to comply with this Directive.
- (12) It should not be possible, where the requirements *laid down in this Directive* are satisfied, for Member States to prohibit, restrict or hinder the free movement of pyrotechnic articles. This Directive should apply without prejudice to national legislation on the licensing of manufacturers, distributors and importers by the Member States.
- (13) Pyrotechnic articles should include fireworks, theatrical pyrotechnic articles and *other* pyrotechnic articles for technical purposes, such as gas generators used in airbags or in seatbelt pretensioners.

- (14) In order to ensure appropriately high levels of protection, pyrotechnic articles should be categorised **II** according to their level of hazard as regards their type of use, purpose or noise level.
- (15) Given the dangers inherent in the use of pyrotechnic articles, it is appropriate to lay down age limits for their *being made available* to *persons*, and to ensure that their labelling displays sufficient and appropriate information on safe use, in order to protect human health and safety and the environment. Certain pyrotechnic articles should be made available only to *persons* with the necessary knowledge, skills and experience. With regard to pyrotechnic articles for vehicles, labelling requirements should take into account current practice and the fact that those articles are supplied exclusively to professional users.
- (16) The use of pyrotechnic articles and, in particular, the use of fireworks, is subject to markedly divergent cultural customs and traditions in the respective Member States. It is therefore necessary to allow Member States to take national measures to limit the use or sale of certain categories of pyrotechnic articles to the general public for reasons, inter alia, of public security or *health and* safety.

- (17) Economic operators should be responsible for the compliance of pyrotechnic articles ***with the requirements of this Directive***, in relation to their respective roles in the supply chain, so as to ensure a high level of protection of public interests, such as health and safety and the protection of consumers, and to guarantee fair competition on the Union market.
- (18) All economic operators intervening in the supply and distribution chain should take appropriate measures to ensure that they only make available on the market pyrotechnic articles which are in conformity with this Directive. It is necessary to provide for a clear and proportionate distribution of obligations which correspond to the role of each ***economic operator*** in the supply and distribution ***chain***.
- (19) ***In order to facilitate communication between economic operators, market surveillance authorities and consumers, Member States should encourage economic operators to include a website address in addition to the postal address.***
- (20) The manufacturer, having detailed knowledge of the design and production process, is best placed to carry out the **■** conformity assessment procedure. Conformity assessment should therefore remain solely the obligation of the manufacturer.

- (21) It is necessary to ensure that pyrotechnic articles from third countries entering the Union market comply with the requirements of this Directive, and in particular that appropriate **conformity** assessment procedures have been carried out by manufacturers with regard to those **pyrotechnic articles**. Provision should therefore be made for importers to make sure that the pyrotechnic articles they place on the market comply with the requirements of this Directive and that they do not place on the market pyrotechnic articles which do not comply with such requirements or present a risk. Provision should also be made for importers to make sure that conformity assessment procedures have been carried out and that **CE** marking **of pyrotechnic articles** and documentation drawn up by manufacturers are available for inspection by the **competent national** authorities.

- (22) The distributor makes a pyrotechnic article available on the market after it has been placed on the market by the manufacturer or the importer and should act with due care to ensure that his handling of the pyrotechnic article does not adversely affect the compliance of the pyrotechnic article.
- (23) Any economic operator who either places a pyrotechnic article on the market under his own name or trademark or modifies a pyrotechnic article in such a way that compliance with the requirements of this Directive may be affected should be considered to be the manufacturer and should assume the obligations of the manufacturer.
- (24) Distributors and importers, being close to the market place, should be involved in market surveillance tasks carried out by the competent national authorities, and should be prepared to participate actively, providing those authorities with all necessary information relating to the pyrotechnic article concerned.

- (25) *When keeping the information required under this Directive for the identification of other economic operators, economic operators should not be required to update such information in respect of other economic operators who have either supplied them with a pyrotechnic article or to whom they have supplied a pyrotechnic article.*
- (26) It is appropriate to establish essential safety requirements for pyrotechnic articles in order to protect consumers and to prevent accidents.
- (27) Some pyrotechnic articles, particularly pyrotechnic articles for vehicles such as air bag gas generators, contain small amounts of commercial blasting agents and military explosives. Following the adoption of Directive 2007/23/EC it has become obvious that it will not be possible to replace these substances as additives in strictly combustive compositions, where they are used to enhance the energetic balance. The essential safety requirement, ■ which restricts the use of commercial blasting agents and military explosives, should therefore be modified.

- (28) In order to facilitate conformity assessment with the essential safety requirements provided for in this Directive, it is necessary to provide for a presumption of conformity for pyrotechnic articles which are in conformity with harmonised standards that are adopted in accordance with Regulation (EU) No **1025/2012** of the European Parliament and of the Council of **25 October 2012** on European Standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council<sup>1</sup> for the purpose of expressing detailed technical specifications of those requirements.
- (29) Regulation (EU) No **1025/2012** provides for a procedure for objections to harmonised standards where those standards do not entirely satisfy the requirements of this Directive.

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<sup>1</sup> OJ L 316, 14.11.2012, p. 12.

- (30) In order to enable economic operators to demonstrate and the competent authorities to ensure that pyrotechnic articles made available on the market comply with the essential safety requirements, it is necessary to provide for conformity assessment procedures. Decision *No 768/2008/EC* establishes modules for conformity assessment procedures, which include procedures from the least to the most stringent, in proportion to the level of risk involved and the level of safety required. In order to ensure intersectoral coherence and to avoid ad-hoc variants, conformity assessment procedures should be chosen from among those modules.



- (31) Manufacturers should draw up an EU declaration of conformity to provide **■** information ***required under this Directive*** on the conformity of a pyrotechnic article with the requirements of this Directive and of ***other*** relevant Union harmonisation legislation.
- (32) ***To ensure effective access to information for market surveillance purposes, the information required to identify all applicable Union acts should be available in a single EU declaration of conformity. In order to reduce the administrative burden on economic operators, that single EU declaration of conformity may be a dossier made up of relevant individual declarations of conformity.***
- (33) The CE marking, indicating the conformity of a pyrotechnic article, is the visible consequence of a whole process comprising conformity assessment in a broad sense. General principles governing the CE marking are set out in Regulation (EC) No 765/2008. Rules governing the affixing of the CE marking should be laid down in this Directive.
- (34) ***The conformity assessment procedures set out in this Directive require the intervention of conformity assessment bodies, which are notified by the Member States to the Commission.***

- (35) Experience has shown that the criteria set out in Directive 2007/23/EC that conformity assessment bodies have to fulfil to be notified to the Commission are not sufficient to ensure a uniformly high level of performance of notified bodies throughout the Union. It is, however, essential that all notified bodies perform their functions to the same level and under conditions of fair competition. That requires the setting of obligatory requirements for conformity assessment bodies wishing to be notified in order to provide conformity assessment services.
- (36) In order to ensure a consistent level of conformity assessment quality it is also necessary to set requirements for notifying authorities and other bodies involved in the assessment, notification and monitoring of notified bodies.
- (37) The system set out in this Directive should be complemented by the accreditation system provided for in Regulation (EC) No 765/2008. Since accreditation is an essential means of verifying the competence of conformity assessment bodies, it should also be used for the purposes of notification.

- (38) Transparent accreditation as provided for in Regulation (EC) No 765/2008, ensuring the necessary level of confidence in certificates of conformity, should be considered by the national public authorities throughout the Union as the preferred means of demonstrating the technical competence of conformity assessment bodies. However, national authorities may consider that they possess the appropriate means of carrying out that evaluation themselves. In such cases, in order to ensure the appropriate level of credibility of evaluations carried out by other national authorities, they should provide the Commission and the other Member States with the necessary documentary evidence demonstrating the compliance of the conformity assessment bodies evaluated with the relevant regulatory requirements.

- (39) Conformity assessment bodies frequently subcontract parts of their activities linked to the assessment of conformity or have recourse to a subsidiary. In order to safeguard the level of protection required for the pyrotechnic articles to be placed on the Union market, it is essential that conformity assessment subcontractors and subsidiaries fulfil the same requirements as notified bodies in relation to the performance of conformity assessment tasks. Therefore, it is important that the assessment of the competence and the performance of bodies to be notified and the monitoring of bodies already notified cover also activities carried out by subcontractors and subsidiaries.
- (40) It is necessary to increase the efficiency and transparency of the notification procedure and, in particular, to adapt it to new technologies so as to enable online notification.

- (41) Since notified bodies may offer their services throughout the Union, it is appropriate to give the other Member States and the Commission the opportunity to raise objections concerning a notified body. It is therefore important to provide for a period during which any doubts or concerns as to the competence of conformity assessment bodies can be clarified before they start operating as notified bodies.
- (42) In the interests of competitiveness, it is crucial that notified bodies apply the conformity assessment procedures without creating unnecessary burdens for economic operators. For the same reason, and to ensure equal treatment of economic operators, consistency in the technical application of the conformity assessment procedures needs to be ensured. That can best be achieved through appropriate coordination and cooperation between notified bodies.
- (43) *Member States should take all appropriate measures to ensure that pyrotechnic articles may be placed on the market only if, when properly stored and used for their intended purpose, or under conditions of use which can be reasonably foreseen, they do not endanger the health and safety of persons. Pyrotechnic articles should be considered as non-compliant with the essential safety requirements laid down in this Directive only under conditions of use which can be reasonably foreseen, that is when such use could result from lawful and readily predictable human behaviour.*

- (44) In order to ensure legal certainty, it is necessary to clarify that the rules on Union market surveillance and control of products entering the Union market provided for in Regulation (EC) No 765/2008 apply to pyrotechnic articles. This Directive should not prevent Member States from choosing the competent authorities to carry out those tasks.
- (45) Groups of pyrotechnic articles that are similar in design, function or behaviour should be assessed by the notified bodies as product families.

- (46) A safeguard procedure is necessary to allow the possibility for contesting the conformity of a pyrotechnic article. In order to increase transparency and to reduce processing time, it is necessary to improve the existing safeguard procedure, with a view to making it more efficient and drawing on the expertise available in Member States.
- (47) The existing system should be supplemented by a procedure under which interested parties are informed of measures intended to be taken with regard to pyrotechnic articles presenting a risk to the health or safety of persons or to other aspects of public interest protection. It should also allow market surveillance authorities, in cooperation with the relevant economic operators, to act at an earlier stage in respect of such pyrotechnic articles.
- (48) Where the Member States and the Commission agree as to the justification of a measure taken by a Member State, no further involvement of the Commission should be required, except where non-compliance can be attributed to shortcomings of a harmonised standard.

- (49) It is in the interests of the manufacturer and the importer to supply safe pyrotechnic articles in order to avoid liability costs for defective products causing damage to individuals and private property. In this regard, Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products<sup>1</sup> complements this Directive, since Directive 85/374/EEC imposes a strict liability regime on manufacturers and importers and ensures an adequate level of protection for consumers. Furthermore, Directive 85/374/EEC provides that notified bodies should be adequately insured in respect of their professional activities, unless their liability is assumed by the State in accordance with national law, or the Member State itself is directly responsible for the tests.

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<sup>1</sup> OJ L 210, 7.8.1985, p. 29.



- (50) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>1</sup>.
- (51) The advisory procedure should be used for the adoption of implementing acts requesting the notifying Member State to take the necessary corrective measures in respect of notified bodies that do not meet or no longer meet the requirements for their notification.
- (52) The examination procedure should be used *for the adoption of implementing acts determining a uniform numbering system for identification of pyrotechnic articles and the practical arrangements for a register with registration numbers of pyrotechnic articles as well as for the regular collection* and updating of data on accidents related to pyrotechnic articles.
- (53) *The examination procedure should also be used for the adoption of implementing acts with respect to compliant pyrotechnic articles which present a risk to the health or safety of persons or to other aspects of public interest protection.*
- (54) *The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to compliant pyrotechnic articles which present a risk to the health or safety of persons, imperative grounds of urgency so require.*

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<sup>1</sup> OJ L 55, 28.2.2011, p. 13.

(55) *In line with established practice, the committee set up by this Directive can play a useful role in examining matters concerning the application of this Directive raised either by its chair or by a representative of a Member State in accordance with its rules of procedure.*

(56) The Commission should, by means of implementing acts and, given their special nature, acting without the application of Regulation (EU) No 182/2011, determine whether measures taken by Member States in respect of non-compliant pyrotechnic articles are justified or not.

