

Construction products: harmonised conditions for the marketing

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The Committee on the Internal Market and Consumer Protection adopted the report drawn up by Catherine STIHLER (S&D, UK) on the Council position at first reading with a view to the adoption of a regulation of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC.

It recommended that the European Parliament's position at second reading under the ordinary legislative procedure (formerly known as the codecision procedure) should be to amend the Council's position. The main amendments are as follows:

Contractors' activities: a new recital makes clear that the activities of contractors should not fall within the scope of this Regulation. The erection of construction works is a service and not the placing on the market of a product by a manufacturer. Construction activities may in specific cases include individually manufactured or custom-made parts of the construction work, which are then incorporated into the construction work by the contractor.

Derogations from drawing up a Declaration of Performance: the Council adopted derogations from drawing up a declaration of performance and thereby provided for situations where it is not obligatory to add the CE marking to a product, inter alia, in the case of individually and custom-made products in a non-series process. The committee has sought to limit this particular exemption by emphasising that this is only possible where the assessment and verification of constancy of performance is established on the basis of System 3 or 4 and the construction product is individually manufactured or custom-made in a non-series process in response to a specific order for a single identified construction work. This ensures a level playing field where quality is essential whilst ensuring safety.

A new recital states that the interpretative definition of 'non-series process' for the different construction products covered by this Regulation should be defined by the relevant CEN technical committees.

Hazardous Substances: Members have re-inserted Parliament's first reading amendments on hazardous substances. They specify that the declaration of performance should be accompanied by information on the content of hazardous substances in the construction product in order to improve the possibilities for sustainable construction and to facilitate the development of environmentally-friendly products. Such information should be provided without prejudice to the obligations, particularly with regard to labelling, laid down in other instruments of Union law applicable to hazardous substances and should be made available at the same time and in the same form as the declaration of performance so as to reach all potential users of construction products. Accordingly, the information referred to in Article 31 or, as the case may be, in Article 33 of Regulation (EC) No 1907/2006 (REACH) shall be provided together with the declaration of performance.

However, Members state that the specific needs for information on the content of hazardous substances in construction products should be further investigated with a view to completing the range of substances covered so as to ensure a high level of protection of the health and safety of workers using construction products and of users of construction works, including with regard to recycling and/or re-use requirements of parts or materials.

CE Marking: Member States shall build upon existing mechanisms to ensure correct application of the regime governing the CE marking, and shall take appropriate action in the event of improper use of the marking. Member States shall also provide for penalties for infringements, which may include criminal sanctions for serious infringements. Those penalties shall be proportionate to the seriousness of the offence and shall constitute an effective deterrent against improper use.

Product Contact Points: the Product Contact Points for Construction should be able to carry out their functions in a manner that avoids conflict of interest, particularly in respect of the procedures for obtaining the CE marking. The report adds that Member States should ensure that sufficient resources are allocated to the Product Contact Points.

Transparency: the report states that the need for independence and transparency is essential for the technical assessment bodies (TABs). Therefore a set of minimum standards on transparency should be promoted. The TABs shall make publicly available their organigramme and the names of the Members of their internal decision-making bodies. In addition, the organisation of TABs must ensure that examples of best practice are shared between TABs to promote greater efficiency and provide a better service to industry; and use working groups representing all stakeholders to fulfil its tasks.

A balanced participation of stakeholders in the technical committees or working groups of European standardisation bodies should be ensured so that no category of stakeholders is disproportionately represented. Conflicts of interest among those stakeholders should be prevented.

Lastly, Member States shall ensure that the members of the Standing Committee on Construction are independent of the relevant parties involved in the assessment and the verification of constancy of the performance related to essential characteristics of construction products.

Recycling of construction products: the report stresses that the conservation of materials after demolition into the materials cycle through re-use or recycling is essential to meeting the Union's climate change targets and each Member State should produce an action plan detailing how it will help to promote re-use or recycling in the construction industry.

Health and Safety: Members emphasise the issue of health and safety within the construction sector and the need to maintain the highest level of protection for both workers and building users. When assessing the performance of a construction product, account should also be taken of the health and safety aspects related to its use during its entire life cycle.

E-communication: the need for use of new IT methods to improve the single market in construction products is important. The report provides that the declaration of performance shall be supplied in hard copy only if the recipient requests it. A copy of the declaration of performance shall be supplied in electronic form for each product which is made available on the market

Delegated acts: certain amendments are made to provisions on delegated acts in order to ensure that Parliament is properly consulted.

Commission's report: in that report, the implementation of Article 37 (use of simplified procedures by micro-enterprises) shall also be included considering inter alia whether its application could be extended to other undertakings, whether to adapt it to small series production, or whether to repeal it.

Three years from the date of entry into force of the Regulation, the Commission shall assess the specific need for information on the content of hazardous substances in construction products with a view to possibly extending the information obligation provided for in the text to other substances, and shall report to the European Parliament and to the Council. In its assessment, the Commission shall take into account,

inter alia, the need to ensure a high level of protection of the health and safety of workers using construction products and of users of construction works, including with regard to recycling and/or re-use requirements of parts or materials. The report shall be accompanied by any appropriate legislative proposals.

Annex I: amendments to the Annex stress the need to take into account in particular the health and safety of persons involved throughout the life cycle of the works, and the need to minimise damage to the environment.