



EUROPEAN BUILDERS CONFEDERATION

POSITION AND AMENDMENTS

EN

29 September 2010

ON THE PROPOSAL FOR A REGULATION LAYING DOWN HARMONISED CONDITIONS FOR THE MARKETING OF CONSTRUCTION PRODUCTS

Established in 1990, the European Builders Confederation - E.B.C. - is a European professional organisation representing national associations of Craftsmen and SMEs working in the construction sector. Through its national members, E.B.C. represents 2 million micro, small and medium sized enterprises from the construction sector in 15 European countries.

EBC is member of UEAPME (European Union for Craft and SMEs) and NORMAPME (European Office of Crafts, Trades and Small and Medium-sized Enterprises for Standardisation).

General comments

EBC welcomes the political agreement reached in May 2010 and the official adoption of the text of the regulation ending a very long first-reading process.

It is important to remember that **craft enterprises and SMEs** from the construction sector are generally users of construction products, although in some cases they are also manufacturers (e.g. enterprises specialised in the manufacture and installation of doors, windows, gates, stairs, but also stonecutting and tiling enterprises, etc.). The draft Regulation provides for true simplification measures that will allow construction Craftsmen and SMEs to obtain CE marking for the products they manufacture.

EBC nevertheless hopes that the European Parliament, at the beginning of this second reading process will help to introduce a few clarifications and improvements to the text. To this end, EBC has produced appropriate amendments.

1. Derogations to compulsory declaration of performance – article 5

The derogations to compulsory declaration of performance listed in article 5 are fundamental for the 3 types of construction products mentioned. However, the wording of the article will surely limit the real impact of these derogations since they provide for an obligation of CE marking if there is only a single European or national characteristic to be declared. For some construction products manufactured by crafts and SMEs, this would create an obligation to declare by testing even those products that were manufactured through non-industrialised processes, and installed in a single identifiable work, following a single precise order.

These products in fact do not need to be CE marked for technical reasons and they constitute a very limited quantity of products, used only in local markets and for very specific uses.

This is why, the proposed **amendment 3** improves the real usability of the derogations and will reduce unnecessary administrative burden for manufacturing craft enterprises and SMEs.

2. Simplified procedures – articles 36 to 38

EBC welcomes the **simplified procedures** described in **chapter VI** (articles 36 to 38 and the connected recitals. This will facilitate the task of micro-enterprises and SMEs as a whole. The

simplified procedures will prevent manufacturers from having to pass via a notified body before placing their products on the market, unless these products have a major impact on the safety of buildings. Access to CE marking will therefore be simplified and be rendered less expensive.

EBC, nevertheless would like to introduce clarifications regarding the definition of Simplified Technical Documentation (amendment 1 to article 2) and on the conditions of affixing CE marking (amendment 5 on article 8).

3. Access to standardisation and harmonised standards

EBC strongly welcomes the words included in recitals 32 and 33 on the reduction of burden and some of the provisions included in article 17 on harmonised standards.

However, it is fundamental to remember that certain interest groups, and in particular certifiers, are overrepresented in the European Technical Committees, even though they are partial to the issue as they elaborate the standards and testing procedures that they will themselves apply as part of a payable service to the product manufacturers. It is therefore essential to ensure that no single group is overrepresented in order to guarantee the impartiality of European standardisation.

Indeed, in the framework of the review of the European Standardisation Package and considering that construction products are among the most widely covered by standards – including harmonised standards – it is fundamental to include in this regulation a concern about **balanced representation** in CEN TCs, where construction SMEs have already worked effectively, even if in evident underrepresentation (CEN TC 33 for doors and windows is an example).

SMEs are generally underrepresented and it is important that European standardisation bodies ensure the participation of SMEs and facilitate their access to Technical Committees (see amendment 6).

4. Other points of interest

EBC forcefully criticises the irrational request of article 6.3 (c) imposing the compulsory declaration of at least one essential characteristic when drawing up a declaration of performance. Indeed, such a provision would lead to unprecedented and unnecessary requirements in countries and for products where there is no obligation to declare any essential requirement. This obviously would introduce a heavy and unnecessary administrative and financial burden. **This is why amendment 4 asks for its deletion.**

EBC strongly supports **article 43**, introducing the possibility to consider a body belonging to a trade association – if fulfilling all the requirements – as an official Notified Body. This could indeed limit the strong power and influence that these bodies have in the certification process, most of all in relation to crafts and SMEs.

