

LAW No. 06/L-033

ON CONSTRUCTION PRODUCTS

The Assembly of the Republic of Kosovo,

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves:

LAW ON CONSTRUCTION PRODUCTS

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Purpose**

1. This Law lays down conditions for the placing or making available on the market of construction products by establishing rules on how to express the performance, the nature and suitability of construction products in relation to their essential characteristics and/or suitability for use in construction works.

2. This Law defines three ways by which products may be shown to comply with the requirements of this Law as follow:

2.1. the use of CE marking - the CE marking shall be applied where the country of destination of the product requires it but may also be applied for products on the Kosovo market;

2.2. the use of the Kosovo conformity marking shall apply where the manufacturers follows the requirements for marking given in this Law, or other equivalent conformity marking based on ratified international agreements;

2.3. the placing on the Kosovo market of construction products by applying provisions other than those required for CE or Kosovo conformity marking.

3. This Law is based on the relevant provisions of the Regulation (EU) No 305/2011 of the European Parliament which lays down the conditions for making available on the market the construction products.

**Article 2
Scope**

1. This Law applies to construction products that meet the basic requirements for construction works set out in Article 4 of this Law.

2. Placing on the market, distribution and use of construction products that meet the requirements

set out by this Law and sub-legal acts adopted pursuant to this Law cannot be restricted.

Article 3 **Definitions**

1. For the purposes of this Law the following definitions shall apply:

1.1. **Construction product** - any product or kit which is 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;

1.2. **Kit** - a construction product placed on the market by a single manufacturer as a set of at least two separate components that need to be put together to be incorporated in the construction works;

1.3. **Construction works** - buildings and civil engineering works;

1.4. **Essential characteristics** - those characteristics of the construction product which relate to the basic requirements for construction works;

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

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

1.7. **Class** - a range of levels, delimited by a minimum and a maximum value, of performance of a construction product;

1.8. **Threshold level** - a minimum or maximum performance level of an essential characteristic of a construction product;

1.9. **Product-type** - the set of representative 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;

1.10. **Harmonised technical specifications** - harmonised standards, European Assessment Documents (EAD) and Kosovo Assessment Documents (KAD);

1.11. **Harmonised European standard** - a standard adopted by one of the European standardisation bodies on the basis of a request issued by the European Commission;

1.12. **Kosovo harmonised standard** – a Kosovo standard adopting European harmonised standard in compliance with Standardization Law and Rules, which ensures presumption of conformity for respective regulations.

1.13. **European Assessment Document** - a document adopted by the organisation of TABs (EOTA) in the European Union for the purposes of issuing European Technical Assessments;

1.14. **European Technical Assessment** - the documented assessment of the performance of a construction product, in relation to its essential characteristics, in accordance with the respective European Assessment Document;

1.15. **Intended use** - the intended use of the construction product as defined in the applicable harmonised technical specification;

1.16. **Specific Technical Documentation** - 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 harmonised standard;

1.17. **Making available on the market** - any supply of a construction product for distribution or use on the Kosovo market in the course of a commercial activity, whether in return for payment or free of charge;

1.18. **Placing on the market** - the first making available of a construction product on the Kosovo market;

1.19. **Economic operator** - the manufacturer, importer, distributor or authorised representative;

1.20. **Manufacturer** - any natural or legal person who manufactures a construction product or who has such a product designed or manufactured, and markets that product under his name or trademark;

1.21. **Distributor** - any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes a construction product available on the market;

1.22. **Importer** - any natural or legal person established within in Kosovo, who places a construction product from a foreign country on the Kosovo market respectively;

1.23. **Authorised representative** - any natural or legal person established within the Kosovo who has received a written mandate from a manufacturer to act on his behalf in relation to specified tasks;

1.24. **Withdrawal** - any measure aimed at preventing a construction product in the supply chain from being made available on the market;

1.25. **Recall** - any measure aimed at achieving the return of a construction product that has already been made available to the end-user;

1.26. **Accreditation** - a confirmation by the state body to accredit a conformity assessment body who meets the requirements set out under the harmonized standards and, where applicable, additional requirements, including those set out in the relevant sector schemes, to carry out specific activities or assessment conformity;

1.27. **Factory production control** - the documented, permanent and internal control

of production in a factory, in accordance with the relevant harmonised technical specifications;

1.28. **Micro-enterprise** - an enterprise which employs fewer than ten (10) persons and whose annual turnover and/or annual balance sheet total does not exceed EUR two (2) million;

1.29. **Life cycle** - the consecutive and interlinked stages of a construction product's life, from raw material acquisition or generation from natural resources to final disposal.

1.30. **The Ministry** - the responsible ministry on the issues of trade and industry.

Article 4

Basic requirements for construction works and essential characteristics of construction products

1. The basic requirements for construction works shall, within six (6) months of the entry into force of this Law, be regulated by the Ministry by sub-legal acts. These basic requirements shall constitute the basis for the preparation of harmonised technical specifications.

2. The essential characteristics of construction products shall be laid down in harmonised technical specifications in relation to the basic requirements for construction works.

3. For specific families of construction products covered by a harmonised standard, the European Commission, where appropriate and in relation to their intended uses as defined in harmonised standards, determines by means of delegated acts, those essential characteristics for which the manufacturer shall declare the performance of the product when it is placed on the market.

4. Where appropriate, the European Commission also determines, by means of delegated acts, the threshold levels for the performance in relation to the essential characteristics to be declared.

5. The Ministry shall, where relevant for the Kosovo market, publish the European Commission delegated acts related to essential characteristics and threshold levels, in an appropriate place, according to the provisions of Article 50 of this Law. The Ministry may also publish delegated acts not linked to European Commission delegated acts, according to the provisions of Article 51 of this Law.

CHAPTER II

DECLARATION OF PERFORMANCE, "CE" MARKING AND KOSOVO CONFORMITY MARKING

Article 5

Declaration of performance

1. When a construction product is covered by a Kosovo and European harmonised standard or conforms to a European or Kosovo Technical Assessment which has been issued for it, the manufacturer shall draw up a declaration of performance when such a product is placed on the market.

2. When a construction product is covered by a harmonised standard or conforms to a European or Kosovo Technical Assessment which has been issued for it, information in any form about its performance in relation to the essential characteristics, as defined in the applicable harmonised technical specification, may be provided only if included and specified in the declaration of performance except where, in accordance with Article 6 of this Law, no declaration of performance has been drawn up.

3. By drawing up the declaration of performance, the manufacturer shall assume responsibility for the conformity of the construction product with such declared performance. In the absence of objective indications to the contrary, Kosovo authorities shall presume the declaration of performance drawn up by the manufacturer to be accurate and reliable.

Article 6

Derogations from drawing up a Declaration of Performance

1. By way of derogation from Article 5 paragraph 1. of this Law and in the absence of European Union or national provisions requiring the declaration of essential characteristics where the construction products are intended to be used, a manufacturer may refrain from drawing up a declaration of performance when placing a construction product covered by a harmonised standard on the market where:

1.1. the construction product 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, by a manufacturer who is responsible for the safe incorporation of the product into the construction works, in compliance with the applicable national rules and under the responsibility of those responsible for the safe execution of the construction works designated under the applicable national rules;

1.2. the construction product is manufactured on the construction site for its incorporation in the respective construction works in compliance with the applicable national rules and under the responsibility of those responsible for the safe execution of the construction works designated under the applicable national rules; or

1.3. the construction product 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 officially protected as part of a designated environment or because of their special architectural or historic merit, in compliance with the applicable national rules.

Article 7

Content of the declaration of performance

1. The declaration of performance shall express the performance of construction products in relation to the essential characteristics of those products in accordance with the relevant harmonised technical specifications.

2. The declaration of performance shall contain, in particular, the following information:

2.1. the reference of the product-type for which the declaration of performance has been drawn up;

2.2. the system or systems of assessment and verification of constancy of performance

of the construction product;

2.3. the reference number and date of issuance/publication of the harmonised Kosovo and European standard or the European or Kosovo Technical Assessment which has been used for the assessment of each essential characteristic;

2.4. where applicable, the reference number of the Specific Technical Documentation used and the requirements with which the manufacturer claims the product complies.

