

Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC (recast) (Text with EEA relevance)

*Article 11*

**Safeguard clause**

1 Where a Member State ascertains that machinery covered by this Directive, bearing the CE marking, accompanied by the EC declaration of conformity and used in accordance with its intended purpose or under conditions which can reasonably be foreseen, is liable to compromise the health and safety of persons and, where appropriate, domestic animals or property, it shall take all appropriate measures to withdraw such machinery from the market, to prohibit the placing on the market and/or putting into service of such machinery or to restrict free movement thereof.

2 The Member State shall immediately inform the Commission and the other Member States of any such measure, indicating the reasons for its decision and, in particular, whether the non-conformity is due to:

- a failure to satisfy the essential requirements referred to in Article 5(1)(a);
- b incorrect application of the harmonised standards referred to in Article 7(2);
- c shortcomings in the harmonised standards themselves referred to in Article 7(2).

3 The Commission shall enter into consultation with the parties concerned without delay.

The Commission shall consider, after this consultation, whether or not the measures taken by the Member State are justified, and it shall communicate its decision to the Member State which took the initiative, the other Member States, and the manufacturer or his authorised representative.

4 Where the measures referred to in paragraph 1 are based on a shortcoming in the harmonised standards and if the Member State which instigated the measures maintains its position, the Commission or the Member State shall initiate the procedure referred to in Article 10.

5 Where machinery does not conform and bears the CE marking, the competent Member State shall take appropriate action against whomsoever has affixed the marking and shall so inform the Commission. The Commission shall inform the other Member States.

6 The Commission shall ensure that Member States are kept informed of the progress and outcome of the procedure.