

The United Kingdom's safeguard clause on EN 708 - Agricultural machinery

The United Kingdom invoked in June the “safeguard clause” (see article 6 of the Machinery Directive) to prevent the manufacturing and circulating of the soil working machines, e.g. rotary power harrows and cultivators, made accordingly the already harmonised standard EN 708:1997¹.

The formal UK objection states that this standard lowers the existing UK levels of protection and does not satisfy several of the essential health and safety requirements (EHSRs) mentioned in the Annex 1 of the Machinery Directive: 1.1.2 (Principles of safety integration), 1.2 (Controls), 1.3.7 (Prevention of risks related to moving parts) and 1.4.1 (General requirements for guards and protection devices).

This is the second safeguard clause-case on machinery. The first one already handled to an end was the EN 692 “Mechanical presses – Safety” - case invoked by France².

In the European agriculture, hunting, forestry and fishing sectors, 40% of workers think, that their health and safety are at risk because of their work³. Agriculture sector is often characterised by small-scale enterprises, self-employed, contractor and migrant workers. This heterogeneity makes it especially difficult to guarantee good working conditions, safe machinery, and good working practice. Workers are not always well trained nor informed about the hazards. They carry out their job in dirty and noisy surroundings often alone. Therefore it is difficult to call and to get help fast enough.

Agriculture is the second most dangerous working sector in the UK. In the '80s every year 5 to 8 fatal or serious accidents involving the entanglement of workers' lower limbs were caused by this type of machinery. In the '90s in Finland they caused 29 – 42 accidents a year in farming⁴. In Sweden 32 accidents related with these machines were reported between 1992 and 1997⁵.

The causes of accidents were quite well prevented in the UK in the mid-1980s when improved national requirements for guards were introduced. Because the vast majority of these machines sold in the UK are imported from other Member States they must be upgraded by importers if they do not meet the required level of guarding.

¹ Health and Safety Executive, Formal objection by the United Kingdom Government under Article 6 of the Machinery Directive, Council Directive 89/392/EEC (as amended), and agricultural machinery: Soil working machines with powered tools – Safety. C3 3/93, 50 pages (1998).

² The standard has been adopted by CEN the 16 March 1996. It has been published in the Official Journal of the European Community (OJEC) with an added clause decided by the Commission (Decision 22.01.98 – 98/100/CE, OJEC L23/34, 30.1.98), saying that the scope of the standard does not include presses with full revolution clutches;

³ Paoli P., Second European Survey on Working Conditions – 1996. European Foundation for the Improvement of Living and Working Conditions (1997).

⁴ MELA –Maatalousyrittäjien eläkelaitos (Pension Institution for the Agricultural Entrepreneurs)

⁵ SAWU (Swedish Agricultural Workers Union): 10 cases in 1992, but only 1 case in 1997.

In its brochure the Health and Safety Executive (HSE) describes though several accidents of the '80s. In 1984, an employee injured his right leg, which had to be amputated. He was standing on the machine which was in motion and adjusting the depth control. His foot slipped over the front of the top barrier and was drawn into tools. In 1986, an employee died when he was removing a stone from blocked tools while power still was connected to the machine. And one month after, a contractor died while he was working between the tractor and the front power harrow with power connected to the machine. These examples show how obvious it is that farm workers will approach the tools of the machine when it is under power and that sometimes they have to stand on guards to perform their tasks, for example to adjust and lubricate the machine.

The EN 708 does not provide measures to eliminate risks in these foreseeable situations. It does not comply with section 1.1.2 of Annex 1 to the Machinery Directive because it only requires information (clause 6.1) to be provided to prevent people stepping or standing on the machines (warning notices in clause 6.2). Moreover, the EN708 does not achieve the 'state of the art' requested in section 1.3.7 on the prevention of risks relating to moving parts. In fact it defines a barrier of a 200 mm minimal horizontal distance from the tool path. Thus the opening between the barrier and the top guard is too large to prevent the lower limbs from reaching the tools. The standard does not comply with the requirements needed for guards and protection devices (section 1.4.1 of the Annex 1). It does not set a strength requirement for the front and rear guards. Solid enough structure would enable them to withstand vertical and horizontal forces caused by the worker stepping on them. EN 708 does neither comprehensively satisfy the requirements for ergonomic design of the control handles and their positioning for safe use (section 1.2.2 of the Annex 1).

The Trade Union Congress (TUC), whose unions represent some 25.000 workers in agriculture, believes that this standard will allow a return back to the dangerous early 80's and *"views with serious concern any proposal that would lead to any lowering of levels of safety in this particular industry with its existing poor record of safety"*. The Confederation of British Industry (CBI), which represents as employers some 250.000 member companies, supports also the UK objection because they *"firmly believe that failure to continue such a level of guarding will lead to a significant increase in risk of, and in actual, serious accidents among users"*.

Work on the drafting of EN708 started already in 1991 in the CEN/TC144: "Tractors and machinery for agriculture and forestry", Working Group 3. It was chaired by AFNOR, the french standardizing association. As a basis an existing model of these machines was used. The standard was adopted by CEN formal voting in December 1995. Only the UK and Denmark voted against with 13 out of a total of 98 weighted votes. To avoid the acceptance 22 negative votes are needed. EN708 was published then by CEN the 21 of February 1996.

In June and still in December the same year the 89/392 and the 83/189 Committees of DGIII "Industry" discussed the UK's request to modify the standard in CEN before it's publication in the OJEC² without invoking the safeguard clause. Nevertheless, the 14th CEN/BTS2 meeting⁶ (November 1996) rejected the possibility to amend the standard and expressed these opinions: *"the objections shall appear to be a disapproval of the work of CEN/TC experts and more generally disapproval of the work of CEN in the framework of the New Approach Directives"* and *"CEN Members bodies are reminded of their responsibility to ensure that all relevant views are brought into the European discussion at the earliest possible stage in the development of Ens"*. It has also suggested that *"CEN TCs are reminded of the need to give full detailed consideration of all views presented for discussion. Account should be taken of possible consequences of rejecting specific views especially where they involve the state of the art relevant to safety requirements...."*

The EU Commission has then published the reference in the Official Journal of European Community (OJCE), dated 8 May 1997. In June 1998 the UK invoked the safeguard clause. An agreement seems to be achievable in the CEN Technical Committee 144 in order to start the revision of the EN 708. This will again take some time, perhaps until early 1999. Meanwhile the situation is somehow odd :in UK these soil working machines cannot be used but in other countries their use is allowed. This means different safety level for the similar workers in different Member States for an unknown period of time.

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⁶ Resolution of the Technical board (BT) S2 25/1996 on the Agenda item IV.2.2.1