3. The declaration of performance shall in addition contain:

3.1. the intended use or uses for the construction product, in accordance with the applicable harmonised technical specification;

3.2. the list of essential characteristics, as determined in the harmonised technical specification for the declared intended use or uses;

3.3. the performance of at least one of the essential characteristics of the construction product, relevant for the declared intended use or uses. If there is no obligation to declare the performance of at least one essential characteristic because there are no regulatory requirements on the construction works which would require such characteristic, the product is not a 'construction product' within the meaning of this Law and is, therefore, exempt from its provisions;

3.4. where applicable, 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 determined in accordance with Article 4 paragraph 3. of this Law;

3.5. the performance of those essential characteristics of the construction product which are related to the intended use or uses, taking into consideration the provisions in relation to the intended use or uses where the manufacturer intends the product to be made available on the market;

3.6. for the listed essential characteristics for which no performance is declared, the letters 'NPD' (No Performance Determined);

3.7. when a European or Kosovo Technical Assessment has been issued for that product, the performance, by levels or classes, or in a description, of the construction product in relation to all essential characteristics contained in the corresponding European or Kosovo Technical Assessment.

4. The declaration of performance shall be drawn up using this model determined by the Ministry in sub-legal acts.

5. For products placed on the market in the European Union, the information related to the content and/or release of dangerous substances shall be provided together with the declaration of performance. For products placed on the Kosovo market, information related to the content and/or release of dangerous substances shall be given together with the declaration of performance in accordance with any regulatory requirements applicable in Kosovo.

Article 8

Supply of the declaration of performance

1. A copy of the declaration of performance of each product which is made available on the market shall be supplied either in paper form or by electronic means.
2. However, where a batch of the same product is supplied to a single user, it may be accompanied by a single copy of the declaration of performance either in paper form or by electronic means.
3. A paper copy of the declaration of performance shall be supplied if the recipient requests it.
4. By way of derogation from paragraphs 1. and 3. of this Article, the copy of the declaration of performance may be made available on a web site.
5. The declaration of performance shall be supplied in the language or the languages required by the country where the product is made available.
6. The Ministry shall by a sub-legal act, set the conditions for the declaration of a construction product performance.

Article 9

General principles and use of CE marking

1. To affix the CE marking shall apply the general principles set out in specific rules for the conformity marking.
2. The CE marking shall be affixed to those construction products for which the manufacturer has drawn up a Declaration of Performance in accordance with Articles 5 and 7 of this Law, by applying a harmonised European Standard or European Assessment Document.
3. If a Declaration of Performance has not been drawn up by the manufacturer in accordance with Articles 5 and 7 of this Law, the CE marking shall not be affixed.
4. By affixing the CE marking, manufacturers indicate that they take responsibility for the conformity of the construction product with the declared performance as well as the compliance with all applicable requirements laid down in the European Union's Legislation on Construction Products and in other relevant European Union harmonisation of legislation providing for its affixing.
5. The rules for affixing the CE marking provided for in other relevant European Union harmonisation legislation shall apply without prejudice the paragraph 4. of this Article.
6. For any construction product covered by a harmonised European standard, or for which a European Technical Assessment has been issued, the CE marking shall be the only marking which attests conformity of the construction product with the declared performance in relation to the essential characteristics, covered by that harmonised standard or by the European Technical Assessment.

Article 10

General principles and use of Kosovo conformity marking

1. The general principles set out in Regulation on Conformity Marking, shall apply to the Kosovo conformity marking. The use of the Kosovo conformity marking shall remain optional unless a decision taken by the Ministry in accordance with Article 51 of this Law makes it mandatory.
2. The Kosovo conformity marking may only be affixed to those construction products for which the manufacturer has drawn up a declaration of performance in accordance with Articles 5 and 7 of this Law by applying a harmonised Kosovo Standard or Kosovo Assessment Document.
3. The requirements, with regard to essential requirements, assessment and verification of constancy of performance, declaration of performance and CE marking are those given in Annex ZA (or Annex Z) of the relevant adopted harmonised European Standard. When applying harmonised Kosovo Standards for the purposes of Kosovo conformity marking, those terms in the annex related to CE marking (in particular but not limited to “notified bodies” and “CE marking”) shall be replaced by Kosovo terms (“designated bodies”, “Kosovo conformity marking”).
4. If a declaration of performance has not been drawn up by the manufacturer in accordance with Articles 5 and 7 of this Law, the Kosovo conformity marking shall not be affixed.
5. By affixing or having affixed the Kosovo conformity marking, manufacturers indicate that they take responsibility for the conformity of the construction product with the declared performance as well as the compliance with all applicable requirements laid down in this Law in respect of Kosovo conformity marking, and in other relevant Kosovo legislation providing for its affixing.
6. The rules for affixing the Kosovo conformity marking provided for in other relevant Kosovo legislation shall apply without prejudice the paragraph 5. of this Article.
7. For any construction product covered by a harmonised Kosovo standard, or for which a Kosovo Technical Assessment has been issued, the Kosovo conformity marking shall be the only marking which attests conformity of the construction product with the declared performance in relation to the essential characteristics, covered by that harmonised Kosovo standard or by the Kosovo Technical Assessment.
8. The Ministry by the market surveillance competent authorities shall not prohibit or impede the making available on the market or the use of construction products bearing the Kosovo conformity marking, when the declared performances correspond to the requirements for such use in Kosovo.
9. The Ministry by the market surveillance competent authorities shall ensure that the use of construction products bearing the Kosovo conformity marking shall not be impeded by rules or conditions imposed by public bodies or private bodies acting as a public undertakings, or acting as a public body on the basis of a monopoly position or under a public mandate, when the declared performances correspond to the requirements for such use in Kosovo.
10. The methods used by Kosovo in its requirements for construction works, as well as other national rules in relation to the essential characteristics of construction products, shall be in accordance with harmonised Kosovo standards.

Article 11

Rules and conditions for the affixing of CE or Kosovo conformity marking

1. The CE or Kosovo conformity marking shall be affixed visibly, legibly and indelibly to the construction product or to a label attached to it. Where this is not possible or not warranted on account of the nature of the product, it shall be affixed to the packaging or to the accompanying documents.
2. The CE or Kosovo conformity marking shall be followed by the two last digits of the year in which it was first affixed, the name and the registered address of the manufacturer, or the identifying mark allowing identification of the name and address of the manufacturer easily and without any ambiguity, the unique identification code of the product-type, the reference number of the declaration of performance, the level or class of the performance declared, the reference to the harmonised technical specification applied, the identification number of the designated body (for CE marking) or the authorised body (for Kosovo conformity marking), if applicable, and the intended use as laid down in the harmonised technical specification applied.
3. The CE or Kosovo conformity marking shall be affixed before the construction product is placed on the market. It may be followed by a pictogram or any other mark notably indicating a special risk or use.

Article 12

Rules and conditions for the marketing of construction products not bearing the CE or Kosovo conformity marking

1. Construction products placed on the Kosovo market, whose conformity with the provisions of this Law is not demonstrated by them bearing the CE or Kosovo conformity marking, shall satisfy the provisions of Article 55 of this Law.
2. Products covered by paragraph 1. of this Article shall not bear the CE or Kosovo regulatory conformity marking.

Article 13

Product Contact Point for Construction

1. The Ministry, by decision, shall designate a Product Contact Point for Construction.
2. The Product Contact Point shall, at the request of, "*inter alia*", an economic operator or a competent authority of another country, provide the following information:
 - 2.1. the technical rules applicable to a specific type of construction product in Kosovo and information as to whether that type of product is subject to a requirement for prior authorisation under the Laws of Kosovo, together with information concerning the principle of mutual recognition and the application of this Law in the territory of Kosovo;
 - 2.2. the contact details of the competent authorities within Kosovo by means of which they may be contacted directly, including the particulars of the authorities responsible for supervising the implementation of the technical rules in question in the territory of Kosovo;

2.3. the remedies generally available in Kosovo in the event of a dispute between the competent authorities and an economic operator.

3. The Product Contact Point shall respond within fifteen (15) working days of receiving any request as referred to in paragraph 2. of this Article.

4. The Construction Product Contact Point in Kosovo where the economic operator has lawfully marketed the construction product, shall provide the economic operator or the competent authority with relevant information or observations.

5. The Product Contact Point shall not charge any fee for the provision of the information referred to in paragraph 2. of this Article.

6. With regard to the tasks defined in paragraph 2. of this Article, the Ministry shall ensure that the Product Contact Point for Construction provides information, using transparent and easily understandable terms, on the provisions within Kosovo aimed at fulfilling basic requirements for construction works applicable for the intended use of each construction product, as provided for in Article 7, paragraph 3, sub-paragraph 3.5 of this Law.

