

A strong and clear CPR framework

EOTA Position Paper with a view to the start of the CPR trilogue

24 July 2023

Setting the scene

In March 2022, the European Commission published its proposal for a revision of the Construction Products Regulation aimed at improving the implementation of the common market for construction products and promoting a sustainable and resilient construction ecosystem in line with the EU's ambitions for a climate-neutral Europe.

The Council and the European Parliament have adopted their positions for the trilogue in June and July 2023, respectively. EOTA fully supports the goals set forth by the co-legislators, namely increasing clarity, finding balanced solutions for known shortcomings as well as improving user-friendliness, practicability and applicability of the Regulation. The most relevant issues have been identified and viable solutions proposed.

With the interinstitutional negotiations about to begin, EOTA takes the opportunity to share some aspects that are key to ensuring a good functioning of the ETA route to CE marking. The ETA route is Europe's tool for promoting product innovation, thus enhancing the competitiveness of the EU construction product sector.

Key aspects

EOTA has identified three key aspects that will facilitate innovation and help green construction products to gain market access in a timely manner.

- Reliable transitional rules for stakeholders of the ETA route
- Clear and efficient procedures
- Consistent implementation of the 'harmonised technical specifications and EADs' concept

Reliable transitional rules

Too short transitional periods could prove disruptive to the activity of SMEs and other manufacturers. The transitional rules adopted should provide a fair balance between reliability and stability for stakeholders and a swift transition to the new rules.

- EOTA supports the 24-month delay of the application of the new CPR proposed by the Council (Art. 94). This period will allow the Commission and EOTA to **finalise ongoing EAD procedures to ensure continued market access for products** based on the related EADs and ETAs. **Optional application of the new EAD/ETA procedures** should be possible during this period to enable a smooth transition.
- To avoid bottlenecks at certain moments of the phasing in of the new Regulation, the transitional periods specified for EADs and ETAs in the Council Position should only apply from the **date of applicability, not the date of entry into force**, of the new Regulation (Art. 93).

Clear and efficient procedures

EOTA thanks the Parliament and the Council for their work in making EOTA procedures more efficient. Past experience shows that the bottleneck in the EAD procedure is the stage where the compliance of EADs with the CPR provisions is assessed as described in Art. 38(1) and Annex III point 8a of the Council Position.

- EOTA welcomes the Council Position that makes a **clear link between the Commission's assessment of EADs** (Art. 38(1)) and the 30-day timeline specified in Annex III point 8a.
- The provisions for **handling confidentiality/transparency matters** should be described coherently (cf. Art. 36 point 1a and contractual details in Annex III point 1(a) and (b) of the Council Position).
- A clearer distinction between the ETA and EAD procedures as proposed by the Parliament with Annex III and IIIa would be helpful.
- The clarification brought by the Council to the role of ETAs in the framework of the new AVCP system 3+ for sustainability assessment will help avoid duplication of effort (Annex V point 7(g)).
- Further thought should be given to other measures of **ensuring that EADs are cited in the Official Journal in a timely and predictable manner**, such as the more specific timelines proposed by the Parliament, increased EC resources or streamlined EOTA procedures. This is especially important because the issuing of ETAs will be conditional on the citation of the relevant EAD in the Official Journal.

Consistent implementation

EOTA would like to thank the trilogue parties, especially the Council, for clarifying the concept of 'harmonised zone'. EOTA understands that, as a result of the rationale applied, EADs will no longer be included in the term 'harmonised technical specifications' as they used to.

- To avoid legal loopholes and uncertainties, EOTA would ask the co-legislators to check for every mention of 'harmonised technical specifications' whether 'and EADs' needs to be added.
- The ETA route is voluntary. However, if a manufacturer opts to undergo an ETA procedure, CE marking should become mandatory given that promoting harmonisation is the overarching goal of the CPR (Art. 42(5)).

Conclusion

EOTA would like to thank all parties for the efforts invested in making the CPR fit for the future and finding solutions to existing challenges. With all this achieved, EOTA is confident that the trilogue will lead to an early and sound legal framework for the construction sector.

EOTA recommendations for the wording of selected provisions

The recommendations follow the order of the Construction Products Regulation. The passages commented on are highlighted. EOTA would like to thank all parties involved in the CPR revision for their excellent work.

Item	Commission Proposal	Parliament Position	Council Position	EOTA's recommendation
harmonised technical specification(s)				To avoid legal loopholes and uncertainties, please check for every mention of 'harmonised technical specification(s)' whether 'and EADs' needs to be added.
Art. 38(1) first sentence	The Commission shall assess the conformity of European assessment documents with harmonised technical specifications, with this Regulation and with other Union law.	Same	The Commission shall, in accordance with Annex III, Point 8a , assess the compliance of European assessment documents with harmonised technical specifications, with this Regulation and with other Union law.	Support Council Position
Art. 42(5) first sentence	Products covered by a European assessment document for which a European technical assessment has been issued may be CE marked and thereby obtain the same status as products CE marked on the basis of harmonised technical specifications, where the manufacturer satisfies the obligations set out in this Regulation.	Same	Same	Strengthen provision Products covered by a European assessment document for which a European technical assessment has been issued may shall be CE marked and thereby obtain the same status as products CE marked on the basis of harmonised technical specifications, where the manufacturer satisfies the obligations set out in this Regulation.

