

Pursuant to Article 95 item 3 of the Constitution of Montenegro, I hereby issue the

DECREE

PROMULGATING THE LAW ON CONSTRUCTION PRODUCTS

I hereby promulgate the **Law on Construction Products** passed by the 25th Parliament of Montenegro at the second sitting of the first ordinary session (spring) in 2014 on 26 March 2014.

No 01-484/2
Podgorica, 02 April 2014

THE PRESIDENT OF MONTENEGRO
Filip Vujanovic

Pursuant to Article 82 paragraph 1 item 2 and Article 91 paragraph 1 of the Constitution of Montenegro, the 25th Parliament of Montenegro of the second sitting of the first ordinary (spring) session in 2014 on 26 March 2014 passed the

LAW ON CONSTRUCTION PRODUCTS

I. BASIC PROVISIONS

Subject matter

Article 1

This Law shall regulate assessment and verification of constancy of performance, and demonstration of applicability of a construction product, as well as placing on the market and the use thereof in so far as required to comply with the basic requirements for construction works, and other matters of importance for construction products.

Construction product

Article 2

A construction product, for the purpose of this Law, means any product or a kit consisting of at least two separate components that need to be put together to be incorporated in the construction works, and which are produced and placed on the market for incorporation in a permanent manner in construction works or parts thereof and the performance of which has an effect on the performance of the construction works with respect to the basic requirements for construction works.

Application of other regulations

Article 3

The matters relating to placing a construction product on the market, which are not regulated by this Law, shall be subject to provisions of the Law regulating general safety of products and technical requirements for the product.

Use of gender sensitive language

Article 4

Terms used in this Law in reference to natural persons in the masculine gender shall include the same terms in the feminine gender.

Performance of a construction product

Article 5

The performance of a construction product must be such that it ensures the basic requirements for the construction works, with prescribed incorporation and maintenance in accordance with the intended use of the construction works, within economically acceptable expiration date: mechanical resistance and stability, fire protection, hygiene and health protection, environmental protection, protection against noise, energy efficiency, safety in use and sustainable use of natural resources.

Performance of a construction product means the performance related to the relevant essential characteristics of a construction product expressed by level or class, or in a description.

Essential characteristics of a construction product means those characteristics of the construction product which relate to the basic requirements for construction works referred to in paragraph 1 of this Article.

Level means the result of the assessment of the performance of a construction product in relation to its essential characteristics, expressed as a numerical value.

Class means a range of levels, delimited by a minimum and a maximum value, of performance of a construction product.

Establishing performance of a construction product

Article 6

The performance of a construction product shall be established by a technical regulation.

The technical regulation referred to in paragraph 1 of this Article shall establish the performance of a construction product within classes of performance of a construction product laid down by the Montenegrin standard.

The technical regulations referred to in paragraph 1 of this Article shall be passed by the state administration authority competent for the matters of construction of buildings (hereinafter referred to as the "Ministry").

Title and designation of the Montenegrin standard

Article 7

The technical regulation referred to in Article 6 of this Law states the designation and the title of the Montenegrin standard transposing the harmonised standard (hereinafter referred to as the "Harmonised Montenegrin Standard").

The Harmonised Montenegrin Standard may not change or amend the transposed harmonised standard.

The Ministry shall publish the list of standards referred to in paragraph 1 of this Article in the Official Gazette of Montenegro.

Placing on the market and the use of a construction product

Article 8

A construction product may be placed on the market and used only if:

- its applicability has been proven pursuant to Article 9 of this Law;
- it is duly labelled in accordance with the Harmonised Montenegrin Standard or the Technical Assessment transposing the European Technical Assessment;
- it is accompanied by the technical instruction.

Issuing of a document whose name, appearance, contents, or in another way, may be misconstrued as the document establishing the performance of a construction product, verifying its conformity or demonstrating applicability thereof, shall be prohibited.

Applicability of a construction product

Article 9

A construction product shall be applicable if the performance thereof complies with the technical regulation, technical specification respectively.

Applicability of a construction product shall be demonstrated by:

- the declaration of performance; and
- the mark of conformity, if the construction product is covered by the Harmonised Montenegrin standard or technical assessment transposing the European Technical Assessment.

By way of derogation from paragraph 2 of this Article, applicability of a construction product:

- which is produced or manufactured on the construction site for the needs of that construction site;
- which is individually manufactured or custom-made in a non-series process in response to a specific order, and installed in a single identified construction work; or
- which is manufactured in a traditional manner or in a manner appropriate to heritage conservation and in a non-industrial process for adequately renovating construction works protected in accordance with the law as part of a designated environment, special architectural or historic merit, as evidenced in accordance with revised Main Design of the construction works or a technical regulation, this Law or the Law regulating construction of buildings.

Making a construction product available on the market

Article 10

A manufacturer, importer, authorised representative and a distributor of a construction product shall take measures to ensure that the performance of a construction product in making such product available on the market remain unchanged.

A contractor or other person who has taken over a construction product for incorporation in construction works shall take measures to ensure that the performance of the construction product remains unchanged from taking over to incorporation thereof.

Meaning of terms

Article 11

Individual terms used in this Law shall have the following meaning:

- 1) **essential characteristics** means those characteristics that the construction product needs to fulfil in relation to the basic requirements for construction works;
- 2) **product-type** means the set of performance levels or classes of a construction product, in relation to its essential characteristics, produced using a given combination of raw materials or other elements in a specific production process;
- 3) **technical specification** means the Montenegrin standard which a technical regulation or a document on the assessment of the performance of a construction product refers to;
- 4) **harmonised technical specification** means the Montenegrin standard transposing the Harmonised European Standard which a technical regulation or the assessment document transposing the European Assessment Document refers to;

- 5) **harmonised standard** means the European Standard adopted by the competent European standardization body;
- 6) **assessment document** means a document issued by a designated body for the purpose of issuing technical assessments;
- 7) **designated body** means a legal entity appointed for the purpose of issuing of assessment documents and technical assessment;
- 8) **designated body** for assessment and verification means a legal entity appointed for the purpose of assessment and verification of constancy of performance of the construction product;
- 9) **European Assessment Document** means a document adopted by the European organisation of bodies for technical assessment for the purpose of issuing European technical assessments;
- 10) **technical assessment** means the documented assessment of the performance of a construction product, in relation to its essential characteristics, in accordance with the respective assessment document;
- 11) **European Technical Assessment** means a documented assessment of the performance of a construction product, in relation to its essential characteristics, in accordance with the respective European Assessment Document;
- 12) **technical documents** means a document which contains a detailed description of all procedures implemented for the purpose of assessment and verification of constancy of performance of a construction product, based on which the declaration of performance of the construction product is issued;
- 13) **specific technical documents** 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 Montenegrin standard;
- 14) **intended use** means the intended use of the construction product as defined in the applied technical specification;
- 15) **placing on the market** means the first making available of a construction product on the market;
- 16) **making available on the market** means any supply of a construction product for distribution or use on the market in the course of a commercial activity, whether in return for payment or free of charge;
- 17) **distribution of a construction product** means circulation of a construction product from the moment it is placed on the market until the use thereof;
- 18) **use of a construction product** means incorporation and exploitation of a construction product after its incorporation in the construction works, as well as storing of a construction product on the construction site;
- 19) **economic operator** means the manufacturer, importer, distributor or authorised representative;
- 20) **manufacturer** means a business organisation, legal person, entrepreneur, or a natural person who manufactures a construction product or who has such a product designed, and markets that product under his name or trademark;
- 21) **distributor** means a business organisation, legal person, or entrepreneur based in Montenegro, or a natural person residing in Montenegro, other than the manufacturer or the importer, in the supply chain who makes a construction product available on the market;
- 22) **importer** means a business organisation, legal person or entrepreneur based in Montenegro, or a natural person residing in Montenegro, who places a construction product from another country on the market;
- 23) **authorised representative** means a business organisation, legal person, or entrepreneur based in Montenegro, or a natural person residing in Montenegro, who has received a written authorisation from a manufacturer to act on his behalf in relation to specified tasks;