7. The Product Contact Point for Construction shall be able to carry out its functions in a manner that avoids conflicts of interest, particularly in respect of the procedures for obtaining the CE marking or Kosovo conformity marking.

CHAPTER III OBLIGATIONS OF ECONOMIC OPERATORS

Article 14 Obligations of manufacturers

1. Manufacturers shall either draw up a declaration of performance in accordance with Articles 5 and 7 of this Law as well as affix the CE or Kosovo conformity marking in accordance with Articles 9, 10, 11 and 12 of this Law, or they shall provide information in accordance with provisions of Article 55 of this Law.

2. Manufacturers shall, as the basis for the declaration of performance in support of CE or Kosovo conformity marking, draw up technical documentation describing all the relevant elements related to the required system of assessment and verification of constancy of performance.

3. Manufacturers shall keep the technical documentation and the declaration of performance for a period of ten (10) years after the construction product has been placed on the market.

4. Where appropriate, the Ministry may, by means of delegated acts in accordance with Article 50 of this Law, amend that period for families of construction products on the basis of the expected life or part played by the construction product in the construction works.

5. Manufacturers shall ensure that procedures are in place to ensure that series production maintains the declared performance. Changes in the product-type and in the applicable harmonised technical specifications shall be adequately taken into account.

6. Manufacturers shall, where deemed appropriate with regard to ensuring the accuracy, reliability and stability of the declared performance of a construction product, carry out sample testing of construction products placed or made available on the market, investigate, and, if necessary, keep a register of complaints, of non-conforming products and of product recalls, and keep distributors informed of any such monitoring.

7. Manufacturers shall ensure that their construction products bear a type, batch or serial number or any other element allowing their identification, or, where the size or nature of the product does not allow it, that the required information is provided on the packaging or in a document accompanying the construction product.

8. Manufacturers shall indicate on the construction product or, where that is not possible, on its packaging or in a document accompanying it, their name, registered trade name or registered trade mark and their contact address. The address shall indicate a single point at which the manufacturer can be contacted.

9. When making a construction product available on the market, manufacturers shall ensure that the product is accompanied by instructions and safety information in the official language of Kosovo.

10. Manufacturers who consider or have reason to believe that a construction product which they have placed on the market is not in conformity with the declaration of performance or not in compliance with other applicable requirements in this Law, shall immediately take the necessary corrective measures to bring that construction product into conformity, or, if appropriate, to withdraw or recall it. Where the product presents a risk, manufacturers shall immediately inform the market surveillance competent authorities of the countries in which they made the construction product available to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

11. Manufacturers shall, further to a reasoned request from a market surveillance competent authority, provide it with all the 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, in a language which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by construction products which they have placed on the market.

Article 15

Authorised representatives

1. A manufacturer may appoint, by written mandate, an authorised representative.

2. The drawing up of technical documentation shall not form part of the authorised representative's mandate.

3. An authorised representative shall perform the tasks specified in the mandate. The mandate shall allow the authorised representative to carry out at least the following tasks:

3.1. keep the declaration of performance and the technical documentation at the disposal of market surveillance competent authorities for the period referred to in Article 14, paragraph 3. of this Law;

3.2. further to a reasoned request from a market surveillance competent authority, provide that authority with all the 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;

3.3. cooperate with the market surveillance competent authorities, at their request, on any action taken to eliminate the risks posed by construction products covered by the mandate of the authorised representative.

4. For products placed on the market in the European Union (EU), the authorised representative shall be registered in the EU. For products placed on the market of Kosovo, the authorised representative shall be registered in Kosovo.

Article 16 **Obligations of importers**

1. Importers shall place on the Kosovo market only construction products which are compliant with the provisions of this Law.

2. Before placing a construction product on the market, importers shall ensure that the assessment and the verification of constancy of performance (for products bearing the CE or Kosovo conformity marking), or other relevant assessment procedure (for other construction products) has been carried out by the manufacturer. The importer shall ensure that the manufacturer has drawn up the technical documentation referred to in the of Article 14 paragraph 2. and the declaration of performance in accordance with Articles 5 and 7 of this Law (for products bearing the CE or Kosovo conformity markings). The importer shall also ensure that the product, where required, bears the CE or Kosovo conformity marking, that the product is accompanied by the required documents and that the manufacturer has complied with the requirements set out in Article 14, paragraph 7. and 8. of this Law.

3. Where an importer considers or has reason to believe that the construction product is not in conformity with the declaration of performance or not in compliance with other applicable requirements in this Law, the importer shall not place the construction product on the market until it conforms to the accompanying declaration of performance and it complies with the other applicable requirements in this Law or until the declaration of performance is corrected. Where the construction product presents a risk, the importer shall inform the manufacturer and the market surveillance competent authorities thereof.

4. Importers shall 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 and their contact address.

5. Importers shall ensure that, when making a construction product available on the market, the product is accompanied by instructions and safety information in official language.

6. Importers shall ensure that, while a construction product is under their responsibility, storage or transport conditions do not jeopardise its conformity with the declaration of performance and compliance with other applicable requirements in this Law.

7. Importers shall, when deemed appropriate with regard to ensuring the accuracy, reliability and stability of the declared performance of a construction product, carry out sample testing of

construction products placed or made available on the market, investigate, and, if necessary, keep a register of complaints, of non-conforming products and of product recalls, and shall keep distributors informed of any such monitoring.

8. Importers who consider or have reason to believe that a construction product which they have placed on the market is not in conformity with the declaration of performance or not in compliance with other applicable requirements in this Law, shall immediately take the necessary corrective measures to bring that construction product into conformity, or, where appropriate, to withdraw or recall it. Furthermore, where the product presents a risk, importers shall immediately inform the market surveillance competent authorities thereof, giving details, in particular, of the non-compliance and of any corrective measures taken.

9. Importers shall, for the period referred to in Article 14, paragraph 3. of this Law, keep a copy of the declaration of performance at the disposal of the market surveillance competent authorities and ensure that the technical documentation is made available to those authorities, upon request.

10. Importers shall, further to a reasoned request from the market surveillance competent authority, provide it with all the 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, in a language which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by construction products which they have placed on the market.

Article 17

Obligations of distributors

1. When making a construction product available on the market, distributors shall act with due care in relation to the provisions of this Law.

2. Before making a construction product available on the market, distributors shall ensure that the product, where required, bears the CE or Kosovo conformity marking and is accompanied by the documents required under this Law and by instructions and safety information in the official language. Distributors shall also ensure that the manufacturer and the importer have complied with the requirements set out in Article 14, paragraph 7. and 8. and Article 16, paragraph 4. of this Law.

3. Where a distributor considers or has reason to believe that a construction product is not in conformity with the declaration of performance or not in compliance with other applicable requirements in this Law, the distributor shall not make the product available on the market until it conforms to the accompanying declaration of performance and it complies with the other applicable requirements in this Law or until the declaration of performance is corrected. Where the product presents a risk, the distributor shall inform the manufacturer or the importer thereof, and the market surveillance competent authorities.

4. A distributor shall ensure that, while a construction product is under his responsibility, storage or transport conditions do not jeopardise its conformity with the declaration of performance and compliance with other applicable requirements in this Law.

5. Distributors who consider or have reason to believe that a construction product which they have made available on the market is not in conformity with the declaration of performance or not in compliance with other applicable requirements in this Law, shall make sure that the

corrective measures necessary to bring that product in conformity, to withdraw it or recall it, as appropriate, are taken. Where the product presents a risk, distributors shall immediately inform the market surveillance competent authorities thereof, giving details, in particular, of the non-compliance and of any corrective measures taken.

6. Distributors shall, further to a reasoned request from the market surveillance competent authority, provide the authority with all the 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 in a language which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by construction products which they have made available on the market.

Article 18

Cases in which obligations of manufacturers apply to importers and distributors

An importer or distributor shall be considered a manufacturer for the purposes of this Law and shall be subject to the obligations of a manufacturer pursuant to Article 14 of this Law, where he places a product on the market under his name or trademark or modifies a construction product already placed on the market in such a way that conformity with the declaration of performance or other proof of conformity may be affected.

Article 19

Identification of economic operators

1. For the period referred to in Article 14, paragraph 3. of this Law, economic operators shall, on request, identify the following to market surveillance authorities:

- 1.1. any economic operator who has supplied them with a construction product;
- 1.2. any economic operator to whom they have supplied a construction product.

