

The Construction Product Directive (CPD)

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I export to other Member States - what does the CPD mean for me?

As noted above, the fundamental principle of the CPD is to ensure that products which are fit for their intended use can be freely traded across the EEA. This applies both to products produced within the Community and those imported from countries outside the Community.

In the past, the technical requirements of Member States for particular products could differ. A manufacturer whose product was considered perfectly safe in the Malta could find that another Member State did not consider that it was safe, and refuse it entry to its market. Additionally, products which did meet the safety standards of another Member State may have still been refused entry because they had not been tested and certified by a standards organisation in that Member State. These are what we mean by technical barriers to trade.

The CPD seeks to remove these barriers by establishing a single, agreed, standard for demonstrating the performance of particular products, and a system of certification and test bodies which are recognised as competent throughout the Community.

For what does this directive apply?

This directive is applicable for all 'construction products'. For the purposes of the Directive, 'construction product' means **any product which is produced for incorporation in a permanent manner in construction works**, including both buildings and civil engineering works. This definition makes the Directive apply to a wide range of products and makes the sector have numerous specific features regarding:

- the diversity of construction methods;
- the abundance and diversity of the rules on construction;
- the role of the State;



Due to the technical complexity and variety present in the sector, the Construction Products Directive deviates from the other New Approach Directives.

What are the difference between this Directive and the other New Approach Directives?

The CPD is unique amongst the New Approach Directives, in that the essential requirements do not apply directly to products. Whereas other New Approach Directives (Machinery safety, Toys safety etc) allow manufacturers to declare that their products directly comply with safety requirements (i.e. "this machine is safe", "this toy is safe"), construction products, on their own, have no implications for general safety and well being. It is only when they are incorporated in works that their performance becomes important. This is why the manufacturer's declaration of conformity has to relate to the performance characteristics of the product, as set out in the *technical specifications*, and not directly to the essential requirements of the works set out in the Directive.

Therefore, this Directive provides for the establishment of requirements by means of interpretative documents which form a basis for either the development of *technical specifications* (European standards and European Technical Approvals (*see below for explanation*)) by private-sector bodies, or the recognition of *national technical specifications*. The interpretative documents are required in order to relate the essential requirements for construction works to the construction products.

What technical specification must a product comply with in order to qualify for the CE marking?

The CE marking requires conformity with one of the following:

- a national standard transposing (i.e. reproducing) a harmonised European standard (Art. 4,2a),
- a European Technical Approval (Art. 4,2b), or
- a national technical specification recognised by the Commission as meeting the essential requirements of the CPD (Art. 4,2c).

Construction products **must meet** recognised European or national technical specifications in order to be put on the market with the CE marking. Meeting the Directive's essential requirements is therefore in this case not enough, for the construction product to be granted the CE marking.



What is a European technical specification?

European technical specifications are of two types - **harmonised European standards** (hENs) , and **European Technical Approvals** (ETAs). Manufacturers who wish to take advantage of the Single Market will, in most cases, need to ensure their products meet the requirements of one or the other.

Many European standards already exist - any standard which is prefixed "MSA EN", for example, is a European standard. The "harmonised" parts of European standards are those parts of standards which address regulations in the Member States. It is the harmonised part of a standard which manufacturers must meet in order to be able to affix the CE marking.

Where harmonised standards cannot be written - for example, where there are no recognised existing national standards to build on - manufacturers may apply for a European Technical Approval (ETA) to be issued against their product. ETAs are assessments of products' likely performance, normally based on guidelines issued by the European Organisation for Technical Approvals (EOTA).

What is a national technical specification?

On the other hand, **national technical specifications** are additional national requirements which a construction product or performance of the works must meet in order to be placed on the particular national market.

National technical specifications derive from National requirements, due to different geographic and climatic conditions. National Provisions under the CPD are considered to be all relevant (national, regional, local) laws, regulations and mandatory administrative provisions of a Member State, covering the performance of the works or the products directly.



Where do European specifications come from?

