

LAW

No.9290, date 7.10.2004

ON CONSTRUCTION MATERIALS

In sustenance of the articles 78 and 83 paragraph 1 of the Constitution, with a proposal of the Council of Ministers,

The ASSEMBLY
OF THE REPUBLIC OF ALBANIA

DECIDED:

CHAPTER I GENERAL DISPOSITIONS

Article 1
The objective

This law establishes the conditions of use for the construction materials, the acceptance of the technical approval for these products, the evaluation and the assessment of conformity with the principal requirements, regulating the placement into the market of the construction materials, the performance of the market surveillance, as well as the implementation of the specific procedures for their knowledge.

Article 2
The scope

This law shall be reinforced for those construction materials that fulfil the principal requirements established in the article 4 of this law. It does not apply to the products that do not fulfil the technical specifications that refer to articles 5, 6 and 7 of this law.

CHAPTER II THE DEFINITIONS AND THE PRINCIPAL REQUIREMENTS OF THE CONSTRUCTION PRODUCTS

Article 3
Definitions

In the meaning of this law, the following terms have the following significance:

1. As "Construction material" is considered every product produced to be permanently used during the construction works.
2. As "construction works" are considered the construction works in buildings, public areas, industrial actions, infrastructure works as well as in other objects.
3. "Placing the product into the market" means that the construction product is appropriate to be used within the Republic of Albania.

4. As "Technical specifications" are considered all the standards, technical approvals, as well as the Albanian technical regulations, based on the articles 5, 6 and 7 of this law.
5. As the "Albanian standard" is considered the standard approved from the Albanian standardization organisation.
6. The "Harmonized Standard" is the standard approved by the European Standardization Organisation and published in the Official Journal of European Union.
7. The "Albanian technical approval" is the technical approval of a construction material provided by the respective Albanian approval organism.
8. As the "Approval Organism" is considered the organism responsible for providing the Albanian technical approvals.
9. The "Minister" is the minister that covers the construction area and the construction materials production area.
10. As a "Small construction material" is considered a construction material that plays a small role in relationship with the health and the safety.
11. The "approved technological regulation" is considered the technical disposition that, based on the experts' explanations, reflects the technology situation.
12. The "certification organism" is the organism that certifies the conformity of the construction materials or construction systems regarding the surveillance and the inspection of the products.
13. The "inspection organism" is the organism that assesses and recommends the quality inspection methods and the selection methods for the construction materials produced and used by the producers.
14. The "testing laboratory" is the organism that measures, examines, tests, calibrates or establishes the characteristics or the qualities of the construction products or materials.
15. "Conformity Assessment" is considered any direct or indirect activity that determines whether the integrity of the respective technical requirements of the documentation have been fulfilled.
16. As the "Conformity Certification" is considered the preliminary acceptance of the product compatibility with the technical requirements.

Article 4

Essential Requirements

The essential requirements of the construction work that are established in the respective regulation and that shall be fulfilled by the products protecting their principal characteristics include:

- a) the mechanical resistance and stability;
- b) the safety in the case of fire;
- c) hygiene, health and environment;
- ç) safety and usage;
- d) protection from the noises;
- dh) energy saving and warmth conservation.

CHAPTER III

PLACING INTO THE MARKET OF THE CONSTRUCTION MATERIALS

Article 5 Placing into the market

The construction product shall be placed into the market when it is suitable to the intended usage and fulfils the principal requirements established in the article 4 of this law.

Article 6 The adopted Standards

The product is appropriate when it fulfils the principal requirements for the intended usage and is placed into the market when is accordance with harmonized Albanian standards adopted by the respective European standards.

Article 7 Albanian Standards

When the Albanian standards established in the article 6 of this law do not exist, the construction product shall be placed into the market if it is in conformity with:

- a) the Albanian standards;
- b) the Albanian technical regulations;
- c) the Albanian technical approvals, in accordance with the articles 11, 12 and 13 of this law.

Article 8 Conformity assessment

When the construction product does not fulfil, completely or partially, the requirements of the article 6 or 7, it shall be placed into the market only if the producer applies the conformity assessment procedures established in paragraph 1 of article 17 of this law. In this case, the conformity declaration shall be based on the initial testing of the product performed by an approved testing laboratory.

Article 9 Placing into the market the small product

1. A small construction product shall be placed into the market only after the written declaration from the producer that verifies that he/she has applied the approved technical regulation.
2. The producer's declaration shall be considered as valid when the product fulfils the criteria established by the Albanian laws concerning the conformity.

Article 10 Conformity requirements

The Minister shall require the conformity assessment of the construction product in order to fix the conformity marking, through which the producer or his/her representative confirms, before placing the product into the market, that this product has been produced in accordance with the standards.