CHAPTER IV

HARMONISED TECHNICAL SPECIFICATIONS

Article 20

Harmonised European Standards

1. Harmonised European standards are established by one of the European standardisation bodies on the basis of requests (hereinafter referred to as 'mandates') issued by the European Commission.

2. The European Commission publishes in the Official Journal of the European Union the list of references of harmonised standards which are in conformity with the relevant mandates.

3. The following is indicated for each harmonised standard in the list:

- 3.1. references of superseded harmonised technical specifications, if any;

- 3.2. date of the beginning of the coexistence period;
 - 3.3. date of the end of the coexistence period.
4. The European Commission publishes any updates to that list.

Article 21

Harmonised Kosovo standards

1. Harmonised Kosovo standards shall be established by the Kosovo Standardisation Agency (KSA), on the basis of harmonised European Standards, the reference to which have been published in the Official Journal of the European Union.
2. Kosovo Standardisation Agency shall also adopt the necessary supporting standards required by the harmonised standards, but these supporting standards shall not be considered as harmonised.
3. Kosovo Standardisation Agency shall present potential harmonised Kosovo Standards to the Ministry for adoption. If the Ministry accepts the standards as meeting all the provisions of this Law, it shall publish a list of the references to these standards in an appropriate way.
4. The following shall be indicated for each harmonised Kosovo Standard in the list:
 - 4.1. references of superseded harmonised technical specifications, if any;
 - 4.2. date of the beginning of the coexistence period;
 - 4.3. date of the end of the coexistence period.
5. The Ministry shall publish any updates to that list.

Article 22

Applicability of harmonised standards

1. From the date of the beginning of the coexistence period it shall be possible to use a harmonised standard to make a declaration of performance for a construction product covered by it.
2. Without prejudice to Articles 26, 27 and 28 of this Law, from the date of the end of the coexistence period, the harmonised standard shall be the only mean used for drawing up a declaration of performance for a construction product covered by it.
3. At the end of the coexistence period, any conflicting national standards shall be withdrawn and the Ministry shall terminate the validity of all conflicting national provisions.

Article 23

European or Kosovo Assessment Document

1. Kosovo manufacturers may make a request for a European Technical Assessment to a Technical Assessment Body based in a European Union Member State for any construction product not covered or not fully covered by a harmonised standard, for which the performance in relation to its essential characteristics cannot be entirely assessed according to an existing harmonised standard, because, *inter alia*:

1.1. the product does not fall within the scope of any existing harmonised standard;

1.2. for at least one essential characteristic of that product, the assessment method provided for in the harmonised standard is not appropriate; or

1.3. the harmonised standard does not provide for any assessment method in relation to at least one essential characteristic of that product.

2. The procedure for adopting the European Assessment Document in response to a request for a European Technical Assessment is that established according to the Legislation of the European Union on Construction Products.

3. If conditions make it appropriate and desirable, the Ministry shall publish, in a sub-legal act, the conditions under which manufacturers may make a request for a Kosovo Technical Assessment. This sub-legal shall also include the obligations on and provisions for the establishment of a Technical Assessment Body established in Kosovo, together with the procedures for developing Kosovo Assessment Documents and Kosovo Technical Assessments.

Article 24

Levels or classes of performance

1. The Ministry may adopt delegated acts in accordance with Article 50 of this Law, to establish classes of performance in relation to the essential characteristics of construction products.

2. Where the Ministry has established classes of performance in relation to the essential characteristics of construction products, the Kosovo Standards Agency shall use those classes in harmonised Kosovo standards. Where classes of performance in relation to the essential characteristics of construction products are not established by the Ministry, they may be established by Kosovo Standards Agency in harmonised standards, on the basis of a request from the Ministry.

3. When provided for in a request from the Ministry, Kosovo Standards Agency shall establish in harmonised standards threshold levels in relation to essential characteristics and, when appropriate, for intended uses, to be fulfilled by construction products in Kosovo.

4. The Ministry may adopt delegated acts in accordance with Article 50 of this Law, to establish conditions under which a construction product shall be deemed to satisfy a certain level or class of performance without testing or without further testing. Where such conditions are not established by the Ministry, they may be established by Kosovo Standards Agency in harmonised Kosovo standards.

5. When harmonised standards contain classification systems in accordance with paragraph 1. of this Article, the Ministry may determine the levels or classes of performance to be respected by construction products in relation to their essential characteristics only in accordance with those classification systems.

6. Kosovo Standards Agency shall respect the regulatory needs of Kosovo when determining threshold levels or classes of performance.

7. Where delegated acts of the European Commission have established classes of performance and/or threshold levels, these classes and/or levels shall be binding for products sold in the European Union or European Economic Area, whether or not they appear in harmonised European Standards.

Article 25

Assessment and verification of constancy of performance

1. Assessment and verification of constancy of performance of construction products in relation to their essential characteristics shall be carried out in accordance with one of the systems set out in sub-legal act by the Ministry.

2. By means of sub-legal act in accordance with Article 50 of this Law, the Ministry shall adopt or establish and may revise, taking into account in particular the effect on the health and safety of people, and on the environment, which system or systems are applicable to a given construction product or family of construction products or a given essential characteristic. In doing so, the Ministry shall also take into account the system or systems established by European Commission decisions (and included in harmonised European Standards or European Assessment Documents) and documented experiences forwarded by national authorities with regard to market surveillance.

3. The Ministry shall choose the least onerous system or systems consistent with the fulfilment of all basic requirements for construction works.

4. The system or systems thus determined shall be indicated in requests for harmonised Kosovo standards and in the harmonised Kosovo technical specifications.

CHAPTER V

SIMPLIFIED PROCEDURES

Article 26

Use of Appropriate Technical Documentation

1. In determining the product-type, a manufacturer may replace type-testing or type-calculation by Appropriate Technical Documentation demonstrating that:

1.1. for one or several essential characteristics of the construction product, which the manufacturer places on the market, that product is deemed to achieve 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, a European Commission decision or a decision of the Ministry;

1.2. the construction product, covered by a harmonised 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 the relevant harmonised standard. When these conditions are fulfilled, the manufacturer is entitled to declare performance corresponding to all or part of the test results of this other product. The manufacturer may use the test results obtained by another manufacturer only after having obtained an authorisation of that manufacturer, who remains responsible for the accuracy, reliability and stability of those test results; or

1.3. the construction product, covered by a 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 a component thereof, who has already tested that system or that component for one or several of its essential characteristics in accordance with the relevant harmonised technical specification. When these conditions are fulfilled, the manufacturer is entitled to declare performance corresponding to all or part of the test results for the system or the component provided to him. The manufacturer may use the test results obtained by another manufacturer or system provider only after having obtained an authorisation of that manufacturer or system provider, who remains responsible for the accuracy, reliability and stability of those test results.

2. If the construction product referred to in paragraph 1. of this Article belongs to a family of construction products for which the applicable system for assessment and verification of constancy of performance is system 1 + or 1, as set out in the sub-legal act under this Law, the Appropriate Technical Documentation referred to in paragraph 1. of this Article shall be verified by a notified product certification body (for products placed on the market in the European Union) or by an designated product certification bodies (for products placed on the Kosovo market) as referred to in the sub-legal act.

Article 27

Use of simplified procedures by micro-enterprises

Micro-enterprises manufacturing construction products covered by a harmonised standard may replace the determination of the product-type on the basis of type-testing for the applicable systems 3 and 4 as set out in the sub-legal act under this Law by using methods differing from those contained in the applicable harmonised standard. Those manufacturers may also treat construction products to which system 3 applies in accordance with provisions for system 4. When a manufacturer uses these simplified procedures, the manufacturer shall demonstrate compliance of the construction product with the applicable requirements by means of a Specific Technical Documentation and shall demonstrate the equivalence of the procedures used to the procedures laid down in the harmonised standards.

Article 28

Other simplified procedures

1. In relation to construction products covered by a harmonised 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 identified construction work, the performance assessment part of the applicable system, as set out in the sub-legal act under this Law, may be replaced by the manufacturer by Specific Technical Documentation demonstrating compliance of that product with the applicable requirements and equivalence of the procedures used to the procedures laid down in the harmonised standards.

2. If the construction product referred to in paragraph 1. of this Article belongs to a family of construction products for which the applicable system for assessment and verification of constancy of performance is system 1 + or 1, as set out in the sub-legal act under this Law, the Specific Technical Documentation shall be verified by a notified product certification body (for products placed on the market in the European Union) or by an designated product certification bodies (for products placed on the Kosovo market) as referred to in the sub-legal act under this Law.

