

CFE**Construction
Fixings
Europe****European producers of
construction fixings with
European Technical
Assessment (ETA)****CFE is part of****CEO**
Comité Européen de l'Outilage
European Tool Association

Positions on the Proposal for a regulation - COM(2022)144 (30th March 2022)

CFE represents manufacturers of anchors, wood screws and similar construction fixings. Each of our member companies holds at least one European Technical Assessment. The following positions are focussed on issues related to EADs and ETAs.

1. Harmonised Technical Specifications and Harmonized Zone

Under the current CPR, products covered by ETAs based on EADs represent a significant share of the European internal market for construction products. If EADs would lose their current status as harmonised Technical Specifications, this would lead to a de-harmonisation of all products covered by ETAs. We are in doubt that it is possible to close this gap by Harmonised Standards in a reasonable time, keeping in mind the huge efforts needed by CEN, the European Commission and the stakeholders to overcome the backlog of existing standards and the fact, that a lot of EADs cover special products and intended uses, which are not suitable for standardisation.

Because the procedure of EAD development remains mainly unchanged compared to the current CPR, it is also not plausible, why should be no longer considered as harmonised Technical Specifications.

CFE appeals to include EADs again in the definition of harmonised technical specifications, which would mean that they become also part of the new introduced Harmonised zone.

2. Confidentiality of EAD development

Compared to the current CPR, the CPR proposal foresees a significant change of the publication of EADs. Today, a new developed or updated EAD is published after the first ETA based on this EAD is issued. This sequence ensures the confidentiality of EAD development, which is an important issue especially for innovative SMEs. The CPR proposal foresees a reversal of this sequence: The first ETA will be issued after the citation of the respective EAD in the OJEU. Current experience with the publication policy of EADs in the OJEU shows a widespread between few months and 4 years while the industry applicant is left with no information on the reasons long delay in publication! It is important to understand that a manufacturer can only apply for an ETA for a product and the respective application. It is up to the TABs to investigate whether an existing EAD or hEN covers the products / application. Only if no harmonized document fits, the TAB must draft a new EAD for the requested product qualification. This means TABs / EC are the owner of the respective process and therefore control the respective speed and agility.

CFE appeals to maintain the current practice of the publication and citation of EADs after the first ETA was issued, in order to maintain agility and momentum in the ETA process.

3. DoP for products covered by an ETA

The proposal for Article 9 (3) foresees that a DoP will be voluntary for products covered by an ETA. Is this change compared to the current CPR intentionally? As the application for an ETA usually does not make sense if this ETA is not used as basis for a DoP and a CE marking, this change could lead to confusion of the market.

CFE appeals to maintain the current regulation that a DoP and CE marking is required for products covered by an ETA.

The proposal for Annex II foresees under 9. and 10. that only one EAD and ETA can be referred. It is common practice that one construction product can be covered by more than one ETA/EAD. (Instance: One and the same type of an anchor can have an ETA for the use in concrete and another ETA for the use in masonry). In this case it should be possible to refer to all relevant ETAs and EADs in one DoP.

CFE appeals to allow the reference to more than one ETAs/EADs in a DoP, as this is the case for references on Harmonised technical specifications (Annex II 8.).

4. Influence of the European Commission on EAD development

The influence of the European Commission on the development of EADs by the power to “abandon or modify the development of a certain European Assessment Document, including merging or splitting” at any stage of EAD development, as foreseen in Annex III 5., without clear criteria, goes too far and creates legal and economic uncertainty for the industry.

CFE appeals to limit this power to clearly defined exceptional cases.

5. Member states consultation during the EAD development

To provide legal certainty for ETA holders and for the end users of products covered by ETAs, EADs should cover all national requirements on the respective product.

CFE appeals to modify Annex III 6. in a way that member states are obliged to introduce national requirements in the EAD development process to make sure that EADs and ETAs cover all national requirements on the respective product.

6. Dedicated design methods as part of EADs

Due to the innovative nature of products and/or applications covered by EADs, the design methods for such products are not always covered completely by Eurocodes.

CFE appeals, that for such cases the EAD format should allow to include information on specific design methods for the products covered by this EAD.

7. Mechanisms for conflict resolutions

Under the current CPR, manufacturer face legal uncertainty resulting from differing interpretations of the legal situation e. g. by the national market surveillance authorities.

CFE appeals to introduce conflict resolution mechanisms on EU level. The EU wide validity of such solutions would provide legal certainty for all stakeholders and a level playing field for all manufacturers.

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