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## **GUIDANCE DOCUMENT No. 1**

# **ON THE APPLICATION OF THE DIRECTIVE ON THE SAFETY OF TOYS**

## **SCOOTERS**

This Guidance document is a non-binding document intended to provide guidelines to help Member States and stakeholders making the distinction between different kinds of scooters. It expresses the views of the majority of members in the Expert Group on Toy Safety. The images appearing in the document constitute examples intended to facilitate the decision-making. They do not presuppose the conformity of the represented products<sup>1</sup>.

This Guidance document does not relieve national authorities from their obligation to determine for any individual product, on a case-by-case basis, whether it falls within the scope of application of the Toy Safety Directive 2009/48/EC or within the scope of application of other sectoral legislation. The Court of Justice of the European Union has repeatedly held that the national authorities, acting under the supervision of the courts, must proceed on a case-by-case basis, taking account of all the characteristics of the product. Therefore, this document shall not “prescribe” which regulatory framework applies. Rather, it shall serve as one out of many elements supporting the national competent authorities in their case-by-case decision on individual products. In particular, this Guidance document does not prevent a national authority from consulting with colleagues from other regulated sectors concerned in order to reach a complete view on all aspects related to a given product.

## **Background**

Scooters, also called 'steps' (manpowered or electrically driven), are a commonly used product, which come in many different types and are intended for a diverse range of users.

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<sup>1</sup> The views expressed in this document are not legally binding; only the Court of Justice of the European Union can give an authoritative interpretation of Union law.

Because of their wide variety it is sometimes difficult to classify these products. This guideline tries to help experts and stakeholders to identify the different types of scooters.

## 1. Community legislation applicable to “scooters”

**1.1 The General Product Safety Directive 2001/95/EC (GPSD)** defines a product as "any product — including in the context of providing a service — which is intended for consumers or likely, under reasonably foreseeable conditions, to be used by consumers even if not intended for them, and is supplied or made available, whether for consideration or not, in the course of a commercial activity, and whether new, used or reconditioned". Each of its provisions of that Directive shall apply in so far as there are no specific provisions with the same objective in rules of Community law governing the safety of the products concerned.<sup>2</sup>

As this concept pertains to "scooters", the classification and applicable rules may differ based upon the nature, characteristics and intended use of the product. Sector specific legislation is listed below.

### **1.2 The Machinery Directive 2006/42/EC (MD) defines a machine as:**

- an assembly, fitted with or intended to be fitted with a drive system other than directly applied human or animal effort, consisting of linked parts or components, at least one of which moves, and which are joined together for a specific application,
- an assembly referred to in the first indent, missing only the components to connect it on site or to sources of energy and motion,
- an assembly referred to in the first and second indents, ready to be installed and able to function as it stands only if mounted on a means of transport, or installed in a building or a structure,
- assemblies of machinery referred to in the first, second and third indents or partly completed machinery referred to in point (g) which, in order to achieve the same end, are arranged and controlled so that they function as an integral whole,
- an assembly of linked parts or components, at least one of which moves and which are joined together, intended for lifting loads and whose only power source is directly applied human effort.

Taken above definition into account, scooters with a drive system other than directly applied human or animal effort might have been considered as machines, however based on the elements listed below they are normally excluded:

However this Directive excludes

- motor vehicles and their trailers covered by Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to

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<sup>2</sup> Article 1(2) General Product Safety Directive 2001/95/EC

- the type-approval of motor vehicles and their trailers, with the exclusion of machinery mounted on these vehicles,
- vehicles covered by Directive 2002/24/EC of the European Parliament and of the Council of 18 March 2002 relating to the type-approval of two or three-wheel motor vehicles, with the exclusion of machinery mounted on these vehicles,
  - motor vehicles exclusively intended for competition

### **1.3 The Directive 2002/24/EC relating to the type approval of two- or three wheel motor vehicles applies:**

to all two or three-wheel motor vehicles, whether twin-wheeled or otherwise, intended to travel on the road, and to the components or separate technical units of such vehicles.

This Directive does not apply to the following vehicles:

- (a) vehicles with a maximum design speed not exceeding 6 km/h;
- (b) vehicles intended for pedestrian control;
- (c) vehicles intended for use by the physically handicapped;
- (d) vehicles intended for use in competition, on roads or in off-road conditions;
- (e) vehicles already in use before the application date of Directive 92/61/EEC;
- (f) tractors and machines, used for agricultural or similar purposes;
- (g) vehicles designed primarily for off-road leisure use having wheels arranged symmetrically with one wheel at the front of the vehicle and two at the rear;
- (h) cycles with pedal assistance which are equipped with an auxiliary electric motor having a maximum continuous rated power of 0,25 kW, of which the output is progressively reduced and finally cut off as the vehicle reaches a speed of 25 km/h, or sooner, if the cyclist stops pedalling, nor to the components or technical units thereof unless they are intended to be fitted to vehicles covered by this Directive.

While many, if not most, electric scooters would not be “intended to travel on the road” or would not have the requisite maximum design speed, one cannot automatically exclude this possibility.