CHAPTER VI DESIGNATING AUTHORITY AND DESIGNATED BODIES

Article 29 Designation

Ministry shall publish a list of those bodies which it designates to carry out third-party tasks in the process of assessment and verification of constancy of performance under this Law (hereinafter referred to as 'designated bodies').

Article 30 Designating authority

1. Ministry shall be the designating authority responsible for setting up and carrying out the necessary procedures for the assessment and designation of the bodies to be designated to carry out third-party tasks in the process of assessment and verification of constancy of performance for the purposes of this Law, and for the monitoring of designated bodies, including their compliance with Article 33 of this Law.

2. Ministry may decide that the assessment and monitoring referred to in paragraph 1. of this Article shall be carried out by the General Accreditation Directorate (DAK).

3. If Ministry delegates or otherwise entrusts the assessment, designation or monitoring referred to in paragraph 1. of this Article to a body which is not a governmental entity that body shall be a legal entity/person and shall comply *mutatismutandis* with the requirements laid down in Article 31 of this Law. It shall have arrangements to cover liabilities arising from its activities.

4. Ministry shall take full responsibility for the tasks performed by the body referred to in paragraph 3. of this Article.

Article 31 Requirements relating to designating authorities

1. Ministry as designating authority, or the body to which authorisation responsibilities are delegated, shall operate in such a way that no conflicts of interest with designated bodies occur.

2. The designating authority shall be organised and operated so as to safeguard the objectivity and impartiality of its activities.

3. The designating authority shall be organised in such a way that each decision relating to designation of a body to be designated to carry out third party tasks in the process of assessment and verification of constancy of performance is taken by competent persons different from those

who carried out the assessment.

4. The designating authority shall not offer or provide activities performed by designated bodies, or consultancy services on a commercial or competitive basis.
5. The designating authority shall safeguard the confidentiality of the information obtained.
6. The designating authority shall have a sufficient number of competent personnel at its disposal for the proper performance of its tasks.

Article 32

Information possibilities for Kosovo

Ministry may inform the European Commission of its national procedures for the assessment and designation of bodies to be designated to carry out third party tasks in the process of assessment and verification of constancy of performance and the monitoring of designated bodies, and of any changes thereto. Ministry may also inform other countries.

Article 33

Requirements for designated bodies

1. For the purposes of authorisation, an authorised body shall meet the requirements set out in paragraphs 2. to 16. of this Article.
2. A designated body shall be established under national Laws and shall be a legal person.
3. A designated body shall be a third-party body independent from the organisation or the construction product it assesses.
4. A body belonging to a business association or professional organization representing undertakings involved in the design, manufacturing, provision, assembly, use or maintenance of construction products which it assesses, can, on condition that its independence and the absence of any conflict of interest are demonstrated, be considered to be such a body.
5. A designated body, its top-level management and the personnel responsible for carrying out the third party tasks in the process of assessment and verification of constancy of performance shall not be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of the construction products which it assesses, nor the authorised representative of any of those parties. This shall not preclude the use of assessed products that are necessary for the operations of the designated body or the use of products for personal purposes.
6. A designated body, its top-level management and the personnel responsible for carrying out the third party tasks in the process of assessment and verification of constancy of performance shall not become directly involved in the design, manufacture or construction, marketing, installation, use or maintenance of those construction products, nor represent the parties engaged in those activities. They shall not engage in any activity that may conflict with their independence of judgement and integrity related to the activities for which they have been designated. This shall, in particular, apply to consultancy services.
7. A designated body shall ensure that activities of its subsidiaries or subcontractors do not affect

the confidentiality, objectivity and impartiality of its assessment and/or verification activities.

8. A designated body and its personnel shall carry out the third party tasks in the process of assessment and verification of constancy of performance with the highest degree of professional integrity and requisite technical competence in the specific field and must be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their assessment and/or verification activities, especially from persons or groups of persons with an interest in the results of those activities.

9. A designated body shall be capable of carrying out all the third party tasks in the process of assessment and verification of constancy of performance assigned to it in accordance with the sub-legal act published under this Law in relation to which it has been designated, whether those tasks are carried out by the designated body itself or on its behalf and under its responsibility.

10. At all times and for each system of assessment and verification of constancy of performance and for each kind or category of construction products, essential characteristics and tasks in relation to which it has been designated, the designated body shall have the following at its disposal:

10.1. the necessary personnel with technical knowledge and sufficient and appropriate experience to perform the third party tasks in the process of assessment and verification of constancy of performance;

10.2. the necessary description of procedures according to which the assessment of performance is carried out, ensuring the transparency and the ability of reproduction of these procedures; it shall have appropriate policies and procedures in place that distinguish between the tasks it carries out as an authorised body and other activities;

10.3. the necessary procedures to perform its activities which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

11. A designated body shall have the means necessary to perform the technical and administrative tasks connected with the activities for which it is authorised in an appropriate manner and shall have access to all necessary equipment or facilities.

12. The personnel responsible for carrying out the activities in relation to which the body has been designated, shall have the following:

12.1. sound technical and vocational training covering all the third party tasks in the process of assessment and verification of constancy of performance within the relevant scope for which the body has been designated;

12.2. satisfactory knowledge of the requirements of the assessments and verifications they carry out and adequate authority to carry out such operations;

12.3. appropriate knowledge and understanding of the applicable harmonised standards and of the relevant provisions of this Law;

12.4. the ability required to draw up the certificates, records and reports to demonstrate

that the assessments and the verifications have been carried out.

13. The impartiality of the designated body, its top-level management and assessment personnel shall be guaranteed. The remuneration of the authorised body's top-level management and assessment personnel shall not depend on the number of assessments carried out or on the results of such assessments.

14. A designated body shall take out liability insurance unless liability is assumed by the state in accordance with national Law, or if the state itself is directly responsible for the assessment and/or the verification performed.

15. The personnel of the designated body shall be bound to observe professional secrecy with regard to all information gained in carrying out its tasks under the sub-legal act published under this Law, except in to the competent authorities for market surveillance and the Ministry. Proprietary rights shall be protected.

16. A designated body shall participate in, or ensure that its assessment personnel is informed of, the relevant standardisation activities and the activities of the European Union notified body coordination group established under the European Union's Construction Products Legislation and shall apply as general guidance the administrative decisions and documents produced as a work result of that group.

Article 34

Presumption of conformity

1. An designated body to be authorised to carry out third party tasks in the process of assessment and verification of constancy of performance which demonstrates its conformity with the criteria laid down in the relevant harmonised standards or parts thereof, the references of which have been published in the Official Journal of the European Union, shall be presumed to comply with the requirements set out in Article 33 of this Law, in so far as the applicable harmonised standards cover those requirements.

2. Kosovo authorities shall presume that notified bodies established in the European Union or other countries where international agreements provide for the existence of notified bodies comply with the requirements set out in Article 33 of this Law, in so far as the applicable harmonised standards cover those requirements.

Article 35

Subsidiaries and subcontractors of designated bodies

1. Where an designated body subcontracts specific tasks connected with the third party tasks in the process of assessment and verification of constancy of performance or has recourse to a subsidiary, it shall ensure that the subcontractor or the subsidiary meets the requirements set out in Article 33 of this Law, and shall inform the designating authority accordingly.

2. The designated body shall take full responsibility for the tasks performed by subcontractors or subsidiaries wherever these are established.

3. Activities may be subcontracted or carried out by a subsidiary only with the agreement of the client.

4. The designated body shall keep at the disposal of the designating authority the relevant documents concerning the assessment of the qualifications of any subcontractor or the subsidiary and the tasks carried out by such parties under the sub-legal act published under this Law.

Article 36

Use of facilities outside the testing laboratory by the designated body

1. On request of the manufacturer and where justified by technical, economic or logistic reasons, designated bodies may decide to carry out the tests referred to in the sub-legal act published under this Law, for the systems of assessment and verification of constancy of performance 1+, 1 and 3 or have such tests carried out under their supervision, either in the manufacturing plants using the test equipment of the internal laboratory of the manufacturer or, with the prior consent of the manufacturer, in an external laboratory, using the test equipment of that laboratory.

2. Designated bodies carrying out such tests shall be specifically designated as competent to work away from their own accredited test facilities.

3. Before carrying out those tests, the designated body shall verify whether the requirements of the test method are satisfied and shall evaluate whether:

3.1. test equipment has an appropriate calibration system and the traceability of the measurements is guaranteed;

3.2. the quality of the test results is ensured.

