



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND THE COUNCIL**

**Amending**

**Directive 2002/95/EC**

**on the restriction of the use of certain hazardous substances in electrical and electronic equipment, as regards the implementing powers conferred to the Commission**

(presented by the Commission)

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND THE COUNCIL**

**Amending  
Directive 2002/95/EC**

**on the restriction of the use of certain hazardous substances in electrical and electronic equipment, as regards the implementing powers conferred to the Commission**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission<sup>1</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>2</sup>,

Having regard to the opinion of the Committee of the Regions<sup>3</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>4</sup>

Whereas:

- (1) Directive 2002/95/EC of the European Parliament and of the Council<sup>5</sup> provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>6</sup>.
- (2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced a regulatory procedure with scrutiny to be used for the adoption of implementing measures of general scope which seek to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, including by deleting some of those elements or by supplementing the instrument by the addition of new non-essential elements.

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<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> OJ C [...], [...], p. [...].

<sup>3</sup> OJ C [...], [...], p. [...].

<sup>4</sup> ...

<sup>5</sup> *OJ L 37, 13.2.2003, p. 19–23*

<sup>6</sup> OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

- (3) In accordance with the joint statement of the European Parliament, the Council and the Commission<sup>7</sup> on Decision 2006/512/EC, instruments which are already in force must be adjusted in accordance with the applicable procedures. That statement indicates a list of instruments that should be adjusted as a matter of urgency, including Directive 2002/95/EC.
- (4) In particular power should be conferred on the Commission to adapt Annexes .Since those measures are of general scope and are designed to amend non-essential elements of Directive 2002/95/EC, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (5) Directive 2002/95/EC should therefore be amended accordingly.
- (6) Since the amendments to be made to Directive 2002/95/EC are adjustments of a technical nature which only concern the committee procedures, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect.

HAVE ADOPTED THIS DIRECTIVE:

*Article 1*

Directive 2002/95/EC is amended as follows:

(1) Article 5 (1) is amended as follows:

(a) The introductory phrase is replaced as follows:

"The Commission shall adopt any amendments which are necessary in order to adapt the Annex to scientific and technical progress for the following purposes:"

(b) The following subparagraph is added:

"The measures referred to in the first subparagraph, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 7(2)."

(2) Article 7 is replaced by the following:

"Article 7

Committee

1. The Commission shall be assisted by the Committee set up by Article 18 of Council Directive 75/442/EEC<sup>8</sup>.

2. Where reference is made to this paragraph, Article 5a(1) to (4), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof."

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<sup>7</sup> OJ C 255, 21.10.2006, p.1

<sup>8</sup> OJ L 194, 25.7.1975, p. 39.

*Article 2*

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

*Article 3*

This Directive is addressed to the Member States.

Done at Brussels, [...]

*For the European Parliament*  
*The President*

*For the Council*  
*The President*