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(57) Member States should lay down rules on penalties applicable to infringements of the provisions of national law adopted pursuant to this Directive and ensure that those rules are **enforced**. The penalties provided for should be effective, proportionate and dissuasive.

(58) Manufacturers and importers need to be given time to exercise any rights under national rules in force before the date of application of national measures transposing this Directive in order, for example, to sell their stocks of manufactured products. It is **therefore** necessary to provide for **reasonable** transitional arrangements that allow the making available on the market **without the need to comply with further product requirements** of pyrotechnic articles that have already been placed on the market in accordance with Directive 2007/23/EC **before the date of application of national measures transposing this Directive. Distributors should therefore be able to supply pyrotechnic articles that have been placed on the market, namely stock that is already in the distribution chain, before the date of application of national measures transposing this Directive.**

- (59) *Pyrotechnic articles for vehicles are designed for vehicle life cycles and therefore require special transitional arrangements. It is necessary for such a pyrotechnic article to comply with the requirements of the law applicable at the time it is first made available on the market and for the period of the lifetime of the vehicle in which it is installed.*
- (60) *In order to ensure the uninterrupted use of certain pyrotechnic articles, in particular in the automotive industry, it is necessary to apply point 4 of Annex I from 4 July 2013.*
- (61) Since the *objective* of this Directive, namely to ensure that pyrotechnic articles on the market fulfil the requirements providing a high level of protection of health and safety and other public interests while guaranteeing the functioning of the internal market, cannot be sufficiently achieved by the Member States and can therefore, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve *that objective*.

- (62) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive *amendment* as compared to the earlier Directive. The obligation to transpose the provisions which are unchanged *arose* under Directive **2007/23/EC**.
- (63) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and the dates of application of the Directive set out in Annex IV, Part B,

HAVE ADOPTED THIS DIRECTIVE:

Chapter 1  
General provisions

Article 1  
Subject matter

1. This Directive establishes rules designed to achieve the free movement of pyrotechnic articles in the internal market while ensuring a high level of protection of human health and public security and the protection and safety of consumers and taking into account the relevant aspects related to environmental protection.
2. This Directive establishes the essential safety requirements which pyrotechnic articles *are to* fulfil with a view to their being made available on the market. *Those requirements are set out in Annex I.*

Article 2  
Scope

1. This Directive shall apply to pyrotechnic articles.
2. This Directive shall not apply to:
  - (a) pyrotechnic articles intended for non-commercial use, in accordance with national law, by the armed forces, the police or fire departments;
  - (b) equipment falling within the scope of Directive 96/98/EC;
  - (c) pyrotechnic articles intended for use in the aerospace industry;
  - (d) percussion caps intended specifically for toys falling within the scope of Directive 2009/48/EC;
  - (e) explosives falling within the scope of Directive 93/15/EEC;
  - (f) ammunition;
  - (g) fireworks *which are* built by a manufacturer for his own use and **■** approved *for use exclusively on its territory* by the Member State *in which the manufacturer is established, and which remain on the territory of that Member State*.

### Article 3 Definitions

For the purposes of this Directive, the following definitions shall apply:

- (1) ‘pyrotechnic article’ means any article containing explosive substances or an explosive mixture of substances designed to produce heat, light, sound, gas or smoke or a combination of such effects through self-sustained exothermic chemical reactions;
- (2) ‘firework’ means a pyrotechnic article intended for entertainment purposes;
- (3) ‘theatrical pyrotechnic articles’ means pyrotechnic articles designed for indoor or outdoor stage use, including film and television productions or similar use;
- (4) ‘pyrotechnic articles for vehicles’ means components of safety devices in vehicles which contain pyrotechnic substances used to activate these or other devices;
- (5) ‘ammunition’ means projectiles and propelling charges and blank ammunition used in portable firearms, other guns and artillery;

- (6) 'person with specialist knowledge' means a person authorised by a Member State to handle and/or use on its territory category *F4* fireworks, category T2 theatrical pyrotechnic articles and/or category P2 other pyrotechnic articles;
- (7) 'making available on the market' means any supply of a pyrotechnic article for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;
- (8) 'placing on the market' means the first making available of a pyrotechnic article on the Union market;
- (9) 'manufacturer' means a natural or legal person who manufactures a pyrotechnic article, or has such an article designed or manufactured, and markets that pyrotechnic article under his name or trademark;
- (10) 'importer' means any natural or legal person established within the Union who places a pyrotechnic article from a third country on the Union market;



- (11) 'distributor' means any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes a pyrotechnic article available on the market;
- (12) 'economic operators' means the manufacturer, the importer and the distributor;
- (13) 'technical specification' means a document that prescribes technical requirements to be fulfilled by a pyrotechnic article;
- (14) 'harmonised standard' means *harmonised standard* as defined in point (c) of point 1 of Article 2 of Regulation (EU) No *1025/2012*;
- (15) 'accreditation' means accreditation as defined in point 10 of Article 2 of Regulation (EC) No 765/2008;
- (16) 'national accreditation body' means national accreditation body as defined in point 11 of Article 2 of Regulation (EC) No 765/2008;

- (17) 'conformity assessment' means the process demonstrating whether the essential safety requirements *of this Directive* relating to a pyrotechnic article have been fulfilled;
- (18) 'conformity assessment body' means a body that performs conformity assessment activities including calibration, testing, certification and inspection;
- (19) 'recall' means any measure aimed at achieving the return of a pyrotechnic article that has already been made available to the end-user;
- (20) 'withdrawal' means any measure aimed at preventing a pyrotechnic article in the supply chain from being made available on the market;
- (21)** 'Union harmonisation legislation' means any Union legislation harmonising the conditions for the marketing of products;
- (22) 'CE marking' means a marking by which the manufacturer indicates that the pyrotechnic article is in conformity with the applicable requirements set out in Union harmonisation legislation providing for its affixing.

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Article 4  
Free movement

1. Member States shall not prohibit, restrict or hinder the making available on the market of pyrotechnic articles which satisfy the requirements of this Directive.
2. This Directive shall not preclude measures taken by a Member State to prohibit or restrict the possession, use and/or the sale to the general public of category **F2** and **F3** fireworks, theatrical pyrotechnic articles and other pyrotechnic articles, which are justified on grounds of public order, security, **health and** safety, or environmental protection.
3. At trade fairs, exhibitions and demonstrations for the marketing of pyrotechnic articles, Member States shall not prevent the showing and use of pyrotechnic articles not in conformity with this Directive, provided that a visible sign clearly indicates the name and date of the trade fair, exhibition or demonstration in question and the non-conformity and non-availability for sale of the pyrotechnic articles until brought into conformity. During such events, appropriate safety measures shall be taken in accordance with any requirements laid down by the competent authority of the Member State concerned.

4. Member States shall not prevent the free movement and use of pyrotechnic articles manufactured for the purpose of research, development and testing and which are not in conformity with this Directive, provided that a visible sign clearly indicates their non-conformity and non-availability for purposes other than research, development and testing.

Article 5  
Making available on the market

Member States shall take all appropriate measures to ensure that pyrotechnic articles may be made available on the market only if they satisfy the requirements of this Directive.

Article 6  
Categories of pyrotechnic articles

1. Pyrotechnic articles shall be categorised by the manufacturer according to their type of use, or their purpose and level of hazard, including their noise level. The notified bodies referred to in Article **21** shall confirm the categorisation as part of the conformity assessment procedures referred to in Article **17**.

Categorisation shall be as follows:

- (a) Fireworks:
  - (i) category **F1**: fireworks which present a very low hazard and negligible noise level and which are intended for use in confined areas, including fireworks which are intended for use inside domestic buildings;
  - (ii) category **F2**: fireworks which present a low hazard and low noise level and which are intended for outdoor use in confined areas;

- (iii) category *F3*: fireworks which present a medium hazard, which are intended for outdoor use in large open areas and whose noise level is not harmful to human health;
  - (iv) category *F4*: fireworks which present a high hazard, which are intended for use only by persons with specialist knowledge (commonly known as fireworks for professional use) and whose noise level is not harmful to human health.
- (b) Theatrical pyrotechnic articles:
- (i) category T1: pyrotechnic articles for stage use which present a low hazard;
  - (ii) category T2: pyrotechnic articles for stage use which are intended for use only by persons with specialist knowledge.

(c) Other pyrotechnic articles:

- (i) category P1: pyrotechnic articles, other than fireworks and theatrical pyrotechnic articles, which present a low hazard;
- (ii) category P2: pyrotechnic articles, other than fireworks and theatrical pyrotechnic articles, which are intended for handling or use only by persons with specialist knowledge.

2. Member States shall inform the Commission of the procedures whereby they identify and authorise persons with specialist knowledge.

Article 7  
Age limits *and other limitations*

1. Pyrotechnic articles shall not be made available on the market *to persons* below the following age limits:
  - (a) fireworks:
    - (i) category *F1*: 12 years;
    - (ii) category *F2*: 16 years;
    - (iii) category *F3*: 18 years;
  - (b) theatrical pyrotechnic articles of category T1 and other pyrotechnic articles of category P1: 18 years.



2. Member States may increase the age limits set out in paragraph 1 where justified on grounds of public order, security or **health and** safety. Member States may also lower the age limits for persons vocationally trained or undergoing such training.
3. Manufacturers, importers and distributors shall not make available on the market the following pyrotechnic articles except to persons with specialist knowledge:
  - (a) fireworks of category **F4**;
  - (b) theatrical pyrotechnic articles of category T2 and **other** pyrotechnic articles of category P2.
4. ***Other pyrotechnic articles of category P1 for vehicles, including airbag and seat belt pretensioner systems, shall not be made available to members of the general public unless those pyrotechnic articles for vehicles have been incorporated in a vehicle or a detachable vehicle part.***

Chapter 2  
Obligations of economic operators

Article 8  
Obligations of the manufacturers

1. When placing their pyrotechnic articles on the market, manufacturers shall ensure that they have been designed and manufactured in accordance with the essential safety requirements set out in Annex I.
2. Manufacturers shall draw up the technical documentation referred to in Annex II and *have* the relevant conformity assessment procedure referred to in Article 17 *carried out*.

Where compliance of a pyrotechnic article with the applicable requirements has been demonstrated by that procedure, manufacturers shall draw up an EU declaration of conformity and affix the CE marking.

3. Manufacturers shall keep the technical documentation and the EU declaration of conformity for ■ 10 years after the pyrotechnic article has been placed on the market.

4. Manufacturers shall ensure that procedures are in place for series production to remain in conformity **with this Directive**. Changes in pyrotechnic article design or characteristics and changes in the harmonised standards or in **other** technical specifications by reference to which conformity of a pyrotechnic article is declared shall be adequately taken into account.

When deemed appropriate with regard to the risks presented by a pyrotechnic article, manufacturers shall, to protect the health and safety of consumers, **upon a duly justified request of the competent authorities**, carry out sample testing of pyrotechnic articles made available on the market, investigate, and, if necessary, keep a register of complaints, of non-conforming pyrotechnic articles and pyrotechnic article recalls, and shall keep distributors informed of any such monitoring.

5. Manufacturers shall ensure that **■** pyrotechnic articles **which they have placed on the market** are labelled in accordance with Article 10 or Article 11.

6. *Manufacturers shall indicate on the pyrotechnic article their name, registered trade name or registered trade mark and the postal address at which they can be contacted or, where that is not possible, on its packaging or in a document accompanying the pyrotechnic article. The address shall indicate a single point at which the manufacturer can be contacted. The contact details shall be in a language easily understood by end-users and market surveillance authorities.*
  
7. *Manufacturers shall ensure that the pyrotechnic article is accompanied by instructions and safety information in a language which can be easily understood by consumers and other end-users, as determined by the Member State concerned. Such instructions and safety information, as well as any labelling, shall be clear, understandable and intelligible.*

8. Manufacturers who consider or have reason to believe that a pyrotechnic article which they have placed on the market is not in conformity with this Directive shall immediately take the corrective measures **necessary** to bring that pyrotechnic article into conformity, to withdraw it or recall it, if appropriate. Furthermore, where the pyrotechnic article presents a risk, manufacturers shall immediately inform the competent national authorities of the Member States in which they made the pyrotechnic article available **on the market to that effect**, giving details, in particular, of the non-compliance and of any corrective measures taken.
9. Manufacturers shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation **in paper or electronic form** necessary to demonstrate the conformity of the pyrotechnic article **with this Directive**, in a language which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by pyrotechnic articles which they have placed on the market.