Article 37

Application for designation

1. A body to be designated to carry out third party tasks in the process of assessment and verification of constancy of performance shall submit an application for designation to the designating authority of Kosovo.

2. The application shall be accompanied by a description of the activities to be performed, the assessment and/or verification procedures for which the body claims to be competent, and an accreditation certificate, issued by the national accreditation body (DAK), attesting that the body meets the requirements laid down in Article 30 of this Law.

Article 38

Designation Procedure

1. The designating authority may designate only bodies which have satisfied the requirements laid down in Article 33 of this Law.

2. Designating authority may inform the European Commission and other countries of the bodies it designates.

3. The designation shall include full details of the functions to be performed, reference to the relevant harmonised technical specification and, for the purposes of the system set out in the sub-legal act published under this Law, the essential characteristics for which the body

is competent. However, reference to the relevant harmonised technical specification is not required in the case of horizontal designation set out in the sub-legal act published under this Law.

Article 39

Identification numbers and list of designated bodies

1. Ministry shall assign a unique identification number to each designated body.
2. Ministry shall assign a single such number even where the body is designated under several Kosovo acts.
3. Where practicable, the number shall be made in such a way that no confusion can occur with notified bodies of the European Union.
4. Ministry shall make publicly available the list of bodies designated under this Law, including the identification numbers that have been allocated to them and the activities for which they have been designated, via an appropriate means of publication.
5. Ministry shall ensure that this list is kept up-to-date.

Article 40

Changes to the designation

1. Where the designating authority has ascertained or has been informed that an designated body no longer meets the requirements laid down in Article 33 of this Law, or that it is failing to fulfil its obligations, the authorising authority shall restrict, suspend or withdraw the designation as appropriate, depending on the seriousness of the failure to meet those requirements or to fulfil those obligations. It may inform the European Commission and other countries accordingly.
2. In the event of withdrawal, restriction or suspension of designation or where the designated body has ceased its activity, the designating authority shall take the appropriate steps to ensure that the files of that body are either processed by another designated body or kept available for the designating authority and market surveillance authorities at their request.

Article 41

Challenge of the competence of designated bodies

1. The designating authority shall investigate all cases where it doubts regarding the competence of an designated body or the continued fulfilment by an designated body of the requirements and responsibilities to which it is subject.
2. The designating authority shall ensure that all sensitive information obtained in the course of its investigations is treated confidentially.
3. Where the designating authority ascertains that an designated body does not meet, or no longer meets, the requirements for its designation, it shall request the designated body to take the necessary corrective measures, but may also withdraw designation, if necessary.

Article 42

Operational obligations for designated bodies

1. Designated bodies shall carry out third party tasks in accordance with the systems of assessment and verification of constancy of performance provided for in the sub-legal act published under this Law.
2. Assessments and verifications of constancy of performance shall be carried out with transparency as regards the manufacturer, and in a proportionate manner, avoiding an unnecessary burden for economic operators. The designated bodies shall perform their activities taking due account of the size of the undertaking, the sector in which the undertaking operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.
3. In so doing, the designated bodies shall nevertheless respect the degree of rigour required for the product by this Law and the part played by the product for the fulfilment of all relevant basic requirements for construction works.
4. Where, in the course of the initial inspection of the manufacturing plant and of factory production control, a designated body finds that the manufacturer has not ensured the constancy of performance of the manufactured product, it shall require the manufacturer to take appropriate corrective measures and shall not issue a certificate.
5. Where, in the course of the monitoring activity aiming at the verification of the constancy of performance of the manufactured product, a designated body finds that a construction product no longer has the same performance to that of the product-type, it shall require the manufacturer to take appropriate corrective measures and shall suspend or withdraw its certificate if necessary.
6. Where corrective measures are not taken or do not have the required effect, the designated body shall restrict, suspend or withdraw any certificates, as appropriate.

Article 43

Information obligations for designated bodies

1. Designated bodies shall inform the designating authority of the following:
 - 1.1. any refusal, restriction, suspension or withdrawal of certificates;
 - 1.2. any circumstances affecting the scope and conditions of the designation;
 - 1.3. any request for information on assessment and/or verification of constancy of performance activities carried out which they have received from market surveillance authorities;
 - 1.4. on request, third party tasks in accordance with the systems of assessment and verification of constancy of performance carried out within the scope of their designation and any other activity performed, including cross-border activities and subcontracting.
2. Designated bodies shall provide the other bodies designated under this Law carrying out similar third party tasks in accordance with the systems of assessment and verification of

constancy of performance and for construction products covered by the same harmonised technical specification with relevant information on issues relating to negative and, on request, positive results from these assessments and/or verifications.

Article 44
Exchange of experience

Ministry shall seek appropriate contact with organisations within the European Union for the organisation of exchange of experience between Kosovo and European Union Member States' national authorities responsible for policy on notification.

Article 45
Coordination of designated and notified bodies

1. Ministry shall seek to ensure that Kosovo designated bodies have access to the European Union's group of notified bodies, that designated bodies are entitled to participate in the group's meeting and that access shall be given to the group's documents.

2. Rules and guidance from the European Union's group of notified bodies shall be binding on designated bodies for the purposes of Kosovo conformity marking, unless a specific decision from Ministry prevents one or more such documents from applying in Kosovo.

CHAPTER VII
MARKET SURVEILLANCE AND SAFEGUARD CLAUSE

Article 46
Procedure for handling at national level with construction products presenting a risk

1. Where the market surveillance authorities in Kosovo have sufficient reason to believe that a construction product covered by a harmonised standard or for which a European or Kosovo Technical Assessment has been issued does not achieve the declared performance and presents a risk for the fulfilment of the basic requirements for construction works covered by this Law, they shall carry out an evaluation in relation to the product concerned covering the respective requirements laid down by this Law. The relevant economic operators shall cooperate as necessary with the market surveillance authorities.

2. Where, in the course of that evaluation, the market surveillance authorities find that the construction product does not comply with the requirements laid down in this Law, they shall without delay require the relevant economic operator to take all appropriate corrective actions to bring the product into compliance with those requirements, notably with the declared performance, or to withdraw the product from the market, or recall it within a reasonable period, commensurate with the nature of the risk, as they may prescribe.

3. The market surveillance authorities shall inform the notified or designated body accordingly, if such a body is involved.

4. Any measure taken in the course of inspection surveillance in accordance with the applicable Law, which is in line with the European Union legislation, by which it is prohibited or restricted the placement of products on the market, it is prevented the distribution of the product or the

product is withdrawn from the market, shall be proportionate and shall state the exact grounds on which it is based.

5. The economic operator shall be notified in writing of all measures taken and of the legal remedies at his disposal and of the time limits to which such remedies are subject.

6. Before the taking of any measure, the economic operator shall be given the opportunity to declare within an appropriate time period of not less than ten (10) days, unless it is not possible because of the urgency of the measures to be taken to protect health or safety relating to the public interests prescribed by the relevant legislation in force.

7. If action has been taken and the economic operator was not provided in advance with an opportunity to declare, he shall be provided with an opportunity to declare as soon as possible.

8. All measures referred to in paragraph 4. of this Article shall be promptly withdrawn or amended after the economic operator has carried out his obligations.

9. Where the market surveillance authorities consider that the non-compliance is not limited to their national territory, they may inform the European Commission and other countries of the results of the evaluation and of the actions which they have required the economic operator to take.

10. The economic operator shall ensure that all appropriate corrective action is taken in respect of all the construction products concerned which that economic operator has made available on the Kosovo market.

11. Where the relevant economic operator, within the period referred to in the paragraph 2. of this Article, does not take adequate corrective action, the market surveillance authorities shall take all appropriate provisional measures to prohibit or restrict the making available of the construction product on the national market or to withdraw the construction product from that market or to recall it.

12. The market surveillance authorities may inform the European Commission and other countries, without delay, of those measures.

13. The information referred to in paragraph 11. of this Article shall include all available details, in particular the data necessary for the identification of the non-compliant construction product, the origin of the construction product, the nature of the non-compliance alleged and the risk involved, the nature and duration of national measures taken as well as the arguments put forward by the relevant economic operator. In particular, the market surveillance authorities shall indicate whether the non-compliance is due to either of the following:

13.1. failure of the product to achieve the declared performance and/or to meet the requirements related to the fulfilment of basic requirements for construction works laid down in this Law;

13.2. shortcomings in the harmonised technical specifications or in the Specific Technical Documentation.