- 24) **micro-enterprise** means a business organisation which has less than ten employees and annual turnover, or total annual balance sheet not exceeding two million euro;
- 25) **withdrawal** means any action aimed at preventing a construction product in the supply chain from being made available on the market;
- 26) **recall** means any measure aimed at achieving the return of a construction product that has already been made available to the end-user;
- 27) **factory production control** means the documented, permanent and internal control of production in a factory, in accordance with the appropriate technical specifications.

II. DECLARATION OF PERFORMANCE AND CONFORMITY MARK

Declaration of performance

Article 12

The declaration of performance shall express the performance of construction products in relation to the essential characteristics of those products in accordance with the appropriate technical specification.

The declaration of performance referred to in paragraph 1 of this Article shall contain, in particular:

- 1) the reference to the product-type for which the declaration of performance has been drawn up;
- 2) the system or systems of assessment and verification of constancy of performance of the construction product referred to in Article 30 of this Law;
- 3) the number and date of issue of the technical specification which has been used for the assessment of each essential characteristic of a construction product;
- 4) the intended use or uses of the construction product, in accordance with the appropriate technical specification;
- 5) the list of essential characteristics, as determined in the technical specification for the intended use or uses;
- 6) the performance of at least one of the essential characteristics of the construction product, appropriate for the intended use or uses;
- 7) the performance of the construction product, by levels or classes, or in a description, if necessary based on a calculation in relation to its essential characteristics, if applicable by the product-type;
- 8) the performance of those essential characteristics of the construction product which are related to the intended use or uses, taking into consideration technical regulations;
- 9) for the prescribed essential characteristics of the construction product for which no performance is declared, the letters 'NPD' (No Performance Determined); and
- 10) if technical assessment has been issued for a product, the performance, by levels or classes, or in a description, of the construction product in relation to all essential characteristics contained in that technical assessment.

A construction product which is placed on the market and put in service must be accompanied by a copy of the declaration of performance in paper and in electronic form.

A construction product from the same series, which is supplied to the same user, may be accompanied only by one copy of the declaration of performance.

On request, a copy of the declaration of performance in paper form must be supplied to the user.

A closer form and contents of the declaration of performance shall be prescribed by the Ministry.

Conformity mark

Article 13

A construction product for which the declaration of performance verifies the conformity with the harmonised Montenegrin standard, or with the technical assessment transposing the European Technical Assessment, shall bear Latin letters 'CE' – conformity mark.

Conformity of a construction product with the declaration of performance may be verified only by the 'CE' mark.

By drawing up the declaration of performance referred to in Article 12 of this Law and by affixing of the CE mark, a manufacturer shall assume responsibility for the conformity of a construction product with the performance stated in the declaration of performance and with this Law.

Manner of marking of a construction product

Article 14

Marking of a construction product in such a way which may be misleading regarding the performance relating to the conformity mark shall be prohibited.

Affixing other marks to a construction product may not disturb the visibility and legibility of the conformity mark.

A closer manner of marking of a construction period shall be prescribed by the Ministry.

Technical instruction

Article 15

A construction product which is placed on the market and put in service must also be accompanied by a technical instruction.

When two or more same construction products are supplied together, the technical instruction must accompany every individual package.

When a construction product is supplied as a bulk product, the technical instruction must accompany every individual delivery.

The technical instruction referred to in paragraph 1 of this Article shall contain an excerpt from the declaration of performance, instructions for storage, transport and use of the construction product and expiration date of the construction product.

The technical instruction referred to in paragraph 1 of this Article must be drawn up in Montenegrin language.

In addition to written text, the technical instruction may include drawings and illustrations.

Information

Article 16

On request from an interested party, the Ministry shall, within 20 days from the day of submission of the request, supply the following information:

- technical regulation which relates to a specific construction product, or a group of construction products;
- on the name and contact of competent authorities in procedures aimed at establishing performance, conformity assessment and demonstrating applicability of the construction product, as a precondition for placing on the market and putting into service thereof, and on competent inspection authorities.

The supply of information referred to in paragraph 1 of this Article shall not be subject to fees.

III. OBLIGATIONS OF ECONOMIC OPERATORS

Obligations of manufacturers

Article 17

Manufacturers shall:

- 1) draw up the declaration of performance pursuant to Article 12 of this Law and keep it for a period of ten years after the construction product has been made available on the market;
- 2) affix the conformity mark pursuant to Article 13 of this Law;
- 3) draw up technical documentation describing all the relevant elements related to the required system of assessment and verification of constancy of performance, on the basis of the declaration of performance, and keep it for a period of ten years after the construction product has been made available on the market;
- 4) ensure continued conformity of serial production with the declared performance, taking into account changes to the product and to applicable technical specifications;
- 5) carry out sample testing of construction products placed on the market or put into service, keep a register of complaints, of non-conforming and recalled construction products, on measures taken to eliminate the risk posed by a non-conforming product and keep distributors informed thereon, for the purpose of ensuring accuracy, reliability and constancy of the declared performance of a construction product;
- 6) label a construction product with a type, batch reference or a serial number, or other element allowing its identification;
- 7) if the size or nature of the product does not allow placing the information referred to in item 6 of this paragraph, place such information on the packaging or in documents accompanying the product;
- 8) indicate on the construction product or, if that is not possible, on its packaging or in the documentation accompanying the construction product, their name for a natural person or an entrepreneur, or the name for a legal person, as well as the contact address;
- 9) ensure that the construction product which is made available on the market is accompanied by the technical instruction and safety information in Montenegrin language;
- 10) take necessary measures to bring the construction product placed on the market, which is not in conformity with this Law or the declaration of performance, in conformity with the performance stated in the declaration or, if necessary, to withdraw or recall such product;

- 11) if the product referred to in item 10 of this paragraph poses a risk, immediately inform the competent inspection authorities to that effect, giving any details of the non-conformity and of any measures taken to bring the construction product in conformity with this Law and the declaration of performance (hereinafter referred to as the “corrective measures”);
- 12) on request from the competent inspection authority, provide with any information and documentation necessary to demonstrate the conformity of the construction product with the declaration of performance and compliance with other requirements in accordance with this Law, and other information about the actions taken to eliminate risks posed by the construction product which has been placed on the market.

Obligations of representatives

Article 18

An authorised representative shall fulfil obligations delegated by the manufacturer by a written authorisation, in particular:

- 1) keep the declaration of performance and technical documentation during a period of ten years after a construction product has been placed on the market and make them available to the national inspection authority;
- 2) on request, provide the competent inspection authority with any information and documentation necessary to demonstrate the conformity of the construction product with the declaration of performance and compliance with other applicable requirements in this Law, and on any measure taken to eliminate the risks posed by construction products, in accordance with the authorisation;

Manufacturer may not delegate the obligation of drawing up of the technical documentation to a representative.