**Article 9**  
**Traceability**

- 1. In order to facilitate the traceability of pyrotechnic articles, manufacturers shall label them with a registration number assigned by the notified body carrying out the conformity assessment pursuant to Article 17. The numbering shall be done in accordance with a uniform system determined by the Commission.**
  
- 2. Manufacturers and importers shall maintain records of the registration numbers of the pyrotechnic articles they make available on the market and shall make this information available to the relevant authorities upon request.**

## Article 10

### Labelling of pyrotechnic articles other than pyrotechnic articles for vehicles

1. Manufacturers shall ensure that pyrotechnic articles other than pyrotechnic articles for vehicles are labelled visibly, legibly and indelibly in the official language(s) of the Member State in which the pyrotechnic article is made available to the consumer. ***Such labelling shall be clear, understandable and intelligible.***
2. The labelling of pyrotechnic articles shall include as a minimum the ***information about*** the manufacturer ***set out in Article 8(6) and***, where the manufacturer is not established in the Union, the ***information about*** the manufacturer and ***the importer set out in Article 8(6) and Article 12(3) respectively***, the name and type of the ***pyrotechnic*** article, its registration number ***and its product, batch or serial number***, the minimum age limits set out in Article 7(1) and (2), the relevant category and instructions for use, the year of production for category ***F3*** and ***F4*** fireworks and, where appropriate, a minimum safety distance. The labelling shall include the net explosive content (NEC).

3. Fireworks shall also display the following minimum information:
- (a) category *F1*: where appropriate: ‘for outdoor use only’ and a minimum safety distance;
  - (b) category *F2*: ‘for outdoor use only’ and, where appropriate, minimum safety distance(s);
  - (c) category *F3*: ‘for outdoor use only’ and minimum safety distance(s);
  - (d) category *F4*: ‘for use only by persons with specialist knowledge’ and minimum safety distance(s).



4. Theatrical pyrotechnic articles shall also display the following minimum information:
  - (a) category T1: where appropriate: ‘for outdoor use only’ and ■ minimum safety distance(s);
  - (b) category T2: ‘for use only by persons with specialist knowledge’ and minimum safety distance(s).
5. If the pyrotechnic article does not provide sufficient space for the labelling requirements referred to in paragraphs 2, 3 and 4, the information shall be provided on the smallest piece of packaging.

Article 11  
Labelling of pyrotechnic articles for vehicles

1. The labelling of pyrotechnic articles for vehicles shall include the **information about** the manufacturer **set out in Article 8(6)**, the name and type of the **pyrotechnic** article, its registration number **and its product, batch or serial number** and, **where necessary**, the safety instructions.
2. If the **pyrotechnic** article for vehicles does not provide sufficient space for the labelling requirements referred to in paragraph 1, the information shall be provided on the packaging.
3. A safety data sheet **for the pyrotechnic article for vehicles**, compiled in accordance with Annex **II to** Regulation (EC) No 1907/2006 of the European Parliament and of the Council **of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency<sup>1</sup> and which takes into account the specific needs of professional users**, shall be supplied to those users in the language requested by them.

The safety data sheet may be supplied on paper or electronically, provided that the **professional user** has the necessary means of accessing it.

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<sup>1</sup> OJ L 396, 30.12.2006, p. 1.

Article 12  
Obligations of importers

1. Importers shall place only compliant pyrotechnic articles on the market.
2. Before placing a pyrotechnic article on the market importers shall ensure that the appropriate conformity assessment procedure referred to in Article 17 has been carried out by the manufacturer. They shall ensure that the manufacturer has drawn up the technical documentation, that the pyrotechnic article bears the CE marking **and is accompanied by the required documents**, and that the manufacturer has complied with the requirements set out in Article **8(5) and (6)**.

Where an importer considers or has reason to believe that a pyrotechnic article is not in conformity with the essential safety requirements set out in Annex I, he shall not place the pyrotechnic article on the market until it has been brought into conformity. Furthermore, where the pyrotechnic article presents a risk, the importer shall inform the manufacturer and the market surveillance authorities to that effect.

3. Importers shall indicate *on the pyrotechnic article* their name, *registered trade name or registered trade mark* and the *postal* address at which they can be contacted **█** or, where that is not possible, on its packaging or in a document accompanying the pyrotechnic article. *The contact details shall be in a language easily understood by end-users and market surveillance authorities.*
4. Importers shall ensure that the pyrotechnic article is accompanied by instructions and safety information in a language which can be easily understood by consumers and other end-users, as determined by the Member State concerned.
5. Importers shall ensure that, while a pyrotechnic article is under their responsibility, *its* storage or transport conditions do not jeopardise its compliance with the essential safety requirements set out in Annex I.

6. When deemed appropriate with regard to the risks presented by a pyrotechnic article, importers shall, to protect the health and safety of consumers, ***upon a duly justified request of the competent authorities***, carry out sample testing of pyrotechnic articles made available on the market, investigate, and, if necessary, keep a register of complaints, of non-conforming pyrotechnic articles and pyrotechnic articles recalls, and shall keep distributors informed of ***any*** such monitoring.
7. Importers who consider or have reason to believe that a pyrotechnic article which they have placed on the market is not in conformity with this Directive shall immediately take the corrective measures necessary to bring that pyrotechnic article into conformity, to withdraw it or recall it, if appropriate. Furthermore, where the pyrotechnic article presents a risk, importers shall immediately inform the competent national authorities of the Member States in which they made the pyrotechnic article available ***on the market*** to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

8. Importers shall, for **10** years after the pyrotechnic article has been placed on the market, keep a copy of the EU declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical documentation can be made available to those authorities, upon request.
9. Importers shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation *in paper or electronic form* necessary to demonstrate the conformity of a pyrotechnic article in a language which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by *pyrotechnic articles* which they have placed on the market.

Article 13  
Obligations of distributors

1. When making a pyrotechnic article available on the market distributors shall act with due care in relation to the requirements of this Directive.
2. Before making a pyrotechnic article available on the market distributors shall verify that the pyrotechnic article bears the CE marking, *that it is accompanied by the required documents*, and by instructions and safety information in a language which can be easily understood by consumers and other end-users in the Member State in which the pyrotechnic article is to be made available on the market, and that the manufacturer and the importer have complied with the requirements set out in Article *8(5) and (6)* and *Article 12(3)* respectively.

Where a distributor considers or has reason to believe that a pyrotechnic article is not in conformity with the essential safety requirements set out in Annex I, he shall not make the pyrotechnic article available on the market until it has been brought into conformity. Furthermore, where the pyrotechnic article presents a risk, the distributor shall inform the manufacturer or the importer to that effect as well as the market surveillance authorities.

3. Distributors shall ensure that, while a pyrotechnic article is under their responsibility, *its* storage or transport conditions do not jeopardise its compliance with the essential safety requirements set out in Annex I.



4. Distributors who consider or have reason to believe that a pyrotechnic article which they have made available on the market is not in conformity with this Directive shall make sure that the corrective measures necessary to bring that pyrotechnic article into conformity, to withdraw it or recall it, if appropriate, are taken. Furthermore, where the pyrotechnic article presents a risk, distributors shall immediately inform the competent national authorities of the Member States in which they made the pyrotechnic article available ***on the market*** to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.
5. Distributors shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation ***in paper or electronic form*** necessary to demonstrate the conformity of a pyrotechnic article. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by pyrotechnic articles which they have made available on the market.

## Article 14

### Cases in which obligations of manufacturers apply to importers and distributors

An importer or distributor shall be considered a manufacturer for the purposes of this Directive and he shall be subject to the obligations of the manufacturer under Article 8, where he places a pyrotechnic article on the market under his name or trademark or modifies a pyrotechnic article already placed on the market in such a way that compliance with the requirements of this Directive may be affected.

Article 15  
Identification of economic operators

Economic operators shall, on request, identify the following to the market surveillance authorities:

- (a) any economic operator who has supplied them with a pyrotechnic article;
- (b) any economic operator to whom they have supplied a pyrotechnic article.

Economic operators shall be able to present the information referred to in the first *paragraph* for a period of 10 years after they have been supplied with the pyrotechnic article and for a period of 10 years after they have supplied the pyrotechnic article.

Chapter 3  
Conformity of the pyrotechnic article

Article 16  
Presumption of conformity of pyrotechnic articles

Pyrotechnic articles which are in conformity with harmonised standards or parts thereof the references of which have been published in the *Official Journal of the European Union* shall be presumed to be in conformity with the essential safety requirements **set out in Annex I** covered by those standards or parts thereof **■** .

Article 17  
Conformity assessment procedures

For the assessment of conformity of pyrotechnic articles the manufacturer shall follow one of the following procedures referred to in Annex II:

- (a) EU-type examination (Module B), and, at the choice of the manufacturer, one of the following procedures:
  - (i) conformity to type based on internal production control plus supervised product checks at random intervals (Module C2);
  - (ii) conformity to type based on quality assurance of the production process (Module D);
  - (iii) conformity to type based on product quality assurance (Module E);

- (b) conformity based on unit verification (Module G);
- (c) conformity based on full quality assurance (Module H), insofar as it concerns fireworks of category *F4*.

#### Article 18

##### EU declaration of conformity

1. The EU declaration of conformity shall state that the fulfilment of the essential safety requirements set out in Annex I has been demonstrated.
2. The EU declaration of conformity shall ***have the model structure set out in Annex III***, shall contain the elements specified in the relevant modules set out in Annex II **■** and shall be continuously updated. It shall be translated into the language or languages required by the Member State in which **■** the pyrotechnic article is placed or made available ***on the market***.

3. Where a pyrotechnic article is subject to more than one Union act requiring an EU declaration of conformity, a single EU declaration of conformity shall be drawn up in respect of all such Union acts. That declaration shall contain the identification of the **Union** acts concerned including **their** publication references.
4. By drawing up the EU declaration of conformity, the manufacturer shall assume responsibility for the compliance of the pyrotechnic article **with the requirements laid down in this Directive**.

Article 19  
General principles of the CE marking


The CE marking shall be subject to the general principles set out in Article 30 of Regulation (EC) No 765/2008.

## Article 20

### Rules and conditions for affixing the CE marking and other markings

1. The CE marking shall be affixed visibly, legibly and indelibly to the pyrotechnic articles. Where that is not possible or not warranted on account of the nature of the pyrotechnic article, it shall be affixed to the packaging and to the accompanying documents.
2. The CE marking shall be affixed before the pyrotechnic article is placed on the market.
3. The CE marking shall be followed by the identification number of the notified body, where that body is involved in the production control phase.

The identification number of the notified body shall be affixed by the body itself or, under its instructions, by the manufacturer.

4. The CE marking and, where applicable, the identification number *of the notified body* may be followed by  any other mark indicating a special risk or use.
5. ***Member States shall build upon existing mechanisms to ensure correct application of the regime governing the CE marking and shall take appropriate action in the event of improper use of that marking.***



Chapter 4  
Notification of conformity assessment bodies

Article 21  
Notification

Member States shall notify the Commission and the other Member States of bodies authorised to carry out third-party conformity assessment tasks under this Directive.

Article 22  
Notifying authorities

1. Member States shall designate a notifying authority that shall be responsible for setting up and carrying out the necessary procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies, including compliance with Article 27.

2. Member States may decide that the assessment and monitoring referred to in paragraph 1 shall be carried out by a national accreditation body within the meaning of and in accordance with Regulation (EC) No 765/2008.

#### Article 23

##### Requirements relating to notifying authorities

1. A notifying authority shall be established in such a way that no conflict of interest with conformity assessment bodies occurs.
2. A notifying authority shall be organised and operated so as to safeguard the objectivity and impartiality of its activities.
3. A notifying authority shall be organised in such a way that each decision relating to notification of a conformity assessment body is taken by competent persons different from those who carried out the assessment.

4. A notifying authority shall not offer or provide any activities that conformity assessment bodies perform or consultancy services on a commercial or competitive basis.
5. A notifying authority shall safeguard the confidentiality of the information it obtains.
6. A notifying authority shall have a sufficient number of competent personnel at its disposal for the proper performance of its tasks.