Article 47

Safeguard clause

1. If another country, informed about a measure taken by Kosovo, considers such national measure to be not proportionate, non-dissuasive or otherwise unjustified, it may without delay enter into consultation with the market surveillance authorities of Kosovo and shall evaluate the national measure. On the basis of the results of that evaluation, agreement shall be reached between both parties on whether the measure is justified or not. Ministry shall address this decision immediately to the relevant economic operator(s).
2. If the national measure is considered justified, Kosovo shall take the necessary measures to ensure that the non-compliant construction product is withdrawn from its market. If the national measure is considered unjustified, Kosovo shall withdraw the measure.
3. Where the national measure is considered to be justified and the non-compliance of the construction product is attributed to shortcomings in the harmonised standards as referred to in Article 46 paragraph 13. sub-paragraph 13.1. of this Law, Ministry may inform the relevant European standardisation body or bodies (in the case of a harmonised European standard) and shall inform Kosovo Standardization Agency in the case of a harmonised Kosovo standard.
4. Where the national measure is considered to be justified and the non-compliance of the construction product is attributed to shortcomings in the European Assessment Document, the Kosovo Assessment Document or in the Specific Technical Documentation as referred to in Article 46 paragraph 13. sub-paragraph 13.2. of this Law, Ministry shall inform the Technical Assessment Body (TAB) which prepares the Assessment Documentation, the manufacturer who prepared the Specific Technical Documentation and/or the importer and distributor as appropriate.

Article 48

Compliance of construction products which present a risk to health and safety

1. Where, having performed an evaluation pursuant to Article 46 paragraph 1. of this Law, Kosovo market surveillance authorities find that, although a construction product is in compliance with this Law, it 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, they shall require the relevant economic operator to take all appropriate measures to ensure that the construction product concerned, when placed on the market, no longer presents that risk, to withdraw the construction product from the market or to recall it within a reasonable period, commensurate with the nature of the risk, which they may prescribe.
2. The economic operator shall ensure that any corrective action is taken in respect of all the construction products concerned which that economic operator has made available on the Kosovo market.
3. The Kosovo market surveillance authorities may immediately inform the European Commission and other countries. That information shall include all available details, in particular the data necessary for the identification of the construction product concerned, the origin and the supply chain of the product, the nature of the risk involved and the nature and duration of the national measures taken.

Article 49

Formal non-compliance

1. Without prejudice to Article 46 of this Law, where Kosovo market surveillance authorities determine one of the following findings, they shall require the relevant economic operator to end the non-compliance concerned:

1.1. the CE marking has been affixed in breach of Article 9 and 11 of this Law, or the Kosovo Conformity marking has been affixed in breach of Article 10 and 11 of this Law;

1.2. the CE or Kosovo Conformity marking has not been affixed when required, in accordance with Article 9, paragraph 2. and Article 10 paragraph 2. of this Law;

1.3. without prejudice to Article 6, the declaration of performance has not been drawn up, when required, in accordance with Article 5 of this Law;

1.4. the declaration of performance has not been drawn up in accordance with Articles 5, 7 and 8 of this Law;

1.5. the technical documentation is either not available or not complete.

2. In case the non-compliance referred to in paragraph 1. of this Article continues, Kosovo market surveillance authorities shall take all appropriate measures to restrict or prohibit the making available on the market of the construction product or ensure that it is recalled or withdrawn from the market.

CHAPTER VIII

DELEGATED ACTS

Article 50

Delegated acts

1. For the purposes of achieving the objectives of this Law, in particular removing and avoiding restrictions on making construction products available on the market, the following matters shall be delegated to the Ministry in accordance with Article 52, and subject to the conditions laid down in Articles 53 and 54 of this Law:

1.1. the determination, where appropriate, of the essential characteristics or threshold levels within specific groups of construction products, for which the manufacturer in accordance with Articles 4 to 7 of this Law, declares the product performance by levels or classes, or in a description, regarding the purpose of their use when it is placed on the market;

1.2. the amendment of the period for which the manufacturer shall keep the technical documentation and the declaration of performance after the construction product has been placed on the market, in accordance with Article 14 of this Law, based on the expected life or the part played by the construction product in the construction works;

1.3. the establishment and adaptation of classes of performance in response to technical progress in accordance with Article 24 paragraph 1. of this Law;

1.4. the conditions on which a construction product shall be deemed to satisfy a certain level or class of performance without testing or without further testing in accordance with Article 24, paragraph 4. of this Law, provided that the fulfilment of the basic requirements for construction works is not thereby jeopardised;

1.5. the adaptation, establishment and revision of the assessment systems and verification of constancy of performance in accordance with Article 24 of this Law, relating to a given product, a given product group or a given essential characteristic, and in accordance with:

1.5.1. the importance of the role played by the product or those essential characteristics with respect to the basic requirements for construction works;

1.5.2. the nature of the product;

1.5.3. the effect of the variability of the essential characteristics of the construction product during the expected life of the product; and

1.5.4. the susceptibility to defects in the product's manufacture.

2. In proposing Delegated Acts, the Ministry takes into account the equivalent Delegated Acts taken by the European Commission.

3. Delegated Acts apply to products subject to CE or Kosovo Conformity marking in accordance with the provisions of this Law, and may apply to other construction products as applicable.

Article 51

Other delegated acts and sub-legal acts

1. Ministry issues other delegated acts and sub-legal acts for the implementation of this Law when necessary, or can refer to the existing Kosovo legal and/or sub-legal provisions.

2. Any decision of the Ministry to make the use of the Kosovo Conformity marking mandatory shall permit the use of other regulatory conformity markings equivalent, in their technical requirements to those of the Kosovo Conformity marking.

Article 52

Exercise of the delegation's right

1. The Ministry is competent to adopt delegated acts under Article 50 of this Law for a period of five (5) years from the date of entry into force of this Law. The Ministry shall draw up a report in respect of the delegated power at the latest six (6) months before the end of the five (5) year period. The delegation of power shall be automatically extended for periods of an identical duration, unless the Government of Kosovo revokes it in accordance with Article 53 of this Law.

2. As soon as it adopts a delegated act, the Ministry shall notify the Government of Kosovo and publish the act.

3. The power to adopt delegated acts is given to the Ministry and is subject to the conditions laid down in Articles 53 and 54 of this Law.

Article 53

Revocation of the delegation

1. The delegation of power referred to in Article 50 of this Law may be revoked at any time by the Government of Kosovo.

2. When the Government of Kosovo has commenced an internal procedure for deciding whether to revoke the delegation of power, it shall endeavour to inform the Ministry within a reasonable time before the final decision is taken, indicating the delegated power which could be subject to revocation and possible reasons for a revocation.

3. The decision of revocation ends the delegation of power specified in that decision. It becomes effective immediately or at a later date specified in the document. This does not affect the validity of the delegated acts already in force.

Article 54

Objections to delegated acts

1. The Government of Kosovo may object to a delegated act within a period of three (3) months from the date of notification. This period can be extended for three (3) months, upon the request of the Government.

2. If after the expiry of the period referred to in paragraph 1. of this Article, the Government of Kosovo does not object to the delegated act, it shall be published and shall enter into force on the date specified in the document. The delegated act may be published and enter into force before the expiry of that period, if the Government of Kosovo has informed the Ministry that it won't raise objections.

CHAPTER IX

CONSTRUCTION PRODUCTS NOT BEARING THE CONFORMITY MARKING

Article 55

Construction products not bearing the CE conformity marking and Kosovo Conformity Marking

1. All construction products placed on the market of Kosovo, other than those whose compliance with this Law is shown by them bearing the CE or Kosovo Conformity marking, shall be of a suitable nature and adequate level of performance to permit the involvement in the construction works which satisfy the regulatory requirements. The ability of such products to perform adequately and/or their specific performance levels in respect of relevant essential characteristics shall be knowable.

