

Based on Article IV 4 a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina, in the House of Representatives session on 27th July 2004 and the House of Peoples session on 9th September 2004, has adopted the

LAW ON TECHNICAL REQUIREMENTS FOR PRODUCTS AND ON CONFORMITY ASSESSMENT

I GENERAL PROVISIONS

Article 1

1. This Law shall regulate the manner of prescribing technical requirements for products and the procedures for assessing conformity with prescribed requirements, as well as the adoption of technical regulations enabling competent authorities to regulate in more detail, based on this Law, for certain products or families of products at least one of the following elements:
 - technical requirements which products that are being placed on the market and/or put into service have to comply with,
 - rights and obligations of legal and natural persons placing products on the market and/or putting them into service,
 - procedures for assessing conformity of a product with prescribed requirements,
 - rights and obligations of bodies carrying out conformity assessment of products with technical requirements (hereinafter referred to as: conformity assessment bodies),
 - documentation (e.g. certificates, technical documentation and the like) that has to be made available to the competent authorities before a product is placed on the market and/or put into service,
 - manner of product labelling.
2. This Law shall also regulate the validity of documents of conformity and conformity markings issued abroad.
3. This Law shall not regulate prescribing the technical requirements and conformity assessment procedures for products subject to special laws.

Article 2

With the view to harmonizing the technical regulations in Bosnia and Herzegovina with the directives of the European Union, the Ministry of foreign affairs and economic relations BiH shall adopt technical regulations.

Article 3

Products can be placed on the market or put into service only if they conform to the applicable technical requirements, if their conformity to the technical regulations has been assessed in line with the prescribed conformity assessment procedures, and if they bear a conformity marking in accordance with the technical regulations

Article 4

For the purpose of this Law, the following definitions shall apply:

Product is any object to which one or more technical regulations referred to in Article 5 applies, which is intended to be placed on the market or put into service in Bosnia and Herzegovina for the first time, for example equipment, apparatus, devices, appliances,

instruments, material, assemblies, components or safety components, units, fittings, accessories or systems.

Manufacturer means any natural or legal person who is responsible for designing and manufacturing a product with a view to placing it on the market or putting it into service under his own brand name. Also, a person who changes, substantially modifies or re-builds products can be considered a manufacturer under this Law, if the modifications change the functions or application of the product.

Placing a product on the market is the initial action of making a product available, either for payment or free of charge, for the first time on the market of Bosnia and Herzegovina, with a view to distribution or use in the market in Bosnia and Herzegovina. This definition does not cover products manufactured or imported with the aim of being sold on foreign markets.

Putting a product into service is the moment of first use of a product in Bosnia and Herzegovina by the end user.

Market surveillance comprises prescribed methods, procedures and activities of competent bodies necessary for ensuring that products placed on the market comply with technical and other applicable requirements, bear the necessary conformity markings and are accompanied by necessary technical documentation.

Harmonized European standard is a technical specification adopted by one of the European standards organizations CEN, CENELEC or ETSI, developed under a mandate given by the European Commission, in support of the essential requirements of the New Approach Directives.

Accreditation means a procedure by which a competent body gives formal recognition that a body or a person is competent to carry out specific activities or tasks in the field of conformity assessment.

Conformity assessment body is a body which carries out the conformity assessment procedure, is independent from the supplier and can be a laboratory, a certification body, an inspection or other body.

Designated Conformity assessment body is a body which carries out the conformity assessment procedure and is designated by the Ministry of Foreign Trade and Economic Relations BiH. Bodies that can be designated are certification and inspection bodies.

Technical regulation is a regulation that prescribes technical requirements, either directly or by referring to a standard, to