Article 24  
Information obligation on notifying authorities

Member States shall inform the Commission of their procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies, and of any changes thereto.

The Commission shall make that information publicly available.

Article 25  
Requirements relating to notified bodies

1. For the purposes of notification, a conformity assessment body shall meet the requirements laid down in paragraphs 2 to 11.
2. A conformity assessment body shall be established under national law *of a Member State* and have legal personality.
3. A conformity assessment body shall be a third-party body independent of the organisation or the pyrotechnic article it assesses.

4. A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks shall not be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of pyrotechnic articles and/or explosive substances *nor the representative of any of those parties*. This shall not preclude the use of pyrotechnic articles and/or explosive substances that are necessary for the operations of the conformity assessment body or the use of *pyrotechnic articles* for personal purposes.

A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks shall not be directly involved in the design, manufacture or construction, the marketing, installation, use or maintenance of pyrotechnic articles and/or explosive substances, or represent the parties engaged in those activities. They shall not engage in any activity that may conflict with their independence of judgement or integrity in relation to conformity assessment activities for which they are notified. This shall in particular apply to consultancy services.

Conformity assessment bodies shall ensure that the activities of their subsidiaries or subcontractors do not affect the confidentiality, objectivity or impartiality of their conformity assessment activities.

5. Conformity assessment bodies and their personnel shall carry out the conformity assessment activities with the highest degree of professional integrity and the requisite technical competence in the specific field and shall be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their conformity assessment activities, especially as regards persons or groups of persons with an interest in the results of those activities.
6. A conformity assessment body shall be capable of carrying out all the conformity assessment tasks assigned to it by *Annex II* and in relation to which it has been notified, whether those tasks are carried out by the conformity assessment body itself or on its behalf and under its responsibility.

At all times and for each conformity assessment procedure and each kind or category of *pyrotechnic articles* in relation to which it has been notified, a conformity assessment body shall have at its disposal the necessary:

- (a) personnel with technical knowledge and sufficient and appropriate experience to perform the conformity assessment tasks;
- (b) descriptions of procedures in accordance with which conformity assessment is carried out, ensuring the transparency and the ability of reproduction of those procedures. It shall have appropriate policies and procedures in place that distinguish between tasks it carries out as a notified body and other activities;
- (c) procedures for the performance of activities which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

*A conformity assessment body* shall have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and shall have access to all necessary equipment or facilities.

7. The personnel responsible for carrying out conformity assessment *tasks* shall have the following:
  - (a) sound technical and vocational training covering all the conformity assessment activities in relation to which the conformity assessment body has been notified;
  - (b) satisfactory knowledge of the requirements of the assessments they carry out and adequate authority to carry out those assessments;



- (c) appropriate knowledge and understanding of the essential safety requirements set out in Annex I, of the applicable harmonised standards and of the relevant provisions of Union harmonisation legislation and of national legislation;
- (d) the ability to draw up certificates, records and reports demonstrating that assessments have been carried out.

8. The impartiality of the conformity assessment bodies, their top level management and of the personnel responsible for carrying out the conformity assessment tasks shall be guaranteed.

The remuneration of the top level management and personnel responsible for carrying out the conformity assessment tasks of a conformity assessment body shall not depend on the number of assessments carried out or on the results of those assessments.

9. Conformity assessment bodies shall take out liability insurance unless liability is assumed by the State in accordance with national law, or the Member State itself is directly responsible for the conformity assessment.
10. The personnel of a conformity assessment body shall observe professional secrecy with regard to all information obtained in carrying out their tasks under *Annex II* or any provision of national law giving effect to it, except in relation to the competent authorities of the Member State in which its activities are carried out. Proprietary rights shall be protected.
11. Conformity assessment bodies shall participate in, or ensure that their personnel responsible for carrying out the conformity assessment tasks are informed of, the relevant standardisation activities and the activities of the notified body coordination group established under the relevant Union harmonisation legislation and *shall* apply as general guidance the administrative decisions and documents produced as a result of the work of that group.

Article 26  
Presumption of conformity of notified bodies

Where a conformity assessment body demonstrates its conformity with the criteria laid down in the relevant harmonised standards or parts thereof the references of which have been published in the *Official Journal of the European Union* it shall be presumed to comply with the requirements set out in Article 25 in so far as the applicable harmonised standards cover those requirements.

Article 27  
Subsidiaries of and subcontracting by notified bodies

1. Where a notified body subcontracts specific tasks connected with conformity assessment or has recourse to a subsidiary, it shall ensure that the subcontractor or the subsidiary meets the requirements set out in Article 25 and shall inform the notifying authority accordingly.
2. Notified bodies shall take full responsibility for the tasks performed by subcontractors or subsidiaries wherever these are established.

3. Activities may be subcontracted or carried out by a subsidiary only with the agreement of the client.
4. Notified bodies shall keep at the disposal of the notifying authority the relevant documents concerning the assessment of the qualifications of the subcontractor or the subsidiary and the work carried out by them under *Annex II*.

Article 28  
Application for notification

1. A conformity assessment body shall submit an application for notification to the notifying authority of the Member State in which it is established.
2. **The application for notification** shall be accompanied by a description of the conformity assessment activities, the conformity assessment module or modules and the *pyrotechnic article or articles* for which that body claims to be competent, as well as by an accreditation certificate, where one exists, issued by a national accreditation body attesting that the conformity assessment body fulfils the requirements laid down in Article 25.

3. Where the conformity assessment body concerned cannot provide an accreditation certificate, it shall provide the notifying authority with all the documentary evidence necessary for the verification, recognition and regular monitoring of its compliance with the requirements laid down in Article 25.

Article 29  
Notification procedure

1. Notifying authorities may notify only conformity assessment bodies which have satisfied the requirements laid down in Article 25.
2. They shall notify the Commission and the other Member States using the electronic notification tool developed and managed by the Commission.
3. The notification shall include full details of the conformity assessment activities, the conformity assessment module or modules and *pyrotechnic article or articles* concerned and the relevant attestation of competence.

4. Where a notification is not based on an accreditation certificate as referred to in Article 28(2), the notifying authority shall provide the Commission and the other Member States with documentary evidence which attests to the conformity assessment body's competence and the arrangements in place to ensure that that body will be monitored regularly and will continue to satisfy the requirements laid down in Article 25.
5. The body concerned may perform the activities of a notified body only where no objections are raised by the Commission or the other Member States within two weeks of a notification where an accreditation certificate is used or within two months of a notification where accreditation is not used.

Only such a body shall be considered a notified body for the purposes of this Directive.

6. The notifying authority shall notify the Commission and the other Member States of any subsequent relevant changes to the notification.

Article 30  
Identification numbers and lists of notified bodies

1. The Commission shall assign an identification number to a notified body.  
It shall assign a single such number even where the body is notified under several Union acts.
2. The Commission shall make publicly available the list of the bodies notified under this Directive, including the identification numbers that have been *assigned* to them and the activities for which they have been notified.

The Commission shall ensure that *the* list is kept up to date.

Article 31  
Changes to notifications

1. Where a notifying authority has ascertained or has been informed that a notified body no longer meets the requirements laid down in Article 25 or that it is failing to fulfil its obligations, the notifying authority shall restrict, suspend or withdraw notification as appropriate, depending on the seriousness of the failure to meet those requirements or fulfil those obligations. It shall immediately inform the Commission and the other Member States accordingly.
2. In the event of restriction, suspension or withdrawal of notification, or where the notified body has ceased its activity, the notifying Member State shall take appropriate steps to ensure that the files of that body are either processed by another notified body or kept available for the responsible notifying and market surveillance authorities at their request.



Article 32  
Challenge of the competence of notified bodies

1. The Commission shall investigate all cases where it doubts, or doubt is brought to its attention regarding, the competence of a notified body or the continued fulfilment by a notified body of the requirements and responsibilities to which it is subject.
2. The notifying Member State shall provide the Commission, on request, with all information relating to the basis for the notification or the maintenance of the competence of the *notified* body concerned.
3. The Commission shall ensure that all sensitive information obtained in the course of its investigations is treated confidentially.
4. Where the Commission ascertains that a notified body does not meet or no longer meets the requirements for its notification, it shall ***adopt an implementing act requesting*** the notifying Member State **█** to take the necessary corrective measures, including withdrawal of notification if necessary.

***That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 44(2).***

Article 33  
Operational obligations of notified bodies

1. Notified bodies shall carry out conformity assessments in accordance with the conformity assessment procedures provided for in *Annex II*.
2. Conformity assessments shall be carried out in a proportionate manner, avoiding unnecessary burdens for economic operators. Conformity assessment bodies shall perform their activities taking due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

In so doing they shall nevertheless respect the degree of rigour and the level of protection required for the compliance of the pyrotechnic article with the requirements of this Directive.

3. *Notified bodies carrying out conformity assessments shall assign registration numbers, identifying pyrotechnic articles which have been subject to a conformity assessment and their manufacturers, and shall maintain a register with the registration numbers of pyrotechnic articles for which they have issued certificates.*
4. Where a notified body finds that essential safety requirements set out in Annex I or corresponding harmonised standards or other technical specifications have not been met by a manufacturer, it shall require that manufacturer to take appropriate corrective measures and shall not issue a certificate of conformity.
5. Where, in the course of the monitoring of conformity following the issue of a certificate, a notified body finds that a pyrotechnic article no longer complies, it shall require the manufacturer to take appropriate corrective measures and shall suspend or withdraw the certificate if necessary.

6. Where corrective measures are not taken or do not have the required effect, the notified body shall restrict, suspend or withdraw any certificates, as appropriate.

Article 34  
Appeal against decisions of notified bodies

Member States shall ensure that an appeal procedure against decisions of the notified bodies is available.

Article 35  
Information obligation on notified bodies

1. Notified bodies shall inform the notifying authority of the following:
  - (a) any refusal, restriction, suspension or withdrawal of a certificate;
  - (b) any circumstances affecting the scope of or conditions for notification;

- (c) any request for information which they have received from market surveillance authorities regarding conformity assessment activities;
  - (d) on request, conformity assessment activities performed within the scope of their notification and any other activity performed, including cross-border activities and subcontracting.
2. Notified bodies shall provide the other bodies notified under this Directive carrying out similar conformity assessment activities covering the same *pyrotechnic articles* with relevant information on issues relating to negative and, on request, positive conformity assessment results.

Article 36  
Exchange of experience

The Commission shall provide for the organisation of exchange of experience between the Member States' national authorities responsible for notification policy.

Article 37  
Coordination of notified bodies

The Commission shall ensure that appropriate coordination and cooperation between bodies notified under this Directive are put in place and properly operated in the form of a forum of notified bodies.

Member States shall ensure that the bodies notified by them participate in the work of that forum, directly or by means of designated representatives.

Chapter 5  
Union market surveillance, control of pyrotechnic articles entering  
the Union market and Union safeguard procedure

Article 38

Union market surveillance and control of *pyrotechnic articles* entering the Union market

1. ***Member States shall take all appropriate measures to ensure that pyrotechnic articles may be placed on the market only if, when properly stored and used for their intended purpose, they do not endanger the health and safety of persons.***
2. Article 15(3) and Articles 16 to 29 of Regulation (EC) No 765/2008 shall apply to pyrotechnic articles.
3. Member States shall inform the Commission annually about their market surveillance activities.

## Article 39

### Procedure for dealing with pyrotechnic articles presenting a risk at national level

1. Where the market surveillance authorities of one Member State have **■** sufficient reasons to believe that a pyrotechnic article presents a risk to the health or safety of persons or to other aspects of public interest protection covered by this Directive, they shall carry out an evaluation in relation to the pyrotechnic article concerned covering all **relevant** requirements laid down in this Directive. The relevant economic operators shall cooperate as necessary with the market surveillance authorities **for that purpose**.

Where, in the course of **the** evaluation **referred to in the first subparagraph**, the market surveillance authorities find that the pyrotechnic article does not comply with the requirements laid down in this Directive, they shall without delay require the relevant economic operator to take all appropriate corrective **actions** to bring the pyrotechnic article into compliance with those requirements, to withdraw the pyrotechnic article from the market, or to recall it within a reasonable period, commensurate with the nature of the risk, as they may prescribe.



The market surveillance authorities shall inform the relevant notified body accordingly.