Standards are written by CEN, the European standards organisation, on the basis of a mandate (a contracted instruction) from the Commission. For products with an electric or electronic dimension, standards will be written by CENELEC. Equally, ETA guidelines are drawn up by EOTA on the basis of a similar mandate. Standards and ETAs detail the performance characteristics required of products to allow works to meet the essential requirements of the CPD. The six essential requirements set out in very broad terms the minimum safety requirements of construction works.

Standards and guidelines will also set out the testing regime and the participation of third party certification or test bodies in order to demonstrate that products meet the required standard – i.e. the systems of attestation of conformity.

So, if I meet a European "standard", can I sell my product anywhere in Europe?

Unfortunately, this will not necessarily be the case, for two reasons.

Firstly, most Member States will require you to demonstrate compliance with European specifications by affixing the CE marking to your product - there are certain rules about affixing the marking.

Secondly, even though a broad performance standard might be agreed, account must inevitably be taken of differing geographic and climatic conditions within Europe. An externally fitted product, for example, may be fit for use in the drier, sunnier climates of the South, but may be entirely unsuited to the more inclement weather conditions of the North. For these reasons, each Member State will be allowed to establish "levels and classes" of performance of products to reflect these different conditions. These will be discussed more fully below.

What are the essential requirements?

The essential requirements for the performance of works are:

- Mechanical resistance and stability
- Safety in the case of fire
- Hygiene, health and the environment
- Safety in use
- Protection against noise
- Energy economy and heat retention



These requirements will be relevant only where works are subject to regulation in a particular Member State. Where no such regulations exist, the CPD does not apply.

How do I demonstrate that my product has the relevant performance characteristics?

This depends on the attestation system applicable to your product. Attestation systems for particular products are decided by the SCC on the basis of qualified majority voting: manufacturers cannot choose which attestation system to apply. The choice of system takes account of Article 13.4 of the CPD, which requires that the system chosen should be the least onerous for manufacturers, consistent with safety.

The systems range from System 4, a manufacturer's declaration of conformity, coupled with a factory production control system run by the manufacturer, to System 1+, which requires full third party testing, and product certification with audit testing. Products which have a non-critical effect on the safety of works are likely to be system 4. Where failure of a product could lead to serious failure of the works, a more onerous system will apply.

For all systems, a factory production control system must be in place. The Commission has indicated that compliance with the ISO 9000 series will be deemed to be sufficient for this.

The attestation system for a particular family of products is included in the Commission's mandate to CEN or EOTA for those products and the attestation procedures are set out in the relevant technical specification.

I have had my products tested to the appropriate level, and can demonstrate that my product meets performance requirements. Can I now market it in Europe?

Yes, if your product correctly bears the CE conformity marking it can be placed on the market. In most Member States, products must have the CE marking affixed before they will be allowed entry to the market.

However, as the CPD allows individual Member States to require different levels and classes of performance for products, manufacturers will also need to ensure that their product meets the specific national regulatory requirements of the country concerned.



CE marking under the CPD is not yet possible for my product. What should I do in the meantime?

Until harmonised standards or ETAs are available, existing national regulations apply. However, the mutual recognition provisions of Articles 16 & 17 of the CPD allow a

manufacturer to have his products tested to the standard of another Member State by a national approved body. That Member State cannot, then, refuse the products concerned entry to its market.

What progress has been made on producing harmonised standards?

Mandates and attestation decisions have been issued to CEN for virtually all product families, and harmonised standards are becoming available progressively. CE marking is now a reality. Lists of mandates issued to CEN, harmonised standards available and standards being developed can be found on the relevant pages at this site.

Can a product fall under the scope of more than one New Approach Directives?

Yes.

There are undoubtedly a number of products, particularly in the mechanical and electrical services field, that will simultaneously be under the scope of a number of EC Directives (e.g. the Low Voltage Directive, the Electromagnetic Compatibility Directive, the Machinery Directive, the Construction Products Directive).

The Commission is requesting CEN or EOTA to include in the harmonised technical specification under the Construction Products Directive all necessary information on the other Directives that apply for a given product.

Relevant Legal Notices

LEGAL NOTICE 270 of 2001

<http://docs.justice.gov.mt/lom/Legislation/English/SubLeg/427/12.pdf>

Relevant Guidance documents

http://ec.europa.eu/enterprise/construction/internal/guidpap/guidpap_en.htm