Obligations of importers

Article 19

Importer shall:

- 1) place on the market only construction products which are in conformity with the declaration of performance and compliant with other applicable requirements laid down in this Law;
- 2) when placing a construction product on the market, guarantee that the manufacturer has:
 - carried out the assessment and the verification of constancy of performance of the construction product;
 - drawn up the technical documentation containing any information relating to the required system of assessment and verification of constancy;
 - drawn up the declaration of performance pursuant to Article 12 of this Law;
 - affixed the conformity mark to the product pursuant to Article 13 of this Law;
 - ensured that the product is accompanied by the prescribed documents;
 - complied with the requirements set out in Article 17 items 6, 7 and 8 of this Law;
- 3) place a construction product, for which he suspects not to be in conformity with the declaration of performance or in compliance with other requirements in this Law, only after corrective measures have been taken;
- 4) if a construction product poses a risk, notify immediately the manufacturer and the competent inspection authority thereof;

- 5) indicate on the construction product or, where that is not possible, on its packaging or in a document accompanying the product, their name, registered trade name or registered trade mark, as well as their contact address;
- 6) ensure that the construction product that he is making available on the market is accompanied by the technical instruction and safety information in Montenegrin language;
- 7) ensure that storage and transport conditions for a construction product do not jeopardise its conformity with the declaration of performance;
- 8) when deemed appropriate, carry out sample testing of the construction product placed or made available on the market, keep a register of complaints, of non-conforming and withdrawn products, recalled products respectively, and of corrective measures taken to eliminate the risk posed by the non-conforming product, and inform the distributor thereof;
- 9) keep a copy of the declaration of performance and the technical documentation for a period of ten years after issuance thereof and make them available to the competent inspection authority, upon request;
- 10) take necessary measures to bring the construction product, which has been placed on the market in accordance with this Law or the declaration of conformity, in conformity with the performance stated in the declaration or, when necessary, withdraw or recall such construction product;
- 11) if the product referred to in item 10 of this paragraph poses a risk, immediately inform the competent inspection authorities thereof, stating all the details of non-conformity and of all corrective measures taken;
- 12) on request, provide the competent inspection authority with any information and documentation needed to demonstrate the conformity of the construction product with the declaration of performance and compliance with other requirements in this Law, as well as other information on actions taken to eliminate the risks that the construction product, which has been placed on the market, may pose.

Obligations of distributors

Article 20

A distributor shall:

- 1) before placing a construction product on the market, ensure that the product, where required, bears the conformity mark;
- 2) ensure that the construction product that has been made available on the market is accompanied by the technical instruction and safety information in Montenegrin language;
- 3) ensure that the manufacturer and the importer have complied with the requirements set out in Article 17 items 6 to 10 of this Law and in Article 19 items 5 and 6 of this Law;
- 4) ensure that transport and storage conditions for the construction product do not jeopardise conformity of the construction product with the declaration of performance;
- 5) place a construction product, for which he suspects not to be in conformity with the declaration of performance or in compliance with other requirements in this Law, only after corrective measures have been taken;
- 6) if the product referred to in item 5 of this paragraph poses a risk, immediately inform the competent inspection authorities thereof, stating all the details of non-conformity and of all corrective measures taken;
- 7) take necessary measures to bring the construction product, which has been placed on the market in accordance with this Law or the declaration of conformity, in conformity with the performance stated in the declaration or, where necessary, withdraw or recall such construction product;

- 8) if the product referred to in item 7 of this paragraph poses a risk, immediately inform the competent inspection authorities thereof, stating all the details of non-conformity and of all corrective measures taken;
- 9) on request, provide the competent inspection authority with any information and documentation needed to demonstrate conformity of the construction product with the declaration of performance and compliance with other requirements in this Law, as well as other information on actions taken to eliminate the risks that the construction product, which has been placed on the market, may pose;
- 10) act in accordance with other requirements set out in this Law.

Cases in which obligations of manufacturers apply to importers and distributors

Article 21

An importer or a distributor placing a construction product on the market under his name or trademark, or modifying a construction product that has already been placed on the market in such a way that conformity with the declaration of performance may be affected, shall be considered a manufacturer and shall be responsible for the obligations under Article 17 of this Law.

Information on economic operators

Article 22

During the period in which a manufacturer, a representative, an importer or a distributor keeps technical documentation and the declaration of performance, they shall, on request, provide the competent inspection authority with information on the economic operator to whom they have delivered a product, or on the economic operator who has supplied them with a product.

IV. ASSESSMENT DOCUMENT AND TECHNICAL ASSESSMENT

Assessment Document

Article 23

Assessment Document shall be issued by the designated authority, upon request of the manufacturer, if:

- 1) the construction product does not fall within the scope, or does not fall entirely within the scope of the Montenegrin standard, or a technical regulation;
- 2) the performance of essential characteristics of the construction product cannot be fully assessed on the basis of the Montenegrin standard, or a technical regulation;
- 3) the Montenegrin standard does not provide for any assessment method in relation to at least one essential characteristic of that product; or
- 4) the product is not covered by the assessment document transposing the European Assessment Document.

Assessment Document shall contain, in particular: a general description of the construction product, the list of essential characteristics, relevant for the intended use of the construction product as foreseen by the manufacturer, as well as the methods and criteria for assessing the performance of the construction product in relation to essential characteristics.

Assessment Document may represent a basis for the development of the Montenegrin standard.

Issuing of Assessment Document

Article 24

The procedure for the development and adoption of an Assessment Document shall be based on the principles of:

- transparency and cost-effectiveness for the manufacturer;
- setting a period for the development of an Assessment Document; and
- safeguarding commercial secrecy.

A designated body shall supply the Assessment Document to the Ministry within three days following the issuing thereof.

The name and the designation of the Assessment Document shall be published in the Official Gazette of Montenegro and on the website of the Ministry.

A register of issued Assessment Documents shall be maintained by the Ministry.

The applicant referred to in Article 23 paragraph 1 of this Law shall bear the costs of issuance of the Assessment Document.

Closer requirements and the method for the development of the Assessment Document, as well as the contents and the manner of maintaining the register referred to in paragraph 4 of this Article shall be provided by the Ministry.

Termination of an Assessment Document

Article 25

An Assessment Document shall cease to be valid:

- by adoption of an appropriate Montenegrin standard that a technical regulation refers to;
- by adoption of an Assessment Document transposing the European Assessment Document; and
- if established that the construction product for which an Assessment Document has been adopted does not comply fully with the basic requirements laid down by the Law regulating construction of buildings.

In the case referred to in paragraph 1 indent 3 of this Article, the Ministry shall adopt a Decision on the termination of the Assessment Document on the basis of demonstrated non-compliance with the requirements.

The Decision referred to in paragraph 2 of this Article shall be published in the Official Gazette of Montenegro and on the website of the Ministry, and the information contained in the Decision (number of the Decision, date of adoption, etc.) shall be entered into the register of issued Assessment Documents.

Technical Assessment

Article 26

Technical Assessment for a construction product shall be issued on the basis of an Assessment Document.

The Technical Assessment shall include the performance of the construction product, by levels or classes, or in a description, of those essential characteristics agreed by the manufacturer and the designated body for the intended use of that construction product, and technical details necessary for the implementation of the system of assessment and verification of constancy of performance.