CHAPTER IV

THE TECHNICAL APPROVAL AND THE APPROVING ORGANISM

Article 11

The technical approval

1. The Albanian technical approval of the construction product shall be provided by the approving organism that verifies that the product is appropriate for the intended usage. The technical approval shall be given for a period of 5 years with the rights of renewal for other 5 years.
2. The Albanian technical approval for a construction product shall be based in the examinations, the evidences and the assessments, in accordance with the principal requirements for the construction works.
3. The Albanian technical approval shall be given to a special construction product only from an approving organism, authorized by the Minister.

Article 12

Criteria for the technical approval

1. The approving organism shall provide the Albanian technical approval for a construction product only when:
 - a) it does not exist neither an Albanian standard nor an Albanian technical regulation based on the article 7 of this law;
 - b) it changes distinctly from an Albanian standard or from an Albanian technical regulation.
2. For reviewing an Albanian technical approval there shall be followed the same regulations as for its first provision. The requirement for approval may be presented to the same approving organism that has provided the first approval.
3. The Albanian technical approval may be revoked if the approving organism is informed from the inspection organisms that the construction product is not appropriate for the intended usage and it does not fulfil the Albanian standard established in the article 7 of this law.

Article 13

The technical approval request

1. The request for the Albanian technical approval of the construction product may be presented by the producer or by his/her representative, only after they have declared of not having presented an identical request to other approval organisms.

2. The producer's request shall contain the description of the construction material, the specifications, the projects and the testing results which determine the product and its intended usage as well as the places where it will be distributed.
3. The producer, before presenting the request for approval, has the right to require from the approval organism for some data concerning:
 - a) the procedure for the provision of the Albanian technical approval;
 - b) the termination of the period needed for the realisation of the procedure;
 - c) the costs and the payment method.
4. The Minister establishes the criteria for the procedure regarding the provision, the extension, the review, and the revoking of the Albanian technical approval.
5. When the approval organism considers it necessary, it requires to the producer or to his/her representative for some additional documents, some new testing results, calculations or other data, in order to ensure the product assessment. The approving organism ensures the confidentiality regarding all the data obtained during the procedure.

CHAPTER V

THE ASSESSMENT AND THE CERTIFICATION OF THE CONFORMITY WITH THE TECHNICAL REQUIREMENTS AND SPECIFICATIONS

Article 14

Conformity certification

1. The producer is responsible for verifying the conformity of a construction product with the technical requirements. Prior to the conformity certification, its usage shall be established from the test, inspection or other methods of conformity assessment. The procedure of the assessment and the certification of conformity, as a condition in the technical requirements, shall be performed by the producer itself or in collaboration with the established organism responsible for the certification of the conformity.
2. The organisms responsible for the conformity certification, based on the paragraph 1 of this article, may be the certification organism, the inspection organism, or the testing laboratory, which may be public or private organisms, established based on the article 5 of the law no. 9097, date 3.7.2003 "On conformity assessment".

Article 15

The conformity inspection methods

1. For certifying the conformity of the construction products in accordance with the technical specifications, the following methods shall be used:
 - a) the initial inspection of the factory and the initial inspection of the product from an approved team;
 - b) performing the testing inspection for the samples collected in the factory in accordance with a test pre-established by the producer or by the approved team;
 - c) performing the testing inspection for the samples collected from a quantity of product prepared for delivery, in the open market, or in an object, from the producer or from the approved team;

ç) the surveillance, the judgment, and the continuous inspection of the factory from an approved team.

2. The production inspection in the factory in accordance with the paragraph 1 of this article shall be in continuous control, internal inspection of the production area from the producer. All the elements, the requirements and the methods used from the producer for inspecting the production in the factory, shall be systematically documented in the form of written politics and procedures.

3. The methods used for the conformity certification of the construction products, based in the paragraph 1 of this article, depend on the technical requirements for the product or for specific families of the construction products.

Article 16

Criteria for the conformity certification

1. The conformity certification for a construction product implicates that:

a) the producer of a construction product has a controlling system of the production in the factory, which ensures him/her that its products are in conformity with the technical specifications;

b) besides the controlling system in the factory, for a specific construction product, determined in the respective technical specifications, it has been approved a certification organism for the assessment and the surveillance of the inspection of the production or of the product itself.

2. Establishing the procedures, based on the point 1 of this article, depends from:

a) the type of the construction product;

b) the importance of the product in rapport with the principal requirements of the construction works;

c) the various results of the product characteristics concerning its resistance;

ç) the sensibility towards the defects during the production.

Article 17

Conformity assessment procedures

1. The conformity assessment procedures for the product shall be based on:

a) the conformity declaration presented by the producer or by his/her representative;

b) the conformity certificate for the inspection production surveillance system and/or for the product released by a certification organism.

2. If a certification organism releases the conformity certificate for the system of the inspection and the surveillance of the production, the producer or its representative presents a conformity declaration for the construction product based on this certificate.

3. For a special production (or out of series), the conformity certificate shall be based on the testing performance for the sample of the construction product and the inspection of this product in the factory.

