

EOTA white paper on the CPR review



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with a special focus on the ETA route to CE marking

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Setting the scene

The Construction Products Regulation (CPR)¹ provides the framework for the free movement of construction products within the EU single market by laying down harmonised conditions for their marketing. Currently, the CPR is being revised to address certain weaknesses in its implementation and to make it more responsive to new regulatory needs, especially with regard to a sustainable built environment.

Within the CPR framework, the European Technical Assessment (ETA) procedure offers a voluntary route to CE marking for non-standard products. This route is managed by the European Organisation for Technical Assessment (EOTA) and the Technical Assessment Bodies (TABs) that form the organisation.

Over the last 30 years, the ETA route has earned wide recognition in the construction sector in Europe and worldwide. Manufacturers value the speed and flexibility of the procedure; users rely on the independent product performance information that the ETA provides.

Looking to future challenges, the ETA route will play a key role in reaching the EU's Green Deal, Circular Economy and Digital Decade objectives, because many green, recycled, reused or smart construction products will come with specific assessment needs that are not – and in some cases cannot be – covered by harmonised standards.

In the 2020 EC public consultation on the CPR review, 84 % of all respondents spoke in favour of maintaining the ETA route while further improving it. This paper presents suggestions on how to achieve this goal.

¹ Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC

Main levers for improving the CPR harmonisation system

As the European Commission points out in its *Standardisation Strategy Initiative*², a well-functioning and agile harmonisation system is key to protecting European competitiveness and the EU's leading role in standardisation (in a large sense).

The future appeal of the CPR harmonisation system will depend mainly on the following factors:

- speed and reliability of delivery of harmonised technical specifications
- quality in terms of 'consistency of the common technical language' and 'contribution to construction works' safety'

The ETA route to CE marking is an integral part of the CPR harmonisation system, providing the construction product sector with much needed flexibility. EOTA's mission, in accordance with the CPR, is to coordinate the ETA procedure and to 'suggest improvements to the Commission based on experience gained'. This is why the following suggestions are focused on the ETA route to CE marking, even though some can be extended to the CPR harmonisation system as a whole.

Speed and reliability of EAD delivery

The ETA route is designed to be fast and flexible, two of its key benefits for the construction industry. However, delays have accrued at the citation stage following the James Elliot judgment.

The European Commission (EC) and EOTA are currently clearing this backlog and speeding up the citation of European Assessment Documents (EADs), which are the harmonised technical specifications underlying the ETA procedure. The first results of this joint initiative are encouraging: 44 EADs were cited in 2020 and 30 in 2021 with more citations expected in early 2022. The following measures would further support this initiative:

■ Clear timelines and clear attribution of responsibilities in the citation stage

Most stages of the EAD procedure come with a timeline and clear responsibilities. Such precise definitions are however missing for the final stages leading up to the citation of EADs in the *Official Journal* (see points 7 and 8 of Annex II to the CPR).³ Clarifying these aspects would go a long way towards streamlining the EAD procedure.

² https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13099-Standardisation-strategy_en

³ For a more detailed approach see: [EOTA white paper on an amendment of Annex II to the CPR](#), May 2016.

■ Resources at the EC level

The high demand for CE marking of innovative construction products through the ETA route has already led to a relevant increase in the resources allocated by EOTA to the preparation of EADs for citation.

All harmonised technical specifications, including EADs, are reviewed and commented by the Commission services before their references are published in the *Official Journal*. The resources that can be made available for this exercise in the coming years will thus be a crucial, and potentially limiting, factor for the successful revitalisation of the common market for construction products.

■ Ensuring availability of notified bodies for new ETAs

Currently, notification of third-party bodies fulfilling tasks related to the assessment and verification of constancy of performance (AVCP) only starts once the EAD reference has been published in the OJEU. This places innovators and first movers in a situation of legal uncertainty, because their ETA is available before that date. A transitional solution for first movers is required.

■ Legal demands placed on harmonised technical specifications pending citation

The future citation mode will have a huge impact on the agility of the European harmonisation system and its capacity to respond to new regulatory and technical demands in a timely fashion. Finding a workable approach regarding the legal demands placed on harmonised technical specifications is therefore paramount.

Consistency of the common technical language

EOTA is highly committed to strengthening the consistency of the common technical language. The procedure for merging EADs of similar scope prior to their citation, which the EC and EOTA have agreed on, will help achieve this aim.

Further measures to improve consistency include:

■ Provide for horizontal assessment methods

Some assessment methods can be applied horizontally to several product groups covered by different EADs. Allowing EOTA to refer to horizontal assessment methods instead of copy-pasting them into each individual EAD would ensure compacter and more consistent EADs.

■ Make confidentiality an optional feature

Confidentiality is an important feature of the EAD procedure because it protects the competitive advantage and trade secrets of innovators and first movers. However, if manufacturers are willing to waive confidentiality, they should be allowed to work in small groups on an EAD or EAD amendment. This would also help speed up the citation process, especially in cases where EADs need to be merged prior to citation (see above).

■ Avoid duplicating information and declaration duties

Overlaps in the information provided in the ETA, declaration of performance and CE marking should be reduced to a minimum. Using digital formats (QR codes, standardised data sets, websites) would help increase the ad hoc accessibility of this information, e.g., via mobile devices on the construction site.

Construction works' safety

As a network of expert bodies designated by the Member States, EOTA has an excellent overview of local assessment needs and takes great pride in providing EADs and ETAs that meet the requirements of manufacturers, users as well as authorities. The following suggestions would help promote the objective of a safe built environment:

■ Make it easier to include technical minima and recommendations on correct use in EADs and ETAs

An adhesive used in construction must stick (i.e., have sufficient bonding strength) and a door must have a handle. As the European Commission points out in its *CPR Acquis Guidance*⁴, certain product features are necessary to ensure the 'appropriate functioning' of a product. In the same way, correct installation often has a huge influence on the performance of a product.

Allowing specification providers to include technical minima and provide recommendations on correct use (e.g., in the Annex to an EAD or ETA) would go a long way towards enhancing the safety of the built environment.

■ Start with a technically reasonable set of assessment criteria

Pursuant to the current CPR, EADs include assessment criteria only for those characteristics for which the manufacturer wishes to declare a performance.

⁴ European Commission: High level structures of common technical specifications - guidance for subgroups under the Technical Acquis Planning Process. (Working document, unpublished)

This may lead to situations where several amendments are needed until the EAD has a technically reasonable assessment scope. Including the most frequently needed assessment criteria in the EAD from the start would increase the value and relevance of EADs and help avoid duplication of effort.

Conclusion

The ETA route to CE marking is a recognised EU procedure used by manufacturers of all sizes, including many SMEs, to market innovative construction products across Europe. The ETA also facilitates their access to markets overseas. On a macroeconomic level, the ETA route can act as a catalyst for achieving the EU's Green Deal, Circular Economy and Digital Decade objectives.

EOTA is committed to help build this route into the future and continuing a success story written in Europe.



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