Article 21 of Regulation (EC) No 765/2008 shall apply to the measures referred to in the second subparagraph *of this paragraph*.

2. Where the market surveillance authorities consider that non-compliance is not restricted to their national territory, they shall inform the Commission and the other Member States of the results of the evaluation and of the actions which they have required the economic operator to take.
3. The economic operator shall ensure that all appropriate corrective action is taken in respect of all the pyrotechnic articles concerned that it has made available on the market throughout the Union.

4. Where the relevant economic operator does not take adequate corrective action within the period referred to in the second subparagraph of paragraph 1, the market surveillance authorities shall take all appropriate provisional measures to prohibit or restrict the pyrotechnic articles being made available on their national market, to withdraw the pyrotechnic article from that market or to recall it.

The market surveillance authorities shall inform the Commission and the other Member States, without delay, of those measures.

5. The information referred to in *the second subparagraph of* paragraph 4 shall include all available details, in particular the data necessary for the identification of the non-compliant pyrotechnic article, the origin of the pyrotechnic article, the nature of the non-compliance alleged and the risk involved, the nature and duration of the national measures taken and the arguments put forward by the relevant economic operator. In particular, the market surveillance authorities shall indicate whether the non-compliance is due to either of the following:

- (a) failure of the pyrotechnic article to meet requirements relating to the health or safety of persons or to other aspects of public interest protection laid down in this Directive; or
  - (b) shortcomings in the harmonised standards referred to in Article 16 conferring a presumption of conformity.
6. Member States other than the Member State initiating the procedure *under this Article* shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the pyrotechnic article concerned, and, in the event of disagreement with the *adopted* national measure, of their objections.
7. Where, within three months of receipt of the information referred to in the second subparagraph of paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified.

8. Member States shall ensure that appropriate restrictive measures, *such as withdrawal of the pyrotechnic article from the market*, are taken in respect of the pyrotechnic article concerned without delay.

#### Article 40

#### Union safeguard procedure

1. Where on completion of the procedure set out in Article 39(3) and (4), objections are raised against measures taken by a Member State, or where the Commission considers that such measures are contrary to Union legislation, the Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators and shall evaluate the national measure. On the basis of the results of that evaluation, the Commission shall *adopt an implementing act determining* whether the national measure is justified or not.

The Commission shall address its decision to all Member States and shall immediately communicate it to them and the relevant economic operator or operators.

2. If the national measure is considered justified, all Member States shall take the necessary measures to ensure that the non-compliant *pyrotechnic* article is withdrawn from their national market and shall inform the Commission accordingly. If the national measure is considered unjustified, the Member State concerned shall withdraw *that* measure.
3. Where the national measure is considered justified and the non-compliance of the pyrotechnic article is attributed to a shortcoming in the harmonised standards referred to in *point (b) of Article 39(5)* of this Directive, the Commission shall apply the procedure provided for in Article *11* of Regulation (EU) No *1025/2012*.

## Article 41

### Compliant pyrotechnic articles which present a risk to health or safety

1. Where, having *carried out* an evaluation under Article 39(1), a Member State finds that although a pyrotechnic article is in compliance with this Directive, it presents a risk to the health or safety of persons or to other aspects of public interest protection, it shall require the relevant economic operator to take all appropriate measures to ensure that the pyrotechnic article concerned, when placed on the market, no longer presents that risk, to withdraw the pyrotechnic article from the market or to recall it within a reasonable period, commensurate with the nature of the risk, as it may prescribe.
2. The economic operator shall ensure that corrective action is taken in respect of all the pyrotechnic articles concerned that he has made available on the market throughout the Union.

3. The Member State shall immediately inform the Commission and the other Member States. That information shall include all available details, in particular the data necessary for the identification of the pyrotechnic article concerned, the origin and the supply chain of the pyrotechnic article, the nature of the risk involved and the nature and duration of the national measures taken.
4. The Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators and shall evaluate the national measures taken. On the basis of the results of that evaluation, the Commission shall decide **by means of implementing acts** whether the **national** measure is justified or not, and where necessary, propose appropriate measures.

*The implementing acts referred to in the first subparagraph shall be adopted in accordance with the examination procedure referred to in Article 44(3).*

*On duly justified imperative grounds of urgency relating to the protection of health and safety of persons, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 44(4).*

5. The Commission shall address its decision to all Member States and shall immediately communicate it to them and the relevant economic operator or operators.

Article 42  
Formal non-compliance

1. Without prejudice to Article 39, where a Member State makes one of the following findings, it shall require the relevant economic operator to put an end to the non-compliance concerned:
  - (a) the CE marking has been affixed in violation of Article 30 of Regulation (EC) No 765/2008 or of Article 20 of this Directive;
  - (b) the CE marking has not been affixed;
  - (c) *the identification number of the notified body, where that body is involved in the production control phase, has been affixed in violation of Article 20 or has not been affixed;*
  - (d) the EU declaration of conformity has not been drawn up;
  - (e) the EU declaration of conformity has not been drawn up correctly;
  - (f) technical documentation is either not available or not complete;



- (g) *the information referred to in Article 8(6) or Article 12(3) is absent, false or incomplete;*
- (h) *any other administrative requirement provided for in Article 8 or Article 12 is not fulfilled.*

2. Where the non-compliance referred to in paragraph 1 persists, the Member State concerned shall take all appropriate measures to restrict or prohibit the pyrotechnic article being made available on the market or ensure that it is recalled or withdrawn from the market.

## Chapter 6

### ■ Implementing powers

■

## Article 43

### Implementing acts

The Commission shall, *by means of* implementing acts, determine ■ :

- (a) *the uniform numbering system referred to in Article 9(1) and the practical arrangements for the register referred to in Article 33(3);*
- (b) *the practical arrangements* for the regular collection and updating of data on accidents related to pyrotechnic articles.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(3).

Article 44  
Committee procedure

1. The Commission shall be assisted by the Committee on Pyrotechnic Articles. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. ***Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.***
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
4. ***Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.***
5. ***The committee shall be consulted by the Commission on any matter for which consultation of sectoral experts is required by Regulation (EU) No 1025/2012 or by any other Union legislation.***

***The committee may furthermore examine any other matter concerning the application of this Directive raised either by its chair or by a representative of a Member State in accordance with its rules of procedure.***

Chapter 7  
Transitional and final provisions

Article 45  
Penalties

Member States shall lay down rules on penalties applicable to infringements *by economic operators* of the provisions of national law adopted pursuant to this Directive and shall take all the measures necessary to ensure that they are enforced. *Such rules may include criminal penalties for serious infringements.*

The penalties provided for shall be effective, proportionate and dissuasive.

■

Article 46  
Transitional provisions

1. Member States shall not impede the making available on the market of pyrotechnic articles which are in conformity with Directive 2007/23/EC and which were placed on the market before ...\*.
2. National authorisations for fireworks of categories *F1*, *F2* and *F3* granted before 4 July 2010 shall continue to be valid on the territory of the Member State having granted the authorisation until their expiry date or until 4 July 2017, whichever is earlier.

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\* OJ: Please insert date: day after two years after entry into force of this Directive.

3. National authorisations for other pyrotechnic articles, for fireworks of category *F4* and for theatrical pyrotechnic articles granted before 4 July 2013 shall continue to be valid on the territory of the Member State having granted the authorisation until their expiry date or until 4 July 2017, whichever is earlier.
4. By way of derogation from paragraph 3, national authorisations for pyrotechnic articles for vehicles, *including as spare parts*, granted before 4 July 2013 shall continue to be valid until their expiry.
5. Certificates ■ issued under Directive 2007/23/EC shall be valid under this Directive ■ .

Article 47  
Transposition

1. Member States shall adopt and publish, by ...<sup>\*</sup>, the laws, regulations and administrative provisions necessary to comply with Article 3(7), (12), (13) and (15) to (22), Article 4(1), Article 5, Article 7(4), Article 8(2) to (9), Article 9, Article 10(2), Article 11(1) and (3), Articles 12 to 16, Articles 18 to 29, Articles 31 to 35, Article 37, Article 38(1) and (2), Articles 39 to 42, Article 45, Article 46 and Annexes I, II **and III**. They shall forthwith communicate **■** the text of those *measures to the Commission*.

They shall apply those measures from ...<sup>\*\*</sup>.

2. ***By way of derogation from paragraph 1, Member States shall adopt and publish by 3 October 2013 the laws, regulations and administrative provisions necessary to comply with point 4 of Annex I. They shall forthwith communicate the text of those measures to the Commission. They shall apply those measures from 4 July 2013.***

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<sup>\*</sup> OJ: Please insert date: two years after entry into force of this Directive.

<sup>\*\*</sup> OJ: Please insert date: day after two years after entry into force of this Directive.

3. When Member States adopt the *measures referred to in paragraphs 1 and 2*, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is formulated.
4. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 48  
Repeal

Directive 2007/23/EC, as amended by the act listed in Annex IV, Part A, is repealed with effect from ...\*, without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and the dates of application of the Directive set out in Annex IV, Part B.

***By way of derogation from the first paragraph of this Article, point 4 of Annex I to Directive 2007/23/EC is repealed with effect from 4 July 2013.***

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex V.

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\* OJ: Please insert date: day after two years after entry into force of this Directive.



Article 49  
Entry into force and application

This Directive shall enter into force on the **█** day following *that of* its publication in the *Official Journal of the European Union*.

Article 1, Article 2, Article 3(1) to (6), (8) to (11) and (14), Article 4(2), (3) and (4), Article 6, Article 7(1), (2) and (3), Article 8(1), Article 10(1), (3) and (4), Article 11(2), Articles 17, 30 and 36, Article 38(3), Articles 43 and ~~44~~ and Annexes IV and V shall apply from ...<sup>\*</sup>.

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\* OJ: Please insert date: day after two years after entry into force of this Directive.

Article 50  
Addressees

This Directive is addressed to the Member States.

[...],

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## ANNEX I

### ESSENTIAL SAFETY REQUIREMENTS

1. Each pyrotechnic article must attain the performance characteristics specified by the manufacturer to the notified body in order to ensure maximum safety and reliability.
2. Each pyrotechnic article must be designed and manufactured in such a way that it can be disposed of safely by a suitable process with minimum effect on the environment.
3. Each pyrotechnic article must function correctly when used for its intended purpose.

Each pyrotechnic article must be tested under realistic conditions. If this is not possible in a laboratory, the tests must be carried out in the conditions in which the pyrotechnic article is to be used.

The following information and properties — where applicable — must be considered or tested:

- (a) design, construction and characteristic properties, including detailed chemical composition (mass and percentage of substances used) and dimensions;
- (b) the physical and chemical stability of the pyrotechnic article in all normal, foreseeable environmental conditions;
- (c) sensitivity to normal, foreseeable handling and transportation;
- (d) compatibility of all components as regards their chemical stability;
- (e) resistance of the pyrotechnic article to moisture where it is intended to be used in humid or wet conditions and where its safety or reliability may be adversely affected by moisture;
- (f) resistance to low and high temperatures, where the pyrotechnic article is intended to be kept or used at such temperatures and its safety or reliability may be adversely affected by cooling or heating of a component or of the pyrotechnic article as a whole;

- (g) safety features intended to prevent untimely or inadvertent initiation or ignition;
- (h) suitable instructions and, where necessary, markings in respect of safe handling, storage, use (including safety distances) and disposal **■** ;
- (i) the ability of the pyrotechnic article, its wrapping or other components to withstand deterioration under normal, foreseeable storage conditions;
- (j) specification of all devices and accessories needed and operating instructions for safe functioning of the pyrotechnic article.

During transportation and normal handling, unless specified by the manufacturer's instructions, the pyrotechnic articles should contain the pyrotechnic composition.

4. Pyrotechnic articles must not contain detonative explosives other than black powder and flash composition, except for pyrotechnic articles of categories P1, P2, T2 and fireworks of category *F4* meeting the following conditions:
  - (a) the detonative explosive cannot be easily extracted from the pyrotechnic article;
  - (b) for category P1, the pyrotechnic article cannot function in a detonative manner, or cannot, *as designed and manufactured*, initiate secondary explosives;
  - (c) for categories *F4*, T2 and P2, the pyrotechnic article is designed and intended not to function in a detonative manner, or, if designed to detonate, it cannot *as designed and manufactured* initiate secondary explosives.
5. The various groups of pyrotechnic articles must at least also comply with the following requirements:

## A. FIREWORKS

1. The manufacturer must assign fireworks to different categories according to Article 6 characterised by net explosive content, safety distances, noise level, or similar. The category must be clearly indicated on the label.