A register of issued Technical Assessment shall be maintained by the Ministry.

The name and designation of the Technical Assessment shall be published on the website of the Ministry.

Closer form and contents of the Technical Assessment Document, as well as the contents and manner of maintaining the register of issued Technical Assessments, shall be provided by the Ministry.

Issuing of Technical Assessment

Article 27

Technical Assessment shall be issued by the designated body, on request from the manufacturer.

Technical documentation with a description of the construction product, its use as foreseen by the manufacturer, and details of factory production control that the manufacturer intends to apply, shall be supplied together with the request referred to in paragraph 1 of this Article.

After the request referred to in paragraph 1 of this Article has been received, the designated body shall notify the manufacturer whether the construction product falls, fully or partly, within the scope of the harmonised technical specification, as follows:

- 1) if the construction product falls fully within the scope of the Montenegrin standard, the designated body shall notify the manufacturer that the Technical Assessment cannot be issued;
- 2) if the construction product is fully covered by the Assessment Document transposing the European Assessment Document, the designated body shall notify the manufacturer that such document will be the basis for issuing the Technical Assessment; or
- 3) if the construction product is not covered, or not fully covered, by the harmonised technical specification, the designated body shall issue the Technical Assessment.

Article 24 of this Law shall apply accordingly to the procedure of issuing of the Technical Assessment.

The designated body shall, on request of the manufacturer, sign with the manufacturer an agreement on commercial secrecy.

The applicant referred to in paragraph 1 of this Article shall bear the costs of issuing of the Technical Assessment.

Designation of Technical Assessment and Assessment Document Bodies

Article 28

A decision on designating bodies for issuing the Technical Assessment and the Assessment Document for one or more groups of products shall be issued and revoked by the Ministry.

The Decision referred to in paragraph 1 of this Article shall be issued to a person who:

- 1) complies with the requirements relating to professional skills, independence and impartiality of staff and professional associates;
- 2) guarantees safeguarding commercial secrecy; and
- 3) has signed an agreement on liability insurance in case of possible damage.

The designated body shall notify the Ministry of changes to the requirements on the basis of which the Decision on designation referred to in paragraph 1 of this Article has been made, not later than 15 days from the day of making such change.

The Ministry shall safeguard the confidentiality of the information received in the designation procedure referred to in paragraph 1 of this Article.

The Ministry shall maintain a register of designations which shall be published on the website of the Ministry.

The list of groups of products referred to in paragraph 1 of this Article, and closer requirements for issuing and revoking of the designation for issuing Technical Assessments and Assessment Documents, shall be provided by the Ministry.

V. ASSESSMENT AND VERIFICATION OF CONSTANCY OF PERFORMANCE AND ASSESSMENT BODIES

Obligation of assessment and verification of constancy of performance of a construction product

Article 29

The obligation of assessment and verification of constancy of performance of a construction product shall be established by the technical specification or the technical regulation.

The assessment and verification referred to in paragraph 1 of this Article may be carried out by the manufacturer and/or a designated assessment and verification body.

The assessment and verification of the constancy of performance of a construction product shall be carried out in accordance with appropriate system of assessment and verification of constancy of performance of a construction product (hereinafter referred to as the "assessment systems").

Assessment systems

Article 30

The choice of an assessment system shall be defined depending on the performance of a particular construction product or a group of construction project, in accordance with the technical specification, or the technical regulation, taking into account the effects on the health and safety of humans, and on the environment.

Assessment systems may be: 1+; 1; 2+; 3 and 4.

The content of an assessment system shall be provided by the Ministry.

Designated assessment and verification body

Article 31

The assessment and verification of a construction product may be carried out by a designated assessment and verification body, which is independent from an economic operator, or of the construction product whose assessment and verification of constancy of performance of the construction product it establishes.

If the designated body referred to in paragraph 1 of this Article belongs to a business or a professional association representing economic operators, whose activities include design, supply, assembly, use or maintenance of a construction product, it may carry out the assessment, or the verification of constancy of performance of a construction product, provided it can demonstrate its independence and the absence of conflict of interests.

A designated assessment and verification body may be:

- 1) a body for certification of a construction product;
- 2) a body for certification of factory production control;
- 3) a testing laboratory accredited to measure, test, examine, calibrate or otherwise establish characteristics or performance of materials or construction products.

A designated assessment and verification body, or persons employed in such body, who carry out the procedure of assessment and verification of constancy of performance of construction products, may not be engaged in designing, manufacturing or construction, by placing on the market, incorporating, using or maintaining such construction product, or by representing an economic operator carrying out these activities.

Assessment and verification designation

Article 32

A Decision on designation for carrying out assessment and verification of constancy of performance of a construction product (hereinafter referred to as the "assessment and verification designation") shall be issued and revoked by the Ministry, on request of a legal person complying with the requirements set out in Article 33 of this Law.

The designation referred to in paragraph 1 of this Article shall be issued in accordance with principles of objectivity and impartiality.

The Ministry shall maintain a register of issued and revoked designations.

Requirements for designated assessment and verification bodies

Article 33

The assessment and verification designation shall be issued to a legal person:

- 1) established in Montenegro;
- 2) holding a certificate of accreditation issued by the Accreditation Authority of Montenegro, in accordance with the Law;

- 3) complying with the requirements relating to staffing and technical abilities to perform any activities for which the designation decision is issued, as well as the activities which are implemented on his behalf and under his responsibility;
- 4) ensuring that management and employees implement activities with the highest level of personal and professional integrity, and integrity of the institution;
- 5) ensuring the safeguarding of commercial secrecy; and
- 6) who has concluded an agreement on liability insurance for the damage caused;

The designation referred to in paragraph 1 of this Article may be issued for:

- the certification of constancy of performance of a construction product;
- the certification of factory production control for a construction product; and/or
- the examination, measurement, testing, calibration or other manner of establishing of characteristics and performance of the construction product.

Presumption of conformity

Article 34

If the Montenegrin standard lays down the requirements to be complied with by the designated assessment and verification body, the legal person shall be deemed, in the designation procedure, to have complied with the requirements set out in Article 33 of this Law in so far as the Montenegrin standard covers those requirements.

Contents of the assessment and verification designation

Article 35

The assessment and verification designation shall contain:

- identification number of the designated assessment and verification body;
- rights and obligations of the designated assessment and verification body in the procedure of assessment and verification of constancy of performance of the construction product for which the designation is issued; and
- a reference to the relevant technical specification.

Procedure for issuing and revoking designations

Article 36

A procedure for issuing assessment and verification designation shall be initiated by a request.

The following shall be supplied together with the request referred to in paragraph 1 of this Article:

- a certificate of accreditation issued by the Accreditation Authority of Montenegro, in accordance with the law;
- a certificate from the Central Register of Economic Entities; and
- the description and the type of procedure for assessment and verification of constancy of performance of a construction product, and the type of designation required under Article 33 paragraph 2 of this Law.

The Ministry shall decide on the request referred to in paragraph 1 of this Article within 15 days from the day when the request has been received.

The designated assessment and verification body shall notify the Ministry of the change to the requirements on the basis of which the assessment and verification designation has been issued, within 15 days from the day of the change.