### **1.4 The Toy Safety Directive 2009/48/EC (TSD) defines toys as "products designed or intended, whether or not exclusively, for use in play by children under 14 years of age".**

Annex I of the TSD does not regard the following products as toys:

- Scooters and other means of transport designed for sport or which are intended to be used for travel on public roads or public pathways
- Electrically driven vehicles which are intended to be used for travel on public roads, public pathways, or the pavement thereof

Scooters regarded as toys are subject to in particular the requirements of EN 71 part 1 standard related to mechanical and physical properties.

EN14619 applies to kick scooters which can only be propelled by the muscular activity of a user with a body mass of more than 35 kg and less than 100 kg. These kick scooters are regarded as products falling within the scope of the General Product Safety Directive. Such kick scooters may be intended for use by riders under age 14 with appropriate consideration of the characteristics of the product, user skill and supervision, as well as for adults. Such scooters will generally be built to accommodate and withstand more skillful and competitive riding techniques and expertise, including stresses associated with increasing rider size and ability, or to provide a durable ease of riding for transportation purposes. The greater strength, durability and rider sophistication are desired characteristics for sports and transportation scooters, and those features enhance the safety of riders seeking such capabilities<sup>3</sup>.

Electric scooters and similar products which are intended for use on public streets or public pathways (and necessarily subject to local regulation<sup>4</sup>) are also not regarded as “toys”. There does not presently exist a specific published EU standard governing such products (as is the case with EN14619 for kick scooters).

As a general matter, the applicability of any of these pieces of EU legislation to a given scooter would involve a case-by-case evaluation.

**Taking the above into consideration only the following scooters are considered as toys<sup>5</sup>:**

- Electrically driven vehicles which are NOT intended to be used for travel on public roads, public pathways, or the pavement thereof, but are used in e.g. private gardens
- Scooters using human efforts which are NOT intended to be used for travel on public roads or public pathways, but are used in e.g. private gardens and which are not designed for sport<sup>6</sup>

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<sup>3</sup> More information can be found in the guidance document on sport equipment

<sup>4</sup> Note that the characteristics of a scooter which enable a rider better to use the product on a public pathway or public street do not equate to permission to do so: in all cases, the use of a scooter on public property is subject to such laws and regulations as may be in effect in such locales.

<sup>5</sup> The legislation listed is not exhaustive and is only intended to distinguish different types of scooters. Other pieces of EU product legislation potentially apply to a given scooter, particularly electric scooters, such as EMC, LVD, ROHS, WEEE, etc however is not the purpose of information of this document.

<sup>6</sup> The interpretation of the term “sports equipment” as used in clause 3 of Annex I to the TSD is discussed in Guidance Document No. 14 on the Application of the Directive on the Safety of Toys: Sports Equipment versus Toys”.

## 2. Classification of scooters regarded as toys

### 2.1 Definition

Toy scooters and electrically driven ride-on scooters are considered as toys intended to bear the mass of a child according to EN 71-1. The electrical aspects of these are covered by requirements of EN 62115.

According to EN 71-1 *toy scooters* are ride-on toys, not intended for sport or to be used for travel on public roads or public pathways, which are propelled by the muscular action of the user and may be foldable or not, intended for children with a body mass of 50 kg or less, comprising at least one platform for standing, at least two wheels, and a steering system equipped with an adjustable or fixed-length steering tube.

It must be considered that EN 71-1 includes the following requirement for electrically driven ride-on toys (including scooters): electrically driven ride-on toys intended for children under 6 years shall be equipped with a seat. Thus, electrically driven ride-on toy scooters cannot be intended for children under 6 years since toy scooters include a platform for standing but not a seat. As a consequence, also electrically driven ride-on toy scooters must always be intended for children with a body mass of 50 kg or less.

### 2.2 Toys not fulfilling the definition of a *toy scooter*

The following toys do not have a platform for standing and are not considered as a *toy scooter*. However, these toys are regarded as toys intended to bear the mass of a child according to EN 71-1.





### 2.3 Toys fulfilling the definition of a *toy scooter*

For the purpose of the standard EN 71-1 *toy scooters* are divided into two groups, those intended for children with a body mass of 20 kg or less and those intended for children with a body mass of 50 kg or less.

A body mass of 20 kg corresponds approximately to the mass (95th percentile) of a child of 3 years. A body mass of 50 kg corresponds approximately to the average mass of a child of 14 years. This means that *toy scooters* intended for children with a body mass of 20 kg or less are *toy scooters* intended for children under the age of 36 months. Accordingly, for children at the younger end of the age range of the Toy Safety Directive who are presumably less capable of operating products which require some balance, the additional provisions of section 5 of EN 71-1 apply.

### 3. Examples of scooters

#### 3.1 Examples of *toy scooters*

Toy scooters < 36 months (body mass  $\leq$  20 kg)



Toy scooters > 36 months (body mass  $\leq$  50 kg)



### 3.2 Examples of *scooters and vehicles not regarded as toys*



Electric scooter. Max speed 21 km/h



Electric scooter. Max speed approx. 20 km/h



Electric Scooter. Max speed 22 km/h.



*Intended for use on public roads, pathways*



*Sport equipment (based on characteristics and materials used)*