(a) For category *F1* fireworks, the following conditions must be met:

- (i) the safety distance must be at least 1 m. However, where appropriate the safety distance may be less,
- (ii) the maximum noise level must not exceed 120 dB (A, imp), or an equivalent noise level as measured by another appropriate method, at the safety distance,
- (iii) category *F1* must not comprise bangers, banger batteries, flash bangers and flash banger batteries,

- (iv) throwdowns in category *F1* must not contain more than 2,5 mg silver fulminate.
- (b) For category *F2* fireworks, the following conditions must be met:
  - (i) the safety distance must be at least 8 m. However, where appropriate the safety distance may be less,
  - (ii) the maximum noise level must not exceed 120 dB (A, imp), or an equivalent noise level as measured by another appropriate method, at the safety distance.
- (c) For category *F3* fireworks, the following conditions must be met:
  - (i) the safety distance must be at least 15 m. However, where appropriate the safety distance may be less,
  - (ii) the maximum noise level must not exceed 120 dB (A, imp), or an equivalent noise level as measured by another appropriate method, at the safety distance.



2. Fireworks may only be constructed of materials which minimise risk to health, property and the environment from debris.
3. The method of ignition must be clearly visible or must be indicated by labelling or instructions.
4. Fireworks must not move in an erratic and unforeseeable manner.
5. Fireworks of categories *F1*, *F2* and *F3* must be protected against inadvertent ignition either by a protective cover, by the packaging, or by the construction of the pyrotechnic article. Fireworks of category *F4* must be protected against inadvertent ignition by methods specified by the manufacturer.

## B. OTHER PYROTECHNIC ARTICLES

1. Pyrotechnic articles must be designed in such a way as to minimise risk to health, property and the environment during normal use.
2. The method of ignition must be clearly visible or must be indicated by labelling or instructions.
3. The pyrotechnic article must be designed in such a way as to minimise risk to health, property and the environment from debris when initiated inadvertently.
4. Where appropriate, the pyrotechnic article must function properly until the 'use by' date specified by the manufacturer.

## C. IGNITION DEVICES

1. Ignition devices must be capable of being reliably initiated and be of sufficient initiation capability under all normal, foreseeable conditions of use.
2. Ignition devices must be protected against electrostatic discharge under normal, foreseeable conditions of storage and use.
3. Electric igniters must be protected against electromagnetic fields under normal, foreseeable conditions of storage and use.
4. The covering of fuses must be of adequate mechanical strength and adequately protect the explosive filling when exposed to normal, foreseeable mechanical stress.

5. The parameters for the burning times of fuses must be provided with the pyrotechnic article.
6. The electrical characteristics (e.g. no-fire current, resistance, etc.) of electric igniters must be provided with the pyrotechnic article.
7. The wires of electric igniters must be sufficiently insulated and must be of sufficient mechanical strength, including the solidity of the link to the igniter, taking account of their intended use.

## ANNEX II

### CONFORMITY ASSESSMENT PROCEDURES

#### MODULE B:

#### EU-TYPE EXAMINATION

1. EU-type examination is the part of a conformity assessment procedure in which a notified body examines the technical design of a pyrotechnic article and verifies and attests that the technical design of the pyrotechnic article meets the requirements of this Directive ***that apply to it***.
2. EU-type examination shall be carried out as an ***assessment of the adequacy of the technical design of the pyrotechnic article through examination of the technical documentation and supporting evidence referred to in point 3, plus*** examination of a specimen, representative of the production envisaged, of the complete product (***combination of production type and design type***).

3. The manufacturer shall lodge an application for EU-type examination with a single notified body of his choice.

The application *shall* include:

- (a) the name and address of the manufacturer;
- (b) a written declaration that the same application has not been lodged with any other notified body;
- (c) the technical documentation. The technical documentation shall make it possible to assess the pyrotechnic article's conformity with the applicable requirements of this Directive and shall include an adequate analysis and assessment of the risk(s). The technical documentation shall specify the applicable requirements and cover, as far as relevant for the assessment, the design, manufacture and operation of the pyrotechnic article. The technical documentation shall contain, wherever applicable, at least the following elements:

- (i) a general description of the pyrotechnic article;
- (ii) conceptual design and manufacturing drawings and schemes of **■** components, sub-assemblies, circuits, *etc.*;
- (iii) descriptions and explanations necessary for the understanding of those drawings and schemes and the operation of the pyrotechnic article;
- (iv) a list of the harmonised standards ***applied in full or in part***, the references of which have been published in the *Official Journal of the European Union* **and, where those harmonised standards have not been** applied, **■** descriptions of the solutions adopted to meet the essential safety requirements of this Directive ***including a list of other relevant technical specifications applied***. In the case of partly applied harmonised standards, the technical documentation shall specify the parts which have been applied;

- (v) results of design calculations made, examinations carried out, etc.;
- (vi) test reports;
- (d) the specimens representative of the production envisaged. The notified body may request further specimens if needed for carrying out the test programme;
- (e) the supporting evidence for the adequacy of the technical design solution. This supporting evidence shall mention any documents that have been used, in particular where the relevant harmonised standards ■ have not been applied in full. The supporting evidence shall include, where necessary, the results of tests carried out *in accordance with other relevant technical specifications* by the appropriate laboratory of the manufacturer, or by another testing laboratory on his behalf and under his responsibility.



4. The notified body shall:

For the pyrotechnic article:

4.1 Examine the technical documentation and supporting evidence to assess the adequacy of the technical design of the pyrotechnic article.

For the specimen(s):

4.2 Verify that the specimen(s) have been manufactured in conformity with the technical documentation, and identify the elements which have been designed in accordance with the applicable provisions of the relevant harmonised standards **■**, as well as the elements which have been designed ***in accordance with other relevant technical specifications***;

- 4.3 Carry out appropriate examinations and tests, or have them carried out, to check whether, where the manufacturer has chosen to apply the solutions in the relevant harmonised standards ■, these have been applied correctly;
- 4.4 Carry out appropriate examinations and tests, or have them carried out, to check whether, where the solutions in the relevant harmonised standards ■ have not been applied, the solutions adopted by the manufacturer, *including those in other relevant technical specifications applied*, meet the corresponding essential safety requirements of this Directive;
- 4.5 Agree with the manufacturer on a location where the examinations and tests will be carried out.

5. The notified body shall draw up an evaluation report that records the activities undertaken in accordance with point 4 and their outcomes. Without prejudice to its obligations vis-à-vis the notifying authorities, the notified body shall release the content of that report, in full or in part, only with the agreement of the manufacturer.
6. Where the type meets the requirements of *this Directive* that apply to the pyrotechnic article concerned, the notified body shall issue an EU-type examination certificate to the manufacturer. That certificate shall contain the name and address of the manufacturer, the conclusions of the examination, the conditions (if any) for its validity and the necessary data for identification of the approved type. The EU-type examination certificate may have one or more annexes attached.

The EU-type examination certificate and its annexes shall contain all relevant information to allow the conformity of manufactured pyrotechnic articles with the examined type to be evaluated and to allow for in-service control.

Where the type does not satisfy the applicable requirements of this Directive, the notified body shall refuse to issue an EU-type examination certificate and shall inform the applicant accordingly, giving detailed reasons for its refusal.

7. The notified body shall keep itself *apprised* of any changes in the generally acknowledged state of the art which indicate that the approved type may no longer comply with the applicable requirements of this Directive, and shall determine whether such changes require further investigation. If so, the notified body shall inform the manufacturer accordingly.

The manufacturer shall inform the notified body that holds the technical documentation relating to the EU-type examination certificate of all modifications to the approved type that may affect the conformity of the pyrotechnic article with the essential safety requirements of this Directive or the conditions for validity of that certificate. Such modifications shall require additional approval in the form of an addition to the original EU-type examination certificate.

8. Each notified body shall inform its notifying authorities concerning the EU-type examination certificates and/or any additions thereto which it has issued or withdrawn, and shall, periodically or upon request, make available to its notifying authorities the list of such certificates and/or any additions thereto refused, suspended or otherwise restricted.

Each notified body shall inform the other notified bodies concerning the EU-type examination certificates and/or any additions thereto which it has refused, withdrawn, suspended or otherwise restricted, and, upon request, concerning such certificates and/or additions thereto which it has issued.

The Commission, the Member States and the other notified bodies may, on request, obtain a copy of the EU-type examination certificates and/or additions thereto. On request, the Commission and the Member States may obtain a copy of the technical documentation and the results of the examinations carried out by the notified body. The notified body shall keep a copy of the EU-type examination certificate, its annexes and additions, as well as the technical file including the documentation submitted by the manufacturer, until the expiry of the validity of that certificate.

9. The manufacturer shall keep a copy of the EU-type examination certificate, its annexes and additions together with the technical documentation at the disposal of the national authorities for 10 years after the pyrotechnic article has been placed on the market.

## MODULE C2:

### CONFORMITY TO TYPE BASED ON INTERNAL PRODUCTION CONTROL PLUS SUPERVISED PRODUCT CHECKS AT RANDOM INTERVALS

1. Conformity to type based on internal production control plus supervised product checks at random intervals is the part of a conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in points 2, 3 and 4, and ensures and declares on his sole responsibility that the pyrotechnic articles concerned are in conformity with the type described in the EU-type examination certificate and satisfy the requirements of this Directive *that apply to them*.

#### 2. Manufacturing

The manufacturer shall take all measures necessary so that the manufacturing process and its monitoring ensure conformity of the manufactured *pyrotechnic articles* with the type described in the EU-type examination certificate and with the requirements of this Directive that apply to them.

### 3. Product checks

A notified body, chosen by the manufacturer, shall carry out product checks or have them carried out at random intervals determined by the body, in order to verify the quality of the internal checks on the pyrotechnic article, taking into account, inter alia, the technological complexity of the pyrotechnic articles and the quantity of production. An adequate sample of the final products, taken on site by the notified body before the placing on the market, shall be examined and appropriate tests as identified by the relevant parts of the harmonised standards and/or equivalent tests ***set out in other relevant technical specifications***, shall be carried out to check the conformity of the pyrotechnic article with the type described in the EU-type examination certificate and with the relevant requirements of this Directive. Where a sample does not conform to the acceptable quality level, the body shall take appropriate measures.

The acceptance sampling procedure to be applied is intended to determine whether the manufacturing process of the pyrotechnic article performs within acceptable limits, with a view to ensuring conformity of the pyrotechnic article.



■ The manufacturer shall, under the responsibility of the notified body, affix the notified body's identification number during the manufacturing process.

4. *CE* marking and *EU* declaration of conformity

4.1 The manufacturer shall affix the *CE* marking ■ to each individual pyrotechnic article that is in conformity with the type described in the EU-type examination certificate and satisfies the applicable requirements of this Directive.

4.2 The manufacturer shall draw up a written *EU* declaration of conformity for *each product model* and keep it at the disposal of the national authorities for 10 years after the pyrotechnic article has been placed on the market. The *EU* declaration of conformity shall identify the pyrotechnic article for which it has been drawn up.

A copy of the *EU* declaration of conformity shall be made available to the relevant authorities upon request.

## MODULE D:

### CONFORMITY TO TYPE BASED ON QUALITY ASSURANCE OF THE PRODUCTION PROCESS

1. Conformity to type based on quality assurance of the production process is the part of a conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in points 2 and 5, and ensures and declares on his sole responsibility that the pyrotechnic articles concerned are in conformity with the type described in the EU-type examination certificate and satisfy the requirements of this Directive *that apply to them*.

#### 2. Manufacturing

The manufacturer shall operate an approved quality system for production, final product inspection and testing of the pyrotechnic articles concerned as specified in point 3 and shall be subject to surveillance as specified in point 4.

3. Quality system

3.1 The manufacturer shall lodge an application for assessment of his quality system with the notified body of his choice for the pyrotechnic articles concerned.

The application shall include:

- (a) the name and address of the manufacturer;
- (b) a written declaration that the same application has not been lodged with any other notified body;
- (c) all relevant information for the pyrotechnic article category envisaged;
- (d) the documentation concerning the quality system;
- (e) the technical documentation of the approved type and a copy of the EU-type examination certificate.

