

EA Secretariat

Dr Andreas Steinhorst

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Ref. Nr.: NB-CPR 19/825

Dear Mr Steinhorst,

Thank you very much for the letter sent on 17 October 2019 to Ms Yannick Le Tallec in capacity of liaison between European Accreditation and GNB-CPR.

Firstly, I would like to confirm that GNB-CPR aims for an open and transparent dialogue with all relevant stakeholders. EA is certainly recognised as an important stakeholder. Accordingly, EA has been granted a standing invitation to participate in all meetings of the GNB Advisory Group. You already took part in our meeting in Leuven last year and we look forward to welcoming you in our future meetings. The next meeting is scheduled to take place in Brussels on 31 March 2020.

Regarding the position paper NB-CPR 18/772, I would like to mention that all GNB position papers are approved in a transparent process. Draft position papers are referenced on the agenda of the GNB Advisory meeting and made available to all stakeholders using the CIRCABC information system. The position paper in question has been on the agenda of two consecutive GNB meetings to which EA has been invited and had access to all documents.

Prior to the adoption of the position paper, on 09 October 2018, in a so-called “Article 54 meeting” convened by the Commission, the notifying authorities under the responsibility of which the accreditation bodies are assessing and monitoring notified bodies, were informed of the first draft tabled for the GNB Advisory Group.

Before the final approval of the position paper, a revised proposal was uploaded to CIRCABC and referenced by the draft agenda of the 45th GNB-AG meeting (Brussels, 02 April 2019).

Based on the above, we have assumed that all relevant stakeholders, including EA, were informed and given the possibility to have their say.

However, the GNB is still prepared to enter a dialogue on the matter and to take viewpoints of EA into account.

About the content of the position paper NB-CPR 18/772, I would like to emphasise that it should not be considered to challenge the EA resolution as such.

The position paper only relates to the applicability of the said resolution in relation to notified laboratories in the CPR framework. Hence, the position paper should not be considered to conflict with the resolution of EA nor to contradict it.

About the background for the position paper I can give the following information.

In 2017, the GNB Advisory Group was requested by Construction Products Europe (CPE) to ensure that notified bodies would operate equivalently when requested by manufacturers to reissue test reports for the purpose of including updated information. CPE indicated as their reason that the national accreditation bodies had very different practices which accordingly lead to different practices for the laboratories. In some cases, manufacturers have found themselves compelled to repeat expensive testing in order to obtain documents with updated information.

The request from CPE prompted GNB-CPR Technical Secretariat to carry out an analysis of the current provisions for the operation of notified laboratories in order to develop appropriate guidance for notified laboratories.

The analysis did comprise the below considerations:

1. All notified bodies are operating in the harmonised sphere. Hence, there would be no room for national provisions for their operations.
2. The operational obligations of notified bodies are defined by CPR Article 52. In the current context, notably the requirement of CPR Art. 52(2) not to impose undue burdens on the manufacturers would be relevant.
3. The coordination of notified bodies is, cf. CPR Articles 55 and 43(11), assigned to the Group of Notified Bodies. That coordination includes the development of guidance which notified bodies are required to apply as general guidance.
4. The notifying authorities are required to monitor the operations of notified bodies, including their adherence to CPR Art. 52(2) and their application of GNB Guidance.
5. Accreditation is foreseen by CPR as a preferred but not obligatory tool to support the assessment of applicant notified bodies, cf. CPR Articles 44, 47 and 48.
6. Notifying authorities may optionally decide to leave the assessment and monitoring of notified bodies to their national accreditation bodies.
7. Notwithstanding above points 5 and 6, CPR does not foresee accreditation bodies to define criteria for the operation of notified bodies.
8. Any resolution taken by EA would need the implementation in national accreditation rules to become effective. Hence, it would depend on adequate legal basis in the national legislation.
9. The implementation in national accreditation, cf. above point 8, would by nature be a national requirement for which CPR does not leave any room, cf. the above point 1.

Based on the above and after dialogue with the Commission – it was considered that the EA resolution cannot apply to laboratories notified for the CPR. Alternatively, even if the resolution should be considered in principle applicable CPR Article 52(2) would prevail.

I hope the above explains well the position of the GNB-CPR.

We are of course aware that GNB position papers are not supposed to overrule documents or decisions of EA. As the roles and responsibilities of our two organisations are different no conflicts are foreseen. When working to the CPR, however, both GNB position papers and

documents and decisions of the EA would be subordinate to CPR and can only be applied if in line with CPR and other applicable legislation.

In line with the above analysis, we would consider CPR not to leave any room for applying the said EA resolution to notified laboratories.

Please do not hesitate to contact us if you have any questions or comments.

On behalf of the Group of Notified Bodies for the CPR:

Marjan Japelj
President of the Group

A handwritten signature in blue ink, consisting of a stylized 'M' followed by a horizontal line and a large loop.

November 2019