2. The nature and/or performance of such products shall be assessed and declared in accordance with one of the following:

2.1. an international standard prepared by ISO or IEC,

- 2.2. a regional standard of a free trade zone,
 - 2.3. a national standard of Kosovo,
 - 2.4. a national standard of another country,
 - 2.5. an independent product certification scheme of Kosovo or another country, including products complying with an appropriate technical or equivalent assessment/approval,
 - 2.6. tests, calculations or other means, by which the product adequacy may be known,
 - 2.7. past experience, satisfactory use in a building or other construction works, where such experience allows the adequacy of the product to be known.
3. Where the means of products evaluation depends on specifications of countries other than Kosovo, conformity documents and, if applicable, the conformity markings shall be assessed under the provisions applicable to the receipt of conformity documents and conformity marking.
4. Ministry may, by means of delegated acts according to Article 50 of this Law, define specific conditions in relation to the placing on the market of products covered by this chapter. Such conditions include the characteristic or characteristics to be declared, the need to draw up a declaration of performance, and the system or systems of Assessment of Verification of Constancy of Performance (AVCP) which shall apply to the product. These conditions shall be binding.
5. When publishing the delegated acts of paragraph 4. of this Article, the Ministry determines whether such acts apply only to products under this Article or whether they also apply to construction products covered by CE and/or Kosovo Conformity marking.
6. Unless otherwise specified in a delegated act, the AVCP system applicable to products referred to in this chapter is the System 4 which is prescribed by a sub-legal act under this Law. However, this does not prevent products from being placed on the Kosovo market according to the systems of Assessment of Verification of Constancy of Performance AVCP system (or equivalent) higher than System 4.
7. When placing construction products covered by this chapter on the Kosovo market, the manufacturer shall indicate the basis on which the nature and suitability of the product has been assessed, together with any information required by the technical specification applied and/or the information required by delegated acts under paragraph 4. of this Article.
8. In the Kosovo market when it is verified or complained from domestic producers of construction products, that they are importing construction products under the cost of domestic production, the Minister may by decision can take protective measures in this area for those products, without violating or misapplying the principles of free market economy, SAA or CEFTA.

CHAPTER X PUNITIVE PROVISIONS

Article 56

Violation for Placing the Construction Products on the Market

1. A legal person who has produced and placed in the market construction products that are covered by harmonized standards, or which are in compliance with the technical assessment issued for that same product, shall be held responsible if:

1.1. the product does not contain the CE marking or Kosovo's conformity mark in accordance with Article 9 paragraph 2. or Article 10 paragraph 2. to 6., or Article 11 of this Law;

1.2. provisions under Article 55 of this Law have not been fulfilled;

1.3. a product is subjected to one or more deviations from Article 5 of this Law.

2. A legal person shall be imposed a fine in the amount of five thousand (5,000.00) up to fifteen thousand euro (15,000.00€), if the violations defined under sub-paragraph 1.1., 1.2. and 1.3. of this Article are confirmed.

3. The natural persons and the responsible persons of the legal person shall be imposed a fine in the amount of four hundred (400.00) up to one thousand euro (1,000.00€), if violations defined under sub-paragraph 1.1., 1.2. and 1.3. of this Article are confirmed.

Article 57

Breach of obligations by economic operators

1. Economic Operators shall be held responsible if they have acted in the following manner:

1.1. the producer has failed to fulfil any requirement under Article 14, paragraph 10. of this Law;

1.2. the importer has failed to fulfil any requirement defined under paragraph 2. Article 16, of this Law;

1.3. the importer has failed to fulfil any requirement defined under Article 16, paragraph 7. of this Law;

1.4. the distributor has failed to fulfil any requirement under paragraph 2. Article 17 of this Law; and

1.5. the distributor who has failed to fulfil any requirement under Article 17, paragraph 4. of this Law;

2. A fine of three thousand (3,000.00) up to five thousand euro (5,000.00€) shall be imposed on the economic operators, if violations under paragraph 1. of this Article are confirmed.

3. A fine from two hundred and fifty (250.00) up to eight hundred euro (800.00€) shall be imposed against natural persons and the person responsible of the legal persons, if violations

under paragraph 1. of this Article are confirmed.

Article 58

Other violations

1. A legal persons who has produced and placed construction products in the market without relevant instructions or information, as follows:

1.1. producer's obligations to ensure identification of product pursuant to Article 14, paragraph 7. of this Law;

1.2. producer's obligation to provide contact information pursuant to Article 14, paragraph 8. of this Law;

1.3. producer's obligation to provide safety instructions and information pursuant to Article 14, paragraph 9. of this Law;

1.4. importer's obligations to provide contact information pursuant to Article 16, paragraph 4. of this Law;

1.5. importer's obligations to provide safety instructions and information pursuant to Article 16, paragraph 5. of this Law;

1.6. distributor's obligations under Article 17, paragraph 2. of this Law;

1.7. in cases when the producer's obligations also apply to the importers and distributors pursuant to Article 18 of this Law;

2. A fine of three thousand (3,000.00) up to seven thousand (7,000.00€) shall be imposed against legal persons if violations defined under sub-paragraph 1.1 to 1.7 of this Article are confirmed.

3. A fine from two hundred fifty (250.00) up to one thousand (1,000.00€) shall be imposed against natural person and the person responsible of the legal persons, if violations under sub-paragraph 1.1 to 1.7 of this Article are confirmed.

CHAPTER XI

FINAL PROVISIONS

Article 59

Management committee

1. Ministry may be assisted by a Management Committee on Construction.

2. Members of this committee may include representatives of the Ministry and its agencies, from other ministries or from external organisations. Ministry shall, where appropriate, draw up the rules related to membership and activities of this committee.

3. The Ministry ensures that members of the committee are able to carry out their functions in

a manner that avoids conflicts of interest, particularly in respect of the procedures for obtaining the CE or Kosovo Conformity marking.

Article 60

Repeal

With entry into force of this Law, the Law no. 04/L-181 on Construction Products and sub-legal acts issued based on it shall be repealed.

Article 61

Transitional provisions

1. Construction products which are placed on the Kosovo market with CE marking in accordance with EU Regulation 305/2011 (the Construction Products Regulation) shall be presumed to comply with this Law.

2. The Ministry shall, on the entry into force of this Law, assess all standards adopted as Kosovo harmonised standards in support of this Law and, where appropriate, decide on and publish new dates for the entry into force (when Kosovo Conformity marking becomes possible) and date of withdrawal (when Kosovo Conformity marking become mandatory and all conflicting technical specifications are withdrawn) of these standards.

3. Ministry shall constantly monitor the state of development of the market for construction products in Kosovo. Where, after discussion with Kosovo manufacturers, importers, conformity assessment bodies and other interested parties, the Ministry decides that it is appropriate to withdraw the possibility of products being placed on the Kosovo market in accordance with the provisions of Article 55 of this Law, and/or with the Kosovo Conformity marking, for one or more products or groups of products, it shall publish such decision.

4. Each published decision shall be accompanied by the dates of the transitional period during which the provisions to be withdrawn may exist in parallel with that provision or those remaining provisions, and the date after which only the remaining provision(s) become mandatory.

5. Without prejudice to paragraph 2. of Article 37 of this Law, that a body should be designated to perform duties as a third party is not obliged to present the accreditation certificate when applying on the field for which requires designation for a period of two (2) years from entry into force of this Law.

6. In the case referred to in paragraph 5. of this Article, where the body cannot provide the accreditation certificate, it shall provide the designating authority with all documented evidence necessary for verification, recognition of competence and regular monitoring of its compliance with the requirements set out in Article 33 of this Law. The designation decision should have a fixed deadline not longer than two (2) years.

Article 62

Reporting by the Ministry

1. The Ministry shall assess the specific need for information on the content of hazardous substances in construction products and consider the possible extension of the information obligation provided for in Article 7, paragraph 5. of this Law to other substances, and shall report thereon to the Government of Kosovo. Among others, in its assessment, the Ministry shall take into account, the need to ensure a high level of protection of the health and safety of workers

using construction products and of users of construction works, including with requirements for recycling and/or reuse of parts or materials. In its assessment, the Ministry shall also take into account any decision made by the European Commission on this matter.

2. If necessary, within two (2) years of the submission of the report according to paragraph 1. of this Article to the Government of Kosovo, this report shall be supplemented by appropriate legislative proposals.

3. Within three (3) years after the entry into force of this Law, the Ministry shall submit to the Government of Kosovo a report on the implementation of this Law, including Articles 23 and 24 of this Law, and Kosovo Technical Assessments if necessary, on the basis of reports provided by all relevant stakeholders, accompanied by appropriate proposals, where appropriate.

Article 63

Entry into force

This Law shall enter into force ninety (90) days after its publication in the Official Gazette of the Republic of Kosovo.

Law No. 06/L-033
07 November 2018

Promulgated by Decree No.DL-057-2018, dated 23.11.2018, President of the Republic of Kosovo Hashim Thaçi.