<p>Art. 93(4)</p>	<p>European assessment documents issued before [1 year after entry into force] remain valid until [3 years after entry into force], unless they have expired for other reasons. Products placed on the market on the basis of these may be further made available on the market for another five years.</p>	<p>European assessment documents issued before [entry into force] remain valid until [5 years after entry into force], unless they have expired for other reasons. Products placed on the market on the basis of these may be further made available on the market for another five years.</p>	<p>European assessment documents, the references of which are included in the list published in accordance with Article 22 of Regulation (EU) 305/2011 shall remain valid until [5 years after entry into force], unless they have expired for other reasons. Products shall not be placed on the market on the basis of European technical assessments issued in accordance with these European assessment documents after [10 years after entry into force].</p>	<p>Support Council position with amendment</p> <p>European assessment documents the references of which are included in the list published in accordance with Article 22 of Regulation (EU) 305/2011 shall remain valid until [5 years after entry into force date of applicability], unless they have expired for other reasons. Products shall not be placed on the market on the basis of European technical assessments issued in accordance with these European assessment documents after [10 years after entry into force date of applicability].</p>
<p>Art. 94 Entry into force</p>	<p>This Regulation shall enter into force on the twentieth day following its publication in the Official Journal of the European Union.</p> <p>It shall apply as from [1 month after entry into force].</p> <p>This Regulation shall be binding in its entirety and directly applicable in all Member States.</p>	<p>Same</p>	<p>This Regulation shall enter into force on the twentieth day following its publication in the Official Journal of the European Union.</p> <p>It shall apply as from [24 months after entry into force], with the exception of Articles 2, 3, 3a and 4(2a) and (2b) and Annex I-A which shall apply from [date of entry into force].</p> <p>This Regulation shall be binding in its entirety and directly applicable in all Member States.</p>	<p>Support Council Position with addition</p> <p>This Regulation shall enter into force on the twentieth day following its publication in the Official Journal of the European Union.</p> <p>It shall apply as from [24 months after entry into force], with the exception of Articles 2, 3, 3a and 4(2a) and (2b) and Annex I-A which shall apply from [date of entry into force].</p> <p>Stakeholders may opt to apply Annex III of this Regulation from [date of entry into force]. In this case all related provisions in this Regulation shall also apply.</p> <p>This Regulation shall be binding in its entirety and directly applicable in all Member States.</p>

Annex III				<p>General comments</p> <p>A clear distinction between the ETA and EAD procedures as proposed by the Parliament with Annex III and IIIa would be helpful.</p> <p>Confidentiality/transparency matters should be described consistently between Art. 36 and Annex III.</p>
<p>Annex III point 9 (Commission)</p> <p>Annex III point 9 first paragraph (Council)</p> <p>Annex IIIa point 9 first paragraph (Parliament)</p>	<p>The organisation of TABs shall adopt the final European Assessment Document and shall send a copy thereof to the Commission, together with a translation of its title in all the official languages of the Union, for the publication of its reference in the Official Journal of the European Union. The organisation of TABs shall publish the European Assessment Document.</p>	<p>The organisation of TABs shall adopt the final European Assessment Document and shall send a copy thereof to the Commission, together with a translation of its title in all the official languages of the Union, for the publication of its reference in the Official Journal of the European Union. Such publication shall take place within 90 days. The organisation of TABs shall publish the European Assessment Document.</p>	<p>The organisation of TABs shall adopt the final European Assessment Document and shall send a copy thereof to the Commission, together with a translation of its title in all the official languages of the Union, for the publication of its reference in the Official Journal of the European Union without delay.</p>	<p>Support Parliament Position regarding the deadline</p>
Annex V point g	<p>Notified bodies that are undertaking tasks under Systems 1+, 1, and 3 as well as manufacturers that are undertaking tasks under Systems 2+ and 4 shall consider the European Technical Assessment issued for the product in question as the assessment of the performance of that product. Notified bodies and manufacturers shall therefore undertake the tasks referred to in points 1.(b)(ii), 2.(b)(ii), 3.(a)(i), 5.(a)(i) and 6(a)(i), respectively, only where there is evidence that these have not or not appropriately been executed by the TAB.</p>		<p>Notified bodies and manufacturers shall consider the European Technical Assessment issued for the product in question as the assessment and validation of the performance of that product. Manufacturers finding evidence or informed by the notified body that the performance of the product is not in conformity with the European Technical Assessment shall bring that product into conformity including, when relevant the fulfilment of obligations set out in Article 21(8).</p>	<p>Support Council Position</p>