The Ministry shall revoke the assessment and verification designation if it establishes that the designated assessment and verification body discontinues to comply with the requirements on the basis of which the designation has been issued, or that the designation was issued on the basis of incorrect information, or if it establishes that the designated assessment and verification body performs activities contrary to provisions of this Law.

In the case referred to in paragraph 5 of this Article, or if the designated assessment and verification body discontinues its activities, the Ministry shall entrust the documentation in the possession of that body to another designated assessment and verification body, or keep and, when needed, make them available to the competent inspection authority.

Closer requirements for issuing and revoking the designation referred to in paragraph 1 of this Article, and the contents and manner of keeping the register referred to in Article 32 paragraph 3 of this Law, shall be provided by the Ministry.

Activities of designated assessment and verification body

Article 37

A designated assessment and verification body shall carry out procedures of assessment and verification of constancy of performance of a construction product in accordance with assessment systems, principles of transparency and cost-effectiveness, taking into account: size of the manufacturer, the sector in which the manufacturer operates, the structure of the manufacturer, the level of complexity of the technology of the product, and mass or serial nature of the production process, as well as the requirements set out in the technical specification and the basic requirements for construction works, and shall carry out other activities in accordance with the assessment and verification designation.

If, on the basis of initial control of the production plant or factory production control, the designated assessment and verification body establishes that the manufacturer failed to ensure constancy of performance of a construction product, it shall request from the manufacturer to remove the identified deficiencies and shall determine a period for the removal thereof.

If, on the basis of the verification of constancy of a construction product, the designated assessment and verification body establishes that the construction product no longer has the performance of that product-type, it shall request from the manufacturer to remove the identified deficiencies and shall determine a period for the removal thereof.

If the manufacturer fails to remove the identified deficiencies within the determined period, the designated assessment and verification body shall:

- not issue the certificate of constancy of performance of the construction product, or the certificate of factory production control in the case referred to in paragraph 2 of this Article; and/or
- annul, fully or partly, and declare null and void the issued certificates in the case referred to in paragraph 3 of this Article.

Entrusting activities of the designated assessment and verification body

Article 38

A designated assessment and verification body may entrust certain activities for which it has been designated to an organizational unit or a subcontractor complying with the requirements set out in Articles 33 and 34 of this Law, with prior consent of the economic operator.

In the case referred to in paragraph 1 of this Article, the designated assessment and verification body shall be responsible for the implementation of the entrusted activities.

The designated assessment and verification body shall notify the Ministry and the competent inspection authority of entrusting of activities referred to in paragraph 1 of this Article within three days from the day of entrusting.

The designated assessment and verification body shall make available to the Ministry and the competent inspection authority the documentation on performed assessment of compliance with the requirements set out in Articles 33 and 34 of this Law, for the subcontractor to whom he entrusted activities pursuant to paragraph 1 of this Article, as well as about completed entrusted works.

Testing outside the facilities of the designated assessment and verification body

Article 39

A designated assessment and verification body may, on request from the manufacturer, for technical, economic or logistical reasons, carry out testing for assessment systems 1+, 1 or 3, or supervise implementation thereof:

- in the production plants of the manufacturer using the test equipments of the laboratory of the manufacturer; or
- in an external laboratory, with the prior consent of the manufacturer.

The designated assessment and verification body referred to in paragraph 1 of this Article must be designated to carry out tests away from its own accredited laboratories, pursuant to Article 32 of this Law.

Before carrying out the tests referred to in paragraph 1 of this Article, the designated assessment and verification body shall verify whether the requirements of the test method are satisfied and shall evaluate whether:

- test equipment has an appropriate calibration system and the subsequent traceability of previous measurements is ensured; and
- the quality of the test results is ensured.

Notification of the Ministry

Article 40

The designated assessment and verification body shall inform the Ministry of:

- 1) refusal, annulling, or declaring certificates null and void, fully or partly;
- 2) any circumstances affecting the scope of, and conditions for, designation for assessment and verification, as set out in Article 33 of this Law;

- 3) any request for information on activities relating to assessment and/or verification of constancy of performance of a construction product, which they have received from a competent inspection authority;
- 4) on request from the Ministry, tasks in accordance with the systems of assessment carried out within the scope of their assessment and verification designation, and any other activity, including cross-border activities and subcontracting.

The designated assessment and verification body shall inform the other designated body, which has been designated under this Law to carry out similar tasks in accordance with the systems of assessment or for a construction product regulated by the same technical specification, of negative and, on request, positive results from assessment and/or verification of constancy of performance of the construction product.

VI. SIMPLIFIED PROCEDURES

Use of Appropriate Technical Documentation

Article 41

In determining the product-type, a manufacturer may, instead of type-testing or type-calculation, prepare Appropriate Technical Documentation demonstrating that:

- for one or several essential characteristics of the construction product, which the manufacturer places on the market, that product is deemed to have achieved a certain level or class of performance without testing or calculation, or without further testing or calculation, in accordance with the conditions set out in the relevant harmonised technical specification;
- the construction product, covered by the harmonised Montenegrin standard, which the manufacturer places on the market, corresponds to the product-type of another construction product, manufactured by another manufacturer and already tested in accordance with appropriate Montenegrin standard; or
- the construction product, covered by the harmonised technical specification, which the manufacturer places on the market, is a system made of components, which the manufacturer assembles duly following precise instructions given by the provider of such a system or of components thereof, who has already tested that system or that component for one or several essential characteristics in accordance with the harmonised technical specification.

In cases referred to in paragraph 1 indents 2 and 3 of this Article, the manufacturer is entitled to state in the declaration of performance that the performance of a construction product corresponds to the test results of another construction product, entirely or partly, on the basis of the test results obtained by another manufacturer, after having obtained an authorisation of that manufacturer, who is responsible for the accuracy, reliability and results of those tests.

If the construction product referred to in paragraph 1 of this Article belongs to a group of construction products for which the applicable system for assessment is the system 1 + or 1, the Appropriate Technical Documentation referred to in paragraph 1 of this Article shall be verified by a designated construction product certification body.

Micro-enterprises

Article 42

A micro-enterprise manufacturing construction products covered by the Montenegrin standard may:

- replace the determination of the product-type on the basis of type-testing for the applicable assessment systems 3 and 4 by using methods differing from the methods foreseen by the harmonised Montenegrin standard; or
- test construction products to which assessment system 3 applies, in accordance with the rules for assessment system 4.

In the case referred to in paragraph 1 of this Article, a micro-enterprise shall demonstrate compliance of the construction product with the applicable requirements, specific technical documentation, and that the implemented procedures are equivalent to the procedures laid down in the appropriate Montenegrin standard.

Other cases of simplified procedures

Article 43

For the construction products covered by the harmonised Montenegrin standard and which are individually manufactured or custom-made in a non-series process in response to a specific order, and which are installed in a single construction work, the manufacturer may replace the performance assessment part of the applicable system by the Specific Technical Documentation demonstrating compliance of that product with the applicable requirements and equivalence of the procedures used to the procedures laid down in that standard.

If the construction product referred to in paragraph 1 of this Article belongs to a group of construction products for which the applicable system for assessment is the system 1 + or 1, the Specific Technical Documentation referred to in paragraph 1 of this Article shall be verified by a designated construction product certification body.

VII. VALIDITY OF FOREIGN DOCUMENT AND CONFORMITY MARK

Validity of the declaration of performance and conformity mark issued abroad

Article 44

The declaration of performance and the conformity mark issued abroad (hereinafter referred to as the "foreign document and conformity mark"), if issued in accordance with a ratified international agreement, shall be valid in Montenegro.

