

COMMISSION DECISION**of 28 October 2014****on a measure taken by Germany in accordance with Article 7 of Council Directive 89/686/EEC prohibiting the placing on the market of fire-brigade safety belts of types FHA, FHB and FSMS***(notified under document C(2014) 7757)*

(2014/748/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 89/686/EEC of 21 December 1989 on the approximation of the laws of the Member States Relating to personal protective equipment ⁽¹⁾, and in particular Article 7 thereof,

Whereas:

- (1) In August 2013, the German authorities notified to the Commission a measure of prohibition of placing on the market of fire-brigade safety belts of types FHA, FHB and FSMS manufactured by Dietrich&Co. GmbH, Rossauer Strasse 49a, 09661 Rossau, OT Seifersbach (Germany). The products bore CE marking, according to Directive 89/686/EEC, having been tested and type-examined according to harmonised standard EN 358:1999 *Personal protective equipment for work positioning and prevention of falls from a height — Belts for work positioning and restraint and work positioning lanyards*.
- (2) Fire-brigade safety belts are personal protective equipment (PPE) classified as Certification Category III. PPE of this kind, which is designed to protect against fatal hazards or serious and irreversible risks to health, the direct effect of which the manufacturer assumes that users will be unable to recognise in time, are subject to an EC type-approval examination and an EC quality control system by the notified body commissioned by the manufacturer.
- (3) The audit carried out by the German authorities at the production plant of the above-mentioned manufacturer revealed that presented type-approval certificates for fire-brigade safety belts of types FHA, FHB and FSMS were not valid, since part of the equipment — the strap material — had been replaced, while EC type approval examination related solely to the items submitted for testing. Therefore, the following requirements of Directive 89/686/EEC were not met:
 - Article 8(2) (EC Type examination): the products were not identical to the models for which EC type examination was issued,
 - Article 12 (EC Declaration of Conformity): the Declaration of Conformity was not valid because reference was made to the quality control system in accordance with Article 11, which was not carried out,
 - Article 13(1) (CE Marking): the identification number of the notified body, DEKRA EXAM (NB 0158) was misused since no quality control system was carried out.
- (4) Moreover, fire-brigade safety belts Type FHB did not meet the requirements of harmonised standard EN 358:1999, clause § 4.2.1 regarding static strength and thus the basic health and safety requirement 1.3.2 *Lightness and design strength* laid down in Annex II to Directive 89/686/EEC. The static strength for the fire-brigade safety belts manufactured by Dietrich&Co. GmbH were measured at between 7,2 kN and 9,4 kN, instead of at least 15 kN, as prescribed in the standard.
- (5) The Commission wrote to the manufacturer inviting him to communicate his observations on the measures taken by the German authorities.

⁽¹⁾ OJ L 399, 30.12.1989, p. 18.

- (6) On 22 October 2013, the Commission was informed by German authorities about the result of the action. According to the documents received from the manufacturer the German authorities established that the failure to meet the requirements of the Directive 89/686/EEC only concerned the production of 2011 and 2012. Corrective action has been taken by the manufacturer and as of beginning of 2013 the production was in conformity with that Directive. The manufacturer Dietrich & Co carried out a voluntary recall that covered the following fire-brigade safety belts type FHB:
- serial numbers 0439 to 0738, manufactured in 2011,
 - serial numbers 0739 to 1078, manufactured in 2012.
- (7) In light of the documentation available, the comments expressed and the action taken by the parties concerned, the Commission considers that the fire brigade safety belts of types FHA, FHB and FSMS manufactured in 2011 and 2012 failed to comply with clause § 4.2.1 of the harmonised standard EN 358:1999 referred to the basic health and safety requirement 1.3.2 *Lightness and design strength* set out in Annex II to Directive 89/686/EEC. The manufacturer has already taken all the necessary measures to remove such non-compliant products from the market and to correct the deficits to meet the requirements of Directive 89/686/EEC, according to the order of the German authorities,

HAS ADOPTED THIS DECISION:

Article 1

The measure taken by the German authorities, prohibiting the placing on the market of fire-brigade safety belts of types FHA, FHB and FSMS manufactured by Dietrich&Co. GmbH, is justified.

Article 2

This Decision regards exclusively products manufactured in 2011 and in 2012.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 28 October 2014.

For the Commission
Ferdinando NELLI FEROCI
Member of the Commission