3.2 The quality system shall ensure that the pyrotechnic articles are in conformity with the type described in the EU-type examination certificate and comply with the requirements of this Directive that apply to them.

All the elements, requirements and provisions adopted by the manufacturer shall be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. The quality system documentation shall permit a consistent interpretation of the quality programmes, plans, manuals and records.

It shall, in particular, contain an adequate description of:

- (a) the quality objectives and the organisational structure, responsibilities and powers of the management with regard to product quality;
- (b) the corresponding manufacturing, quality control and quality assurance techniques, processes and systematic actions that will be used;

- (c) the examinations and tests that will be carried out before, during and after manufacture, and the frequency with which they will be carried out;
- (d) the quality records, such as inspection reports and test data, calibration data, qualification reports on the personnel concerned, *etc.; and*
- (e) the means of monitoring the achievement of the required product quality and the effective operation of the quality system.

3.3 The notified body shall assess the quality system to determine whether it satisfies the requirements referred to in point 3.2.

It shall presume conformity with those requirements in respect of the elements of the quality system that comply with the corresponding specifications of ■ the relevant harmonised standard ■ .

In addition to experience in quality management systems, the auditing team shall have at least one member with experience of evaluation in the relevant product field and product technology concerned, and knowledge of the applicable requirements of *this Directive*. The audit shall include an assessment visit to the manufacturer's premises. The auditing team shall review the technical documentation referred to in point 3.1(e) to verify the manufacturer's ability to identify the relevant requirements of *this Directive* and to carry out the necessary examinations with a view to ensuring compliance of the pyrotechnic article with those requirements.

The decision shall be notified to the manufacturer. The notification shall contain the conclusions of the audit and the reasoned assessment decision.

- 3.4 The manufacturer shall undertake to fulfil the obligations arising out of the quality system as approved and to maintain it so that it remains adequate and efficient.
- 3.5 The manufacturer shall keep the notified body that has approved the quality system informed of any intended change to the quality system.

The notified body shall evaluate any proposed changes and decide whether the modified quality system will continue to satisfy the requirements referred to in point 3.2 or whether a reassessment is necessary.

It shall notify the manufacturer of its decision. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

4. Surveillance under the responsibility of the notified body.

- 4.1 The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.
- 4.2 The manufacturer shall, for assessment purposes, allow the notified body access to the manufacture, inspection, testing and storage sites and shall provide it with all necessary information, in particular:
- (a) the quality system documentation;
  - (b) the quality records, such as inspection reports and test data, calibration data, qualification reports on the personnel concerned, etc.
- 4.3 The notified body shall carry out periodic audits to make sure that the manufacturer maintains and applies the quality system and shall provide the manufacturer with an audit report.



- 4.4 In addition, the notified body may pay unexpected visits to the manufacturer. During such visits the notified body may, if necessary, carry out product tests, or have them carried out, in order to verify that the quality system is functioning correctly. The notified body shall provide the manufacturer with a visit report and, if tests have been carried out, with a test report.
5. **CE** marking and **EU** declaration of conformity
- 5.1 The manufacturer shall affix the **CE** marking, and, under the responsibility of the notified body referred to in point 3.1, the latter's identification number to each individual pyrotechnic article that is in conformity with the type described in the EU-type examination certificate and satisfies the applicable requirements of this Directive.

- 5.2 The manufacturer shall draw up a written *EU* declaration of conformity for each product model and keep it at the disposal of the national authorities for 10 years after the pyrotechnic article has been placed on the market. The *EU* declaration of conformity shall identify the pyrotechnic article for which it has been drawn up.

A copy of the *EU* declaration of conformity shall be made available to the relevant authorities upon request.

6. The manufacturer shall, for a period ending 10 years after the pyrotechnic article has been placed on the market, keep at the disposal of the national authorities:
- (a) the documentation referred to in point 3.1;
  - (b) the information relating to the change referred to in point 3.5, as approved;
  - (c) the decisions and reports of the notified body referred to in points 3.5, 4.3 and 4.4.

7. Each notified body shall inform its notifying authorities of quality system approvals issued or withdrawn, and shall, periodically or upon request, make available to its notifying authorities the list of quality system approvals refused, suspended or otherwise restricted.

Each notified body shall inform the other notified bodies of quality system approvals which it has refused, suspended, withdrawn or otherwise restricted, and, upon request, of quality system approvals which it has issued.

## MODULE E:

### CONFORMITY TO TYPE BASED ON PRODUCT QUALITY ASSURANCE

1. Conformity to type based on product quality assurance is that part of a conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in points 2 and 5, and ensures and declares on his sole responsibility that the pyrotechnic articles concerned are in conformity with the type described in the EU-type examination certificate and satisfy the requirements of this Directive *that apply to them*.

#### 2. Manufacturing

The manufacturer shall operate an approved quality system for final product inspection and testing of the pyrotechnic articles concerned as specified in point 3 and shall be subject to surveillance as specified in point 4.

3. Quality system

3.1 The manufacturer shall lodge an application for assessment of his quality system with the notified body of his choice for the pyrotechnic articles concerned.

The application shall include the following information:

- (a) the name and address of the manufacturer;
- (b) a written declaration that the same application has not been lodged with any other notified body;
- (c) all relevant information for the pyrotechnic article category envisaged;
- (d) the documentation concerning the quality system;

- (e) the technical documentation of the approved type and a copy of the EU-type examination certificate.

3.2 The quality system shall ensure compliance of the pyrotechnic articles with the type described in the EU-type examination certificate and with the applicable requirements of this Directive.

All the elements, requirements and provisions adopted by the manufacturer shall be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. The quality system documentation shall permit a consistent interpretation of the quality programmes, plans, manuals and records.

It shall, in particular, contain an adequate description of:

- (a) the quality objectives and the organisational structure, responsibilities and powers of the management with regard to product quality;
- (b) the examinations and tests that will be carried out after manufacture;
- (c) *the* quality records, such as inspection reports and test data, calibration data, qualification reports on the personnel concerned, etc;
- (d) the means of monitoring the effective operation of the quality system.

3.3 The notified body shall assess the quality system to determine whether it satisfies the requirements referred to in point 3.2.

It shall presume conformity with those requirements in respect of the elements of the quality system that comply with the corresponding specifications of ■ the relevant harmonised standard ■ .

In addition to experience in quality management systems, the auditing team shall have at least one member with experience of evaluation in the relevant product field and product technology concerned, and knowledge of the applicable requirements of this Directive. The audit shall include an assessment visit to the manufacturer's premises. The auditing team shall review the technical documentation referred to in point 3.1(e), in order to verify the manufacturer's ability to identify the relevant requirements of this Directive and to carry out the necessary examinations with a view to ensuring compliance of the pyrotechnic article with those requirements.

The decision shall be notified to the manufacturer. The notification shall contain the conclusions of the audit and the reasoned assessment decision.

- 3.4 The manufacturer shall undertake to fulfil the obligations arising out of the quality system as approved and to maintain it so that it remains adequate and efficient.



3.5 The manufacturer shall keep the notified body that has approved the quality system informed of any intended change to the quality system.

The notified body shall evaluate any proposed changes and decide whether the modified quality system will continue to satisfy the requirements referred to in point 3.2 or whether a reassessment is necessary.

It shall notify the manufacturer of its decision. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

4. Surveillance under the responsibility of the notified body

4.1 The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.

4.2 The manufacturer shall, for assessment purposes, allow the notified body access to the manufacture, inspection, testing and storage sites and shall provide it with all necessary information, in particular:

- (a) the quality system documentation;
  - (b) the quality records, such as inspection reports and test data, calibration data, qualification reports on the personnel concerned, etc.
- 4.3 The notified body shall carry out periodic audits to make sure that the manufacturer maintains and applies the quality system and shall provide the manufacturer with an audit report.
- 4.4 In addition, the notified body may pay unexpected visits to the manufacturer. During such visits the notified body may, if necessary, carry out product tests, or have them carried out, in order to verify that the quality system is functioning correctly. The notified body shall provide the manufacturer with a visit report and, if tests have been carried out, with a test report.
5. *CE* marking and *EU* declaration of conformity

- 5.1 The manufacturer shall affix the **CE** marking, and, under the responsibility of the notified body referred to in point 3.1, the latter's identification number to each individual pyrotechnic article that is in conformity with the type described in the EU-type examination certificate and satisfies the applicable requirements of this Directive.
- 5.2 The manufacturer shall draw up a written **EU** declaration of conformity for each product model and keep it at the disposal of the national authorities for 10 years after the pyrotechnic article has been placed on the market. The **EU** declaration of conformity shall identify the pyrotechnic article for which it has been drawn up.

A copy of the **EU** declaration of conformity shall be made available to the relevant authorities upon request.

6. The manufacturer shall, for a period ending ■ 10 years after the pyrotechnic article has been placed on the market, keep at the disposal of the national authorities:
- (a) the documentation referred to in point 3.1;

- (b) the information relating to the change referred to in point 3.5, as approved;
- (c) the decisions and reports of the notified body referred to in points 3.5, 4.3 and 4.4.

7. Each notified body shall inform its notifying authorities of quality system approvals issued or withdrawn, and shall, periodically or upon request, make available to its notifying authorities the list of quality system approvals refused, suspended or otherwise restricted.

Each notified body shall inform the other notified bodies of quality system approvals which it has refused, suspended or withdrawn, and, upon request, of quality system approvals which it has issued.

## MODULE G:

### CONFORMITY BASED ON UNIT VERIFICATION

1. Conformity based on unit verification is the conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in points 2, 3 and 5, and ensures and declares on his sole responsibility that the pyrotechnic article concerned, which has been subject to the provisions of point 4, is in conformity with the requirements of this Directive *that apply to it*.
2. Technical documentation

The manufacturer shall establish the technical documentation and make it available to the notified body referred to in point 4. The documentation shall make it possible to assess the pyrotechnic article's conformity with the relevant requirements, and shall include an adequate analysis and assessment of the risk(s). The technical documentation shall specify the applicable requirements and cover, as far as relevant for the assessment, the design, manufacture and operation of the pyrotechnic article. The technical documentation shall, wherever applicable, contain at least the following elements:

- (a) a general description of the pyrotechnic article;
- (b) conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, etc.;
- (c) descriptions and explanations necessary for the understanding of those drawings and schemes and the operation of the pyrotechnic article;
- (d) a list of the harmonised standards *applied in full or in part*, the references of which have been published in the *Official Journal of the European Union*, **and, where those harmonised standards have not been** applied, descriptions of the solutions adopted to meet the essential safety requirements of this Directive, **including a list of other relevant technical specifications** applied. In the case of partly applied harmonised standards, the technical documentation shall specify the parts which have been applied;
- (e) results of design calculations made, examinations carried out, etc.;
- (f) test reports.

The manufacturer shall keep the technical documentation at the disposal of the relevant national authorities for 10 years after the pyrotechnic article has been placed on the market.

3. Manufacturing

The manufacturer shall take all measures necessary so that the manufacturing process and its monitoring ensure conformity of the manufactured pyrotechnic article with the applicable requirements of this Directive.


4. Verification

A notified body chosen by the manufacturer shall carry out appropriate examinations and tests, set out in the relevant harmonised standards and/or *equivalent tests set out in other relevant* technical specifications, ■ to check the conformity of the pyrotechnic article with the applicable requirements of this Directive, or have them carried out. In the absence of such a harmonised standard ■ the notified body concerned shall decide on the appropriate tests to be carried out.

The notified body shall issue a certificate of conformity in respect of the examinations and tests carried out and shall affix its identification number to the approved pyrotechnic article, or have it affixed under its responsibility.

The manufacturer shall keep the certificates of conformity at the disposal of the national authorities for 10 years after the pyrotechnic article has been placed on the market.

5. **CE** marking and **EU** declaration of conformity

5.1 The manufacturer shall affix the **CE** marking  and, under the responsibility of the notified body referred to in point 4, the latter's identification number to each pyrotechnic article that satisfies the applicable requirements of this Directive.

5.2 The manufacturer shall draw up a written **EU** declaration of conformity and keep it at the disposal of the national authorities for 10 years after the pyrotechnic article has been placed on the market. The **EU** declaration of conformity shall identify the pyrotechnic article for which it has been drawn up.