On request of the manufacturer, a representative, an importer, a distributor, or ex officio, the Ministry may recognize the validity of a foreign document and conformity mark verifying conformity of a construction product with a foreign technical regulation, provided that the requirements of such a regulation ensure at least the same level of protection of lives and health of people, animals and plants, environment, consumer protection and property protection, which is established by technical specifications or by technical regulations of Montenegro.

The Ministry shall maintain a register of foreign documents and conformity marks referred to in paragraph 2 of this Article.

The foreign document and the conformity mark referred to in paragraph 2 of this Article must be translated into Montenegrin language.

Manner of recognition of the foreign document and the conformity mark

Article 45

An act on the recognition of validity of the foreign document and the conformity mark referred to in Article 44 paragraph 2 of this Law shall be passed on the basis of a previously obtained opinion from the designated assessment and verification body.

The manner of recognition of the foreign document and the conformity mark referred to in Article 44 paragraph 2 of this Law relating to construction products shall be regulated by the regulation of the Government.

Recognition of the European Assessment Document, European Technical Assessment, Declaration of Performance, CE conformity marking and certificates

Article 46

The European Assessment Document, European Technical Assessment, Declaration of Performance and the CE conformity marking issued for a product manufactured in compliance with a harmonised standard or the European Technical Assessment shall be recognized in Montenegro without carrying out the procedure referred to in Articles 44 and 45 of this Law if the declared performance of the construction product corresponds to the performance of that product stated in the technical regulation referred to in Article 6 of this Law.

A document issued in the procedure of assessment and verification of constancy of performance of a construction product by a Member State of the European Union, and notified to the European Commission for assessment and verification of constancy of performance of a construction product (Notified Body), for a construction product covered by the harmonised technical specification, shall be fully recognized, by its legal power and effect, as a document issued in accordance with this Law.

The acts and documents referred to in paragraphs 1 and 2 of this Article must be translated into Montenegrin language.

VIII. ADMINISTRATIVE SUPERVISION

Conducting supervision

Article 47

Supervision over implementation of this Law and regulations passed hereunder shall be carried out by the Ministry.

Inspection supervision shall be performed by the administrative authority competent for inspection affairs, via inspectors:

- 1) market inspector in relation to manufacturing, placing on the market and distribution of the construction product;
- 2) civil engineering inspector in relation to the use of the construction product (hereinafter referred to as the "competent inspector").

Authorisations of inspectors

Article 48

In addition to authorisations under other regulations, when carrying out inspection supervision the competent inspector shall be authorised to:

- 1) request any information and documentation necessary to demonstrate conformity of the construction product with the declaration of performance and compliance with other requirements in this Law, and any actions being undertaken to eliminate the risk posed by the construction product that has been placed on the market and put in service;
- 2) carry out appropriate verifications, take product samples and have them tested for assessment of conformity of technical performance of the construction product with the declaration of performance, if he has sufficient reasons to believe that the construction product covered by the Montenegrin standard, or for which the Technical Assessment has been issued, does not have the declared performance and represents a risk to complying with the basic requirements for construction works defined by the Law regulating construction of buildings;
- 3) verify whether the prescribed testing verifying the safety of the product during the period of its use has been carried out;
- 4) inspect business premises and other facilities of the manufacturer, authorised representative, importer, distributor, contractor and other persons.

A manufacturer, authorised representative, importer, distributor, contractor and other persons shall allow a competent inspector to inspect all areas and to have an insight into all activities and documents relating to assessment and control of constancy of performance of the construction product with regard to their essential characteristics, demonstrating the usability, placing on the market, distribution and use of the construction product.

Administrative measures and actions

Article 49

When the competent inspector establishes in the course of inspection supervision that a construction product is not in conformity with the requirements in this Law, he will order the relevant economic operator (manufacturer, authorised representative, importer, distributor, contractor or another person) by his decision to undertake the following:

- 1) any necessary actions to bring the construction product in conformity with the requirements in this Law, particularly with the declared performance;
- 2) withdraw the construction product from the market and/or use.

The adoption of the decision on removing irregularities in manufacturing referred to in paragraph 1 of this Article shall not exclude the obligation to adopt a decision on withdrawal of the construction product from the market and/or use, or from distribution.

Administrative measures and actions for formal non-compliance of the construction product

Article 50

The competent inspector shall issue a decision to order removal of established irregularities when he establishes in the course of inspection supervision that a construction product:

- does not bear the conformity mark pursuant to Article 9 of this Law;
- is not duly labelled pursuant to Article 13 of this Law;

- is not accompanied by the declaration of performance pursuant to Article 9 of this Law, or the declaration has not been prepared pursuant to Article 12 of this Law;
- is not accompanied by the technical instruction or has been delivered without the technical instruction pursuant to Article 8 of this Law; or
- is not accompanied by technical documentation or the technical documentation is incomplete pursuant to Article 17 paragraph 1 item 3, Article 18 paragraph 1 item 1 and Article 19 paragraph 1 point 2 indent 2 and item 9 of this Law.

If the manufacturer, authorised representative, importer, distributor, contractor and another person fails to remove the established irregularities within the defined period, the competent inspector shall pass a decision and prohibit making of the construction product available on the market, or withdraw such product from the market and/or use.

Administrative measures and actions for non-conformity of the construction product with the requirements in this Law

Article 51

The competent inspector shall pass a decision and order to the economic operator (manufacturer, authorised representative, importer, distributor, contractor and another person) to remove irregularities if he establishes that:

- 1) assessment and verification of constancy of performance of the construction product is not being implemented or have not been implemented in accordance with this Law;
- 2) the prescribed requirements relating to implementation of assessment and verification of constancy of performance of the construction product in accordance with this Law have not been complied with;
- 3) the construction product has been placed on the market contrary to Article 8 of this Law, and the reasons therefor are not the ones defined by Article 52 of this Law;
- 4) the construction product has been placed on the market with incorrect technical instruction;
- 5) the information contained in the technical instruction do not correspond to the information in the declaration of performance;
- 6) the performance of the construction product or the information which are important for its incorporation, use and effect on characteristics and durability of the construction works, in particular the period of use, are not in compliance with the characteristics and information specified by the Main Design;
- 7) the construction product has not been incorporated in compliance with the technical instruction;
- 8) the construction product has been transported, stored, incorporated or handled in the way which does not ensure preservation of the performance thereof.

The competent inspector shall inform the designated assessment and verification body, which was involved in the procedure of assessment of conformity of the construction product, of the measures and actions undertaken.

Complying construction products which present a risk to health and safety

Article 52

Where, having performed an appropriate evaluation pursuant to Article 50 of this Law, the competent inspector finds that a construction product, which is manufactured in compliance with this Law, presents a risk for the fulfilment of the basic requirements for construction

works, to the health or safety of persons or to other aspects of public interest protection, he shall pass a decision and order the economic operator to:

- 1) take all appropriate measures to ensure that the construction product concerned, before it is placed on the market, no longer presents that risk; and/or
- 2) withdraw the construction product from the market.

Article 53

A complaint filed against the decision referred to in Articles 49, 50, 51 and 52 of this Law shall not delay execution of the decision.

