Construction products: harmonised conditions for the marketing

2008/0098(COD) - 20/10/2009 - Modified legislative proposal

The Commission presented an amended proposal for a Regulation laying down harmonisation conditions for the marketing on the construction products, following the opinion given by the European Parliament at first reading on 24 April 2009.

The Commission has considered it appropriate to **accept a large number of amendments approved by the European Parliament** because they do not modify the main substance of the initial Commission proposal: they quite frequently also contribute to improving it by making it more precise. Whilst welcoming those amendments, the Commission has preferred, in a certain number of cases, a slightly different formulation.

Of the changes accepted by the Commission, Amendments 17 and 70, deleting recital 17 and modifying Article 21, have introduced the most important substantial changes to the Commission proposal. **The Parliament has limited hereby the use of European Technical Assessments (ETAs) only to situations where the product in question is not covered or not fully covered by a harmonised standard. Given the specific character of harmonised standards in this context (performance-based standards), the Commission can accept these amendments, while not going against the main objective of the proposal**.

On the other hand, certain amendments could not be accepted because they would have modified the substance of the Commission proposal in a manner not compatible with the objectives presented above. Within the reasons that have led to the rejection of these amendments, it is worth pointing out their evident inconsistency, in several cases, with the general principles of the Internal Market Package for Goods. Moreover, sometimes the horizontal character of the amendments has not coincided with the sectorial nature of the Commission proposal. Accepting some of the amendments would have created internal incoherence within the whole proposal, too.

Lastly, a **series of amendments have been rejected** because of their significant direct implications on the substance of the proposal. The most important ones concern the following matters:

- the obligation established for the manufacturers to affix CE marking even in absence of a real declaration of performance with any content, because no regulatory requirement for such declaration exists; this would lead to a meaningless CE marking, which cannot be accepted, and, in addition, would impose unnecessary burden to enterprises;
- an obligation to declare the content on dangerous substances, going beyond REACH obligations and introduced without any justification or impact assessment;
- the possibility to maintain national marks together with the CE marking. In this respect, the vote in the Plenary represents a step in the right direction, as Amendment 54 to Article 7, opening this route, was rejected: however, Amendment 17 related to the corresponding recital 30 was maintained.

It should be noted that the Council has been continuing their works, with a view of improving the technical quality of the proposal and defining the mandate for the Presidencies for further negotiations with the Parliament. The Council has also dealt with most of the Parliament amendments, indicatively taking a rejecting stand on a large number of them. On the other hand, the progress made in the Council has to some extent reflected also on the contents of the Parliament amendments, thus paving way for the establishment of a solid common base for the thrive towards a second reading compromise between the

Institutions on this proposal. The Commission warmly welcomes all such efforts, facilitating the work ahead.