



Legislative scrutiny time on the implementation of the Construction Products Regulation (Regulation (EU) No. 305/2011 – Additional background information and comments by EOTA

The IMCO members have been invited to scrutinise the status of the implementation of the Construction Products Regulation (CPR) in a legislative scrutiny session on 22 January 2020. The European Organisation for Technical Assessment (EOTA), a not-for-profit organisation established under the CPR, would like to provide some additional background information and comments related to this topic.

The CPR – a Regulation not quite like other EU harmonisation acts

The Construction Products Regulation (CPR) deviates from other EU harmonisation and there is a specific reason for that: **construction products are no consumer products.**

This means that construction products are not safe or unsafe *per se*. The question is in how far their performance contributes to the safety of buildings and other civil engineering works. However, the responsibility for the safety of the built environment (including aspects such as environmental and health performance as well as sustainability) lies with the Member States.

As a result, the CPR does not seek to define requirements for the construction products themselves, but aims for harmonised product performance declarations based on common test and assessment methods, often called a "**common technical language**".

The idea is that the MS can then define their safety requirements for buildings and other works in relation to the declared product performances. A key to achieving this common technical language is the use of **harmonised technical specifications**.

To avoid proliferation of conflicting technical specifications resulting in inconsistent product performance declarations, the CPR sets out only two routes to CE marking for construction products:

- the **main route through harmonised standards** the use of, which (once they exist) is mandatory,
- and the **EOTA route**, a voluntary route, which is open to all construction products that are not (fully) covered by a harmonised standard or for which the harmonised standard does not provide suitable assessment methods.

The EOTA route to CE marking

The Notice to Members which you have received in preparation of this session contains three Commission statements on the EOTA route:

- 1 The EOTA route has not been used for innovative products, as had been intended.
- 2 The EOTA route has benefited above all from the underperformance of the standardisation system.
- 3 The EOTA route remains expensive and not SME-friendly due to the high costs of development of European Technical Assessments (ETAs).

EOTA would like to comment on these statements as follows:

Re 1

As mentioned above, the EOTA route to CE marking is open to all products which are not (fully) covered by a harmonised standard. Apart from innovations, this concerns numerous other products as was acknowledged by the EC in a study issued in 2016¹. Some examples of such products are:

- products for small or specialised niche markets;
- products with short evolution cycles where standardisation would constantly lag behind;
- products where the standardisation process does not go in the direction needed by the manufacturer;
- recycled and reused products since their technical characteristics are less stable and might require a more individual approach and, of course,
- innovative products.

A look at EOTA's assessment work suggests that product innovation today happens primarily in the form of smaller evolutions, e.g. new product features or uses not yet covered by the harmonised standard. According to EOTA's data, the majority of the work items open in 2019 cover new product features, new uses or completely innovative products. In other words, the EOTA route promotes innovation and is successful in supporting manufacturers in obtaining CE marking for novel or improved products.

Re 2

The EOTA route has proven to be more responsive to stakeholder needs for high quality technical specifications in two respects:

- EOTA's technical specifications tend to reflect the Member States regulatory needs better, since EOTA's member bodies have been designated by the MS themselves and are highly specialised.
- EOTA as the smaller body has been able to react more quickly to new legal or technical needs, such as the new legal consistency needs of the European Commission triggered by the James Elliott judgment.

Finding solutions for better taking into account MS regulatory needs as well as evolving technical and regulatory needs at EU and MS level both in the main standardisation and the alternative EOTA route should be a priority for any revision of the CPR.

The standardisation and the alternative EOTA route are both indispensable tools for promoting the internal market in their own right. As outlined above there is a range of products for which the main standardisation route is not suitable and which still need to be treated in a consistent and harmonised way (see point 1).

¹ Supporting study for the evaluation of the relevance of EOTA tasks; BRE, Ecopy and Vito, December 2016

Re 3

The EOTA route is voluntary. In other words, the ETA is an offer to manufacturers, not an obligation. Its popularity and good uptake show that the ETA meets market needs. Manufacturers, specifiers and contractors have come to use the ETA as a common technical reference document, especially since the ETA is nowadays recognised far beyond the borders of Europe.

The 2016 study on the EOTA route mentioned before¹ shows that the vast majority of ETA holders estimates that the benefits of an ETA far outweigh its costs.

Based on these experiences, important construction industry associations have expressed their support for the EOTA route in an open letter sent among others to the Chair and the Vice-Chair of the IMCO Committee in February 2018. These associations represent SMEs. Actually, many ETA holders are SMEs.

The open letter was supported by

- FIEC (European Construction Industry Federation),
- CPE (Construction Products Europe),
- SBS (Small Business Standards),
- EBS (Construction SMEs Europe),
- ECS (Engineered Construction Systems (ECS),
- CFE (Construction Fixings Europe), and
- EOTA (European Organisation for Technical Assessment).

We hope that this additional information will help you to evaluate the implementation of the CPR. Please do not hesitate to contact us if you would like to receive further background information or exchange information on the EOTA route.