IX. PENALTY PROVISIONS

Article 54

A fine chargeable from 1.000 EUR to 40.000 EUR shall be imposed on a legal person if:

- 1) he fails to provide the Ministry with the Assessment Document within three days from the day of issuance thereof (Article 24 paragraph 2);
- 2) he issues Assessment Document without designation (Article 23 paragraph 1);
- 3) issues Technical Assessment without designation (Article 27 paragraph 1);
- 4) he fails to inform the Ministry on the change to the requirements on the basis of which the designation has been issued for issuance of the Technical Assessment and the Assessment Document for one or more groups of products, within 15 days from the day of the change (Article 28 paragraph 3);
- 5) he carries out assessment and verification of performance of the construction product without designation (Article 29, paragraph 2);
- 6) he fails to inform the Ministry on the change to the requirements on the basis of which the designation has been issued, within 15 days from the day of the change (Article 36 paragraph 4);
- 7) he fails to inform, within three days, the Ministry and the competent inspection authority of the inspection of affairs referred to in Article 38 paragraph 1 of this Law (Article 38 paragraph 3);
- 8) he carries out verification referred to in Article 39 paragraph 1 of this Law away from their accredited laboratories, without designation (Article 39 paragraph 2).

A fine chargeable from 600 EUR to 4.000 EUR shall be also imposed on the responsible person of the legal person for the offence referred to in paragraph 1 of this Article.

Article 55

A fine chargeable from 2.000 EUR to 30.000 shall be imposed on the legal person if he issues a document whose title, appearance, content or otherwise may be misconstrued as a document establishing performance of the construction product, confirming its conformity or demonstrating its applicability (Article 8 paragraph 2).

A fine chargeable from 300 EUR to 3.000 EUR shall be imposed on the responsible person of the legal person for the offence referred to in paragraph 1 of this Article.

A fine chargeable from 2.000 EUR to 10.000 shall be imposed on an entrepreneur for the offence referred to in paragraph 1 of this Article.

A fine chargeable from 300 EUR to 3.000 EUR shall be imposed on a natural person for the offence referred to in paragraph 1 of this Article.

Article 56

A fine chargeable from 2.000 EUR to 20.000 EUR shall be imposed on a legal person acting in the capacity of the manufacturer, authorised representative, importer and distributor if he fails to undertake measures to ensure that performance of the construction product being made available on the market remain unchanged, as well as a contractor or another person who has taken the construction product for incorporation in the construction works, if he fails to undertake measures to ensure that performance of the construction product from taking to incorporating thereof remain unchanged (Article 10).

A fine chargeable from 300 EUR to 2.000 EUR shall be also imposed on the responsible person of the legal person for the offence referred to in paragraph 1 of this Article.

A fine chargeable from 2.000 EUR to 6.000 EUR shall be imposed on an entrepreneur for the offence referred to in paragraph 1 of this Article.

A fine chargeable from 300 EUR to 2.000 EUR shall be imposed on a natural person for the offence referred to in paragraph 1 of this Article.

Article 57

A fine chargeable from 2.500 EUR to 15.000 EUR shall be imposed on the legal person acting in the capacity of the manufacturer, if:

- 1) he places a construction product on the market, without demonstrated applicability thereof (Article 8 paragraph 1);
- 2) he carries out marking of the construction product in a manner which may be misleading in terms of the performance relating to the conformity mark (Article 14 paragraph 1);
- 3) he disturbs visibility and readability of the conformity mark by affixing other marks on the construction product (Article 14 paragraph 2);
- 4) he draws up the declaration of performance contrary to Article 12 of this Law and fails to keep it for a period of ten years from making the construction product available on the market (Article 17 paragraph 1 item 1);
- 5) he fails to affix the conformity mark pursuant to Article 13 of this Law (Article 17 paragraph 1 item 2);
- 6) he fails to draw up technical documentation containing all the information necessary for the prescribed system of assessment and verification of constancy of performance on the basis of the declaration of performance and fails to keep it for a period of ten years after the construction product has been made available on the market (Article 17 paragraph 1 item 3);
- 7) he fails to ensure continuous conformity of the serial manufacturing with the performance stated in the declaration, taking into account changes to the product and to the applicable technical specifications (Article 17 paragraph 1 item 4);
- 8) he fails to carry out testing of samples of the construction product which is being placed on the market and put in service, fails to keep records of complaints, non-conforming and withdrawn construction products, on measures taken, all in order to eliminate risks posed by the non-conforming product and fails to inform the distributor thereof, in order to ensure accuracy, reliability and constancy of declared performance of the construction product (Article 17 paragraph 1 item 5);
- 9) he fails to label a construction product with the type, batch designation or a serial number or with any other element which allows identification thereof (Article 17 paragraph 1 item 6);
- 10) he fails to state information on the packaging or in the documents accompanying the product, if it is not possible due to the size or the nature of the product to indicate the information referred in Article 17 paragraph 1 item 6 of this Law (Article 17 paragraph 1 item 7);

- 11) he fails to indicate on the construction product or, if that is not possible, on the packaging or in the documentation accompanying the construction product, the name of the legal person, trade mark, as well as the contact address (Article 17 paragraph 1 item 8);
- 12) he fails to ensure that the construction product being made available on the market is accompanied by the technical instruction and safety information in Montenegrin language (Article 17 paragraph 1 item 9);
- 13) he fails to undertake the necessary measures to bring the construction product which has been made available on the market, and it is not in conformity with this Law or the declaration of performance, into conformity with the performance stated in the declaration or, where necessary, fails to withdraw or recall such a construction product (Article 17, paragraph 1 item 10);
- 14) the product referred to in Article 17 paragraph 1 item 10 of this Law poses a risk, fails to inform immediately the competent inspection authorities thereof, stating any details of non-conformity, and of any corrective measures taken to bring the construction product in conformity with this Law and the declaration of performance (Article 17 paragraph 1 item 11);
- 15) on request, he fails to provide the competent inspection authority with any information and documentation needed to demonstrate conformity of the construction product with the declaration of performance and compliance with other requirements in accordance with this Law, as well as other information on activities undertaken to remove risks that the product that has been placed on the market may pose (Article 17 paragraph 1 item 12).

A fine chargeable from 300 EUR to 2.000 EUR shall be imposed on the responsible person of the legal person for the offence referred to in paragraph 1 of this Article.

A fine chargeable from 2.500 EUR to 4.000 EUR shall be imposed on an entrepreneur for the offence referred to in paragraph 1 of this Article.

A fine chargeable from 300 EUR to 2.000 EUR shall be imposed on a natural person for the offence referred to in paragraph 1 of this Article.

Article 58

A fine chargeable from 2.500 EUR to 15.000 EUR shall be imposed on the legal entity acting in the capacity of a representative, if:

- 1) he fails to keep the declaration of performance and technical documentation for ten years after a construction product has been placed on the market and fails to make it available to the competent inspection authority (Article 18 paragraph 1 item 1);
- 2) on request from the competent inspection authority he fails to provide any information and documentation demonstrating conformity of the construction product with the declaration of performance and compliance with other requirements in accordance with this Law, and on any activities undertaken to remove the risks posed by construction products, in accordance with the authorisation (Article 18 paragraph 1 item 2).

A fine chargeable from 300 EUR to 2.000 EUR shall be also imposed on the responsible person of the legal person for the offence referred to in paragraph 1 of this Article.