A copy of the **EU** declaration of conformity shall be made available to the relevant authorities upon request.



## MODULE H:

### CONFORMITY BASED ON FULL QUALITY ASSURANCE

1. Conformity based on full quality assurance is the conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in points 2 and 5, and ensures and declares on his sole responsibility that the pyrotechnic articles concerned satisfy the requirements of this Directive *that apply to them*.
2. Manufacturing  

The manufacturer shall operate an approved quality system for design, manufacture and final product inspection and testing of the pyrotechnic articles concerned as specified in point 3 and shall be subject to surveillance as specified in point 4.
3. Quality system
  - 3.1 The manufacturer shall lodge an application for assessment of his quality system with the notified body of his choice for the pyrotechnic articles concerned.

The application shall include:

- (a) the name and address of the manufacturer;
- (b) the technical documentation for one model of each pyrotechnic article category intended to be manufactured. The technical documentation shall, wherever applicable, contain at least the following elements:
  - a general description of the pyrotechnic article;
  - conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, etc.;
  - descriptions and explanations necessary for the understanding of those drawings and schemes and the operation of the pyrotechnic article;

- a list of the harmonised standards ***applied in full or in part***, the references of which have been published in the *Official Journal of the European Union*, ***and, where those harmonised standards have not been*** applied, **■** descriptions of the solutions adopted to meet the essential safety requirements of this Directive, ***including a list of other relevant technical specifications*** applied. In the event of partly applied harmonised standards, the technical documentation shall specify the parts which have been applied;
  - results of design calculations made, examinations carried out, etc.;
  - test reports;
- (c) the documentation concerning the quality system;
- (d) a written declaration that the same application has not been lodged with any other notified body.

3.2 The quality system shall ensure compliance of the pyrotechnic articles with the applicable requirements of this Directive.

All the elements, requirements and provisions adopted by the manufacturer shall be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. That quality system documentation shall permit a consistent interpretation of the quality programmes, plans, manuals and records.

It shall, in particular, contain an adequate description of:

- (a) the quality objectives and the organisational structure, responsibilities and powers of the management with regard to design and product quality;

- (b) the technical design specifications, including standards that will be applied and, where the relevant harmonised standards ■ will not be applied in full, the means that will be used to ensure that the essential safety requirements of this Directive will be met;
- (c) the design control and design verification techniques, processes and systematic actions that will be used when designing the pyrotechnic articles pertaining to the pyrotechnic article category covered;
- (d) the corresponding manufacturing, quality control and quality assurance techniques, processes and systematic actions that will be used;
- (e) the examinations and tests that will be carried out before, during and after manufacture, and the frequency with which they will be carried out;

- (f) the quality records, such as inspection reports and test data, calibration data, qualification reports on the personnel concerned, etc.;
- (g) the means of monitoring the achievement of the required design and product quality and the effective operation of the quality system.

3.3 The notified body shall assess the quality system to determine whether it satisfies the requirements referred to in point 3.2.

It shall presume conformity with those requirements in respect of the elements of the quality system that comply with the corresponding specifications of ■ the relevant harmonised standard ■ .

In addition to experience in quality management systems, the auditing team shall have at least one member experienced as an assessor in the relevant product field and product technology concerned, and knowledge of the applicable requirements of this Directive. The audit shall include an assessment visit to the manufacturer's premises. The auditing team shall review the technical documentation referred to in point 3.1(b) to verify the manufacturer's ability to identify the applicable requirements of this Directive and to carry out the necessary examinations with a view to ensuring compliance of the pyrotechnic article with those requirements.

The manufacturer shall be notified of the decision.

The notification shall contain the conclusions of the audit and the reasoned assessment decision.


- 3.4 The manufacturer shall undertake to fulfil the obligations arising out of the quality system as approved and to maintain it so that it remains adequate and efficient.
- 3.5 The manufacturer shall keep the notified body that has approved the quality system informed of any intended change to the quality system.

The notified body shall evaluate any proposed changes and decide whether the modified quality system will continue to satisfy the requirements referred to in point 3.2 or whether a reassessment is necessary.

It shall notify the manufacturer of its decision. The notification shall contain the conclusions of the examination and the reasoned assessment decision.



4. Surveillance under the responsibility of the notified body
  - 4.1 The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.
  - 4.2 The manufacturer shall, for assessment purposes, allow the notified body access to the design, manufacture, inspection, testing and storage sites and shall provide it with all necessary information, in particular:
    - (a) the quality system documentation;
    - (b) the quality records as provided for by the design part of the quality system such as the results of analyses, calculations, tests, etc.;
    - (c) the quality records as provided for by the manufacturing part of the quality system such as inspection reports and test data, calibration data, qualification reports on the personnel concerned, etc.

- 4.3 The notified body shall carry out periodic audits to make sure that the manufacturer maintains and applies the quality system and shall provide the manufacturer with an audit report.
- 4.4 In addition, the notified body may pay unexpected visits to the manufacturer. During such visits, the notified body may, if necessary, carry out product tests, or have them carried out, in order to check the proper functioning of the quality system. It shall provide the manufacturer with a visit report and, if tests have been carried out, with a test report.
5. **CE** marking and **EU** declaration of conformity
- 5.1 The manufacturer shall affix the **CE** marking  and, under the responsibility of the notified body referred to in point 3.1, the latter's identification number to each individual pyrotechnic article that satisfies the applicable requirements of this Directive.

- 5.2 The manufacturer shall draw up a written *EU* declaration of conformity for each *product* model and keep it at the disposal of the national authorities for 10 years after the pyrotechnic article has been placed on the market. The *EU* declaration of conformity shall identify the pyrotechnic article ■ for which it has been drawn up.

A copy of the *EU* declaration of conformity shall be made available to the relevant authorities upon request.

6. The manufacturer shall, for a period ending ■ 10 years after the pyrotechnic article has been placed on the market, keep at the disposal of the national authorities:
- (a) the technical documentation referred to in point 3.1;
  - (b) the documentation concerning the quality system referred to in point 3.1;

- (c) the information relating to the change referred to in point 3.5, as approved;
- (d) the decisions and reports of the notified body referred to in points 3.5, 4.3 and 4.4.

7. Each notified body shall inform its notifying authorities of quality system approvals issued or withdrawn and shall, periodically or upon request, make available to its notifying authorities the list of quality system approvals refused, suspended or otherwise restricted.

Each notified body shall inform the other notified bodies of quality system approvals which it has refused, suspended or withdrawn, and, upon request, of quality system approvals which it has issued.

### ANNEX III

#### *EU DECLARATION OF CONFORMITY (No XXXX)<sup>1</sup>*

1. *Registration number in accordance with Article 9:*
2. *Product, batch or serial number:*
3. *Name and address of the manufacturer:*
4. *This declaration of conformity is issued under the sole responsibility of the manufacturer.*
5. *Object of the declaration (identification of product allowing traceability):*
6. *The object of the declaration described above is in conformity with the relevant Union harmonisation legislation:*
7. *References to the relevant harmonised standards used or references to the other technical specifications in relation to which conformity is declared:*
8. *The notified body ... (name, number) performed ... (description of intervention) and issued the certificate:*
9. *Additional information:*

*Signed for and on behalf of:*

*(place and date of issue):*

*(name, function) (signature):*

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<sup>1</sup> *It is optional for the manufacturer to assign a number to the declaration of conformity.*

## ANNEX IV

### Part A

#### Repealed Directive with the amendment thereto (referred to in Article 48)

<p>Directive 2007/23/EC of the European Parliament and of the Council of 23 May 2007 on the placing on the market of pyrotechnic articles</p> <p>(OJ L 154, 14.6.2007, p. 1)</p>	
<p>Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European Standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council</p> <p>(OJ L 316, 14.11.2012, p. 12)</p>	<p>Only point (h) of Article 26(1)</p>

Part B

Time-limits for transposition into national law and dates of application  
(referred to in Article 48)

Directive	Time-limit for transposition	Date of application
2007/23/EC	4 January 2010	4 July 2010 (fireworks of categories <i>F1</i> , <i>F2</i> and <i>F3</i> )  4 July 2013 (fireworks of category <i>F4</i> , other pyrotechnic articles and theatrical pyrotechnic articles)

## ANNEX V

## CORRELATION TABLE

Directive 2007/23/EC	This Directive
Article 1(1)	Article 1(1)
Article 1(2)	Article 1(2)
Article 1(3)	Article 2(1)
Article 1(4)(a)	Article 2(2)(a)
Article 1(4)(b)	Article 2(2)(b)
Article 1(4)(c)	Article 2(2)(c)
Article 1(4)(d)	Article 2(2)(d)
Article 1(4)(e)	Article 2(2)(e)
Article 1(4)(f)	Article 2(2)(f) and Article 3(5)
Article 2(1)	Article 3(1)
Article 2(2), first sentence	Article 3(8)
Article 2(2), second sentence	Article 2(2)(g)
Article 2(3)	Article 3(2)
Article 2(4)	Article 3(3)
Article 2(5)	Article 3(4)
Article 2(6)	Article 3(9)
Article 2(7)	Article 3(10)
Article 2(8)	Article 3(11)
Article 2(9)	Article 3(14)
Article 2(10)	Article 3(6)
-	Article 3(7)
-	Article 3(12)
-	Article 3(13)



-	Article 3(15) to (22)
Article 3(1)	Article 6(1)
Article 3(2)	Article 6(2)
Article 4(1)	Article 8(1)
Article 4(2), first subparagraph	Article 12(1) to (9) and Article 14
Article 4(2), second subparagraph	Article 14
Article 4(3)	Article 13 (1) and Article 13(2), first subparagraph
-	Article 13(2), second subparagraph
-	Article 13(3)
-	Article 13(4)
-	Article 13(5)
Article 4(4)(a)	Article 8(2), first subparagraph
Article 4(4)(b)	Article 8(2), second subparagraph, and Article 8(5)
-	Article 8(3), (4) and (6) to (9)
-	Article 15
-	Article 9
Article 5(1)	Article 5
Article 5(2)	-
Article 6(1)	Article 4(1)
Article 6(2)	Article 4(2)
Article 6(3)	Article 4(3)
Article 6(4)	Article 4(4)
Article 7(1)	Article 7(1)
Article 7(2)	Article 7(2)
Article 7(3)	Article 7(3)

-	Article 7(4)
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Article 8(3), first sentence	-
Article 8(3), second sentence	Article 16
Article 8(3), third sentence	-
Article 8(4)	-
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Article 10(1)	Article 21 and Article 30(1)
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Article 10(3)	Articles 25 and 26
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-	Articles 27 to 29
	Articles 32 to 37
Article 11(1)	Article 20(1)
Article 11(2)	Article 19
Article 11(3)	Article 19
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	Article 20(3)
-	Article 20(4)
-	Article 20(5)
Article 12(1)	Article 10(1)

Article 12(2)	Article 10(2)
Article 12(3)	Article 10(3)
Article 12(4)	Article 10(4)
Article 12(5)	Article 10(5)
Article 12(6)	-
Article 13(1)	Article 11(1)
Article 13(2)	Article 11(2)
Article 13(3)	Article 11(3)
Article 14(1)	Article 38(1)
Article 14(2)	Article 38(2)
Article 14(3)	Article 38(2)
Article 14(4)	Article 38(2)
Article 14(5)	Article 38(3)
Article 14(6)	Article 38(2)
Article 14(7)	Article 38(2)
Article 15	Article 39(1), first subparagraph
-	Article 39(1), second, third and fourth subparagraphs
-	Article 39(2) to (8)
Article 16(1)	Article 40(1), first subparagraph
Article 16(2)	Article 40(2) and (3)
Article 16(3)	Article 42(1)(a)
-	Article 40(1), second subparagraph
-	Article 41
-	Article 42(1)(b) to (h) and Article 42(2)
Article 17(1)	Article 38(2)
Article 17(2)	Article 38(2)

Article 18(1)	-
Article 18(2)	Article 43
Article 19	Article 44
Article 20	Article 45
-	Article 46(1)
Article 21(1)	Article 47(1), first subparagraph
Article 21(2)	Article 47(1), second subparagraph
-	Article 47(2)
Article 21(3)	Article 47(3)
Article 21(4)	Article 47(4)
Article 21(5)	Article 46(2) and (3)
Article 21(6)	Article 46(4)
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