Article 18

The conformity marking

1. After the proclamation of the conformity document, the producer or its representative affixes the conformity marking in the product.
2. It is not allowed to affix a conformity marking, or any other sign similar to it which may create confusion in the market or misleading of the consumer, for a construction material not appropriate for the intended usage or for a product whose conformity marking has not been approved.

Article 19

The responsibilities of the certification organism

1. The producer of the construction materials may engage a certification organism during its conformity assessment procedures only if this organism possesses an authorization which verifies its necessary ability and responsibility for performing the conformity certification, with the determined regulations and procedures. The products, that enter the responsibility of the certification organism, shall be described in the authorisation.
2. The tasks established in paragraph 1 of this article shall be performed by the certification organism, which may delegate one or more of these tasks to the inspection organisms and/or to the testing laboratories.

CHAPTER VI

MARKET SURVEILLANCE

Article 20

The product inspection organism

1. The Construction Police is the inspection organism for ensuring the fulfilment of the requirements of this law and of the by-laws established for its reinforcement concerning the construction products placed into the market.
2. Besides implementing the measures derived by the specific legal acts, the Construction Police exercises the following responsibilities:
 - a) it requires to the supplier to present all the necessary data and the respective documents related to the conformity for the construction products;
 - b) it performs the necessary examination and tests for the construction products, in accordance with the conformity, based on the technical specifications;
 - c) it collects samples of the construction products for testing purposes;
 - ç) it orders the withdraw of the conformity documents in the cases of nonconformity for the construction products;
 - d) it prohibits the placement into the market of the construction products in cases on nonconformity;
 - dh) it blocks temporarily, until the performance of the examinations and tests, every provision, offer or exposition of the construction materials, when it doubts that these products are not conform to the regulations;
 - e) it orders the liquidation of the construction products in cases of nonconformity when it is essential to the human health and life protection.

Article 21

The coverage of the inspection procedures costs

1. The costs for the inspection procedures, the testing costs, the daily expenses, the travelling and other expenses needed for the presented procedures shall be covered by the person itself when they are in its disfavour.
2. The complaint against the decisions taken in accordance with the paragraph 2 of the article 20 does not suspend their implementation.

Article 22

Specific procedures

1. In cases of absence of the technical specifications for the construction product, the organism established in article 5 of the law no. 9097, date 3.7.2003 "On conformity assessment", assesses whether the product is in accordance with the legal dispositions into power.
2. The recognition and approval of the foreign systems shall be done in accordance to the article 8 of the no. 9097, date 3.7.2003 "On conformity assessment".

CHAPTER VII

SANCTIONS AND DISAGREEMENTS

Article 23

Sanctions

1. In the meaning of this law, when the infringements do not constitute a penal act, they constitute an administrative violation and shall be punished as follows:
 - a. the juristic person shall be penalized from 100 000 to 1 000 000 lekë when:
 - i) it places into the market a construction material in contradiction with the articles 5, 6, 7 and 8 of this law;
 - ii) it prepares a declaration for the acceptance of the construction product which is in contradiction with the article 9 of this law;
 - iii) it provides an Albanian technical approval in contradiction with the articles 11, 12 and 13 of this law;
 - iv) it does not affix the conformity marking to the production product in accordance to the paragraph 1 of the article 18 of this law;
 - v) in contradiction with the paragraph 2 of article 18, it affixes to the construction product a conformity marking or any other marking similar to another existing mark which creates confusion in the market or misleads the consumer;
 - vi) it approves a certification organism concerning the conformity certification in contradiction with the article 19 of this law;
 - vii) in contradiction with the article 20 of this law, it does not operate in accordance to the decisions of the respective structures;
 - b. the physical person shall be penalized from 50 000 to 500 000 lekë for the same infringements mentioned in the paragraph "a" of this article.
2. The penalties shall be provided by the Construction Police.

3. In order to complaint against the actions of the Construction Police, there shall apply the dispositions foreseen in article 17 of the law no. 8402, date 10.9.1998 "On controlling and disciplining the construction works ".

Article 24
Resolving the disagreements

The disagreements regarding the conformity assessment procedures shall be solved in accordance with the article 9 of the law no.9097, date 3.7.2003 "On conformity assessment".

CHAPTER VIII TRANSITORY AND FINAL DISPOSITIONS

Article 25
Preparation of the respective by-laws

1. The Council of Ministers is in charge of preparing the respective by-laws in execution of the articles 4 and 7 of this law.
2. The Minister, that covers the construction area and the construction material production area, is in charge to prepare the respective by-laws in execution of the articles 19 and 26 of this law.

Article 26
Transitory dispositions

Until the by-laws related tot eh reinforcement are not approved, the laws and by-laws in power shall apply.

Article 27
Entering into power

This law enters into power 15 days after its publication in the Official Journal.

Declared with the decree no. 4377, date 7.10.2004 of the President of the Republic of Albania, Alfred Moisiu