A fine chargeable from 2.500 EUR to 4.000 EUR shall be imposed on an entrepreneur for the offence referred to in paragraph 1 of this Article.

A fine chargeable from 300 EUR to 2.000 EUR shall be imposed on a natural person for the offence referred to in paragraph 1 of this Article.

Article 59

A fine chargeable from 2.500 EUR to 15.000 EUR shall be imposed on the legal person acting in the capacity of importer, if:

- 1) he places on the market of Montenegro the products which are not in conformity with the declaration of performance and with other requirements laid down in this Law (Article 19 paragraph 1 item 1);
- 2) he does not guarantee, when placing a product on the market, that the manufacturer has carried out assessment and verification of constancy of performance of the construction product, drawn up technical documentation containing all information related to the required system of assessment and verification of constancy, drawn up the declaration of performance pursuant to Article 12 of this Law, affixed the conformity mark to the product pursuant to Article 13 of this Law, that the product is accompanied by the prescribed documentation, and that the manufacturer has complied with the requirements laid down in Article 17 paragraph 1 items 6, 7 and 8 of this Law (Article 19 paragraph 1 item 2);
- 3) he places on the market a construction product for which he suspects not to be in conformity with the declaration of performance or in compliance with the requirements in this Law, and fails to take corrective measures (Article 19 paragraph 1 item 3);
- 4) he fails to inform the manufacturer and the competent inspection authority, without delay, that the construction product poses a risk (Article 19 paragraph 1 item 4);
- 5) he fails to indicate on the construction product or, if that is not possible, on its packaging or in the document accompanying the product, their name, registered trade number or registered trademark, as well as their contact address (Article 19 paragraph 1 item 5);
- 6) he fails to ensure that the construction product, which he is making available on the market, is accompanied by the technical instruction and the safety information in Montenegrin language (Article 19 paragraph 1 item 6);
- 7) he fails to ensure that the conditions of transport and storage of the construction product do not jeopardize the conformity of the construction product with the declaration of performance (Article 19 paragraph 1 item 7);
- 8) he fails to test, when deemed necessary, samples of the construction product which has been placed or made available on the market, does not keep a register of complaints, non-conforming and withdrawn products, or recalled products, on corrective measures taken to remove the risk posed by the non-conforming product and fails to inform the distributor thereof (Article 19 paragraph 1 item 8);
- 9) he fails to keep a copy of the declaration of performance and technical documentation for ten years after issuance thereof and fails to supply those on request to the competent inspection authority (Article 19 paragraph 1 item 9);
- 10) he fails to take necessary measures to bring the construction product, which has been placed on the market in accordance with this Law and the declaration of performance, in conformity with the performance stated in the declaration or, where needed, fails to withdraw or recall such a construction product (Article 19 paragraph 1 item 10);
- 11) the product referred to in Article 19 paragraph 1 item 10 of this Law poses a risk, he fails to immediately inform the competent inspection authorities thereof, stating all details of non-conformity and of any corrective measures taken (Article 19 paragraph 1 item 11);
- 12) on request of the competent inspection authority, he fails to supply any information and documentation needed to demonstrate conformity of the construction product with the declaration of performance and compliance with other requirements in accordance with this Law, as well as other information on activities taken to remove the risk that the construction product placed on the market may pose (Article 19 paragraph 1 item 12).

A fine chargeable from 300 EUR to 2.000 EUR shall be imposed on the responsible person of the legal person for the offence referred to in paragraph 1 of this Article.

A fine chargeable from 2.500 EUR to 4.000 EUR shall be imposed on an entrepreneur for the offence referred to in paragraph 1 of this Article.

A fine chargeable from 300 EUR to 2.000 EUR shall be imposed on a natural person for the offence referred to in paragraph 1 of this Article.

Article 60

A fine chargeable from 2.500 EUR to 15.000 EUR shall be imposed on the legal person acting in the capacity of the distributor, if:

- 1) he fails to ensure, before the construction product is placed on the market, that the conformity mark has been affixed to the product (Article 20 paragraph 1 item 1);
- 2) he fails to ensure that the construction product, which he is making available on the market, is accompanied by the technical instruction and the safety information in Montenegrin language (Article 20 paragraph 1 item 2);
- 3) he fails to ensure that the manufacturer and the importer comply with the requirements referred to in Article 17 paragraph 1 items 6 to 10 of this Law and Article 19 paragraph 1 items 5 and 6 of this Law (Article 20 paragraph 1 item 3);
- 4) he fails to ensure that conditions of transport and storage of the construction product do not jeopardise the conformity of the construction product with the declaration of performance (Article 20 paragraph 1 item 4);
- 5) he places on the market a construction product which is not in conformity with the declaration of performance or in compliance with other requirements in this Law, and fails to take corrective measures (Article 20 paragraph 1 item 5);
- 6) the product referred to in Article 20 paragraph 1 item 5 of this Law poses a risk, he fails to inform immediately the competent inspection authorities thereof, stating all details of non-conformity and of any corrective measures taken (Article 20 paragraph 1 item 6);
- 7) he fails to take necessary measures to bring the product, which has been placed on the market, in accordance with this Law or the declaration of performance, in conformity with the performance stated in the declaration or fails to withdraw, where needed, or recall such a construction product (Article 20 paragraph 1 item 7);
- 8) the product referred to in Article 20 paragraph 1 item 7 of this Law poses a risk, he fails to immediately inform the competent inspection authority thereof, stating all details of non-conformity and of any corrective measures taken (Article 20 paragraph 1 item 8);
- 9) on request of the competent inspection authority, he fails to provide that authority with any information and documentation needed to demonstrate conformity of the construction product with the declaration of performance and compliance with other requirements in accordance with this Law, and other information on activities taken to remove the risk that the construction product that has been placed on the market may pose (Article 20 paragraph 1 item 9).

A fine chargeable from 300 EUR to 2.000 shall be also imposed on the responsible person of the legal person for the offence referred to in paragraph 1 of this Article.

A fine chargeable from 2.500 EUR to 4.000 EUR shall be imposed on an entrepreneur for the offence referred to in paragraph 1 of this Article.

A fine chargeable from 300 EUR to 2.000 EUR shall be imposed on a natural person for the offence referred to in paragraph 1 of this Article.

X. TRANSITIONAL AND FINAL PROVISION

Period for passing secondary legislation

Article 61

Secondary legislation for the implementation of this Law shall be passed by 31 December 2016.

Application

Article 62

Provisions of Article 8 paragraph 1 indent 2, Article 9 paragraph 2 indent 2, Article 17 paragraph 1 item 2, Article 20 paragraph 1 item 1, Article 50 paragraph 1 indents 1 and 2, Article 57 paragraph 1 item 2, Article 60 paragraph 1 item 1 of this Law shall apply from the day of accession of Montenegro to the European Union.

Provisions of Article 13, Article 19 paragraph 1 item 2, Article 57 paragraph 1 item 1 and Article 59 paragraph 1 item 1 of this Law relating to marking of products shall apply from the day of accession of Montenegro to the European Union.

Entry into force

Article 63

This Law shall enter into force on the eight day from its publishing in the Official Gazette of Montenegro, and shall apply as of 1 January 2017.

Number: 01-3/13-2/4
EPA 342 XXV
Podgorica, 26 March 2014

25th PARLIAMENT OF MONTENEGRO

THE SPEAKER

Ranko Krivokapic