EBC Amendments

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| Amendment 1 | Council text 1 st reading | EBC Amendment |
| | <p><u>Article 2-15</u></p> <p>"Specific Technical Documentation" means documentation demonstrating that methods within the applicable system for assessment and verification of constancy of performance have been replaced by other methods, provided that the results obtained by those other methods are equivalent to the results obtained by the test methods of the corresponding harmonised standard;</p> <p><u>Justification</u> This definition needs to be clarified in order for it to become consistent with the connected recitals and articles 36 to 38 on Simplified procedures and on the use of the STD. Indeed, for the STD to become useful and applicable, its definition must be as wide as possible, adapted to the several uses and cases that the manufacturer drawing up STD will encounter.</p> | <p><u>Article 2-15 modified</u></p> <p>"Specific Technical Documentation" means documentation demonstrating that <i>certain conditions have been met by the manufacturer and that certain procedures to meet those conditions have been followed;</i></p> |

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| Amendment 2 | Council text 1 st reading | EBC Amendment |
| | <p><u>Article 5</u></p> <p>By way of derogation from Article 4(1) and in the absence of Union or national provisions requiring the declaration of essential characteristics where a manufacturer intends to place a product on the market, a manufacturer may refrain from drawing up a declaration of performance when placing a construction product covered by a harmonised standard on the market where:</p> <p><u>Justification</u> This amendment is necessary for the full use of the following three examples of derogations. These derogations to CE Marking are absolutely fundamental for certain types of individual, historically relevant and artistic construction products that craftsmen manufacture. These products – because of their uniqueness and small impact on the market – have no economic nor technical need to be CE marked and thus tested for it.</p> | <p><u>Article 5 modified</u></p> <p>By way of derogation from Article 4(1) and in the absence of Union or national provisions requiring the declaration of essential characteristics where a manufacturer intends to place a product on the market; a manufacturer may refrain from drawing up a declaration of performance when placing a construction product covered by a harmonised standard on the market where:</p> |

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| Amendment 3 | Council text 1 st reading | EBC Amendment |
| | <p><u>Art 5 (c)</u></p> <p>the construction product is manufactured in a traditional manner and in a non-industrial process for adequately renovating construction works officially protected as part of a designated environment or because of their special architectural or historic merit, in compliance with the applicable national rules.</p> <p><u>Justification</u> Renovation of officially protected buildings or sites must be only given as an example of traditional products produced in a non-industrialised process.</p> | <p><u>Art 5 (c) - modified</u></p> <p>the construction product is manufactured in a traditional manner and in a non-industrial process, <i>notably</i> for adequately renovating construction works officially protected as part of a designated environment or because of their special architectural or historic merit, in compliance with the applicable national rules.</p> |

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| Amendment 4 | Council text 1 st reading | EBC Amendment |
| | <p><u>Article 6-3 (c)</u> ...the performance of at least one of the essential characteristics of the construction product, relevant for the declared intended use or uses;</p> <p><u>Justification</u> The obligation to declare the performance of at least one of the essential characteristics will lead to absurd situations in those cases where no essential characteristics must be declared. This will obviously create unnecessary administrative and financial burdens on SMEs.</p> | <p><u>Article 6-3 (c)</u> <u>DELETED</u></p> |

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| Amendment 5 | Council text 1 st reading | EBC Amendment |
| | <p><u>Art 8-2</u> The CE marking shall be affixed to those construction products for which the manufacturer has drawn up a declaration of performance in accordance with Articles 4, 6 and 7. If a declaration of performance has not been drawn up by the manufacturer in accordance with Articles 4, 6 and 7, the CE marking shall not be affixed.</p> <p><u>Justification</u> Clarification amendment. It is important to remind that simplified procedures – as described in articles 36, 37 and 38 – also lead to the possibility of CE marking a construction product.</p> | <p><u>Art 8-2 - modified</u> The CE marking shall be affixed to those construction products for which the manufacturer has drawn up a declaration of performance in accordance with Articles 4, 6 <u>and 7, 36, 37 and 38 mentioning the simplified procedures.</u> If a declaration of performance has not been drawn up by the manufacturer in accordance with Articles 4, 6 <u>and 7, 36, 37 and 38 mentioning the simplified procedures,</u> the CE marking shall not be affixed.</p> |

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| Amendment 6 | Council text 1 st reading | EBC Amendment |
| | <p><u>Article 17</u></p> <p><u>Justification</u> Certain interest groups, and in particular certifiers are over represented in the European Technical Committees, even though they are partial to the issue as they elaborate the standards and testing procedures that they will themselves apply as part of a payable service to the product manufacturers. It is therefore essential to ensure that no single group is overrepresented in order to guarantee the impartiality of European standardisation. SMEs are generally underrepresented. It is important that European standardisation bodies ensure the participation of SMEs and facilitate their access to Technical Committees.</p> | <p><u>Article 17-1 a new</u> <i>The European standardisation bodies shall facilitate the access to standardisation to Small and Medium-sized Enterprises and guarantee that no category of stakeholders are represented by more than 25% of the participants in a Technical Committee and/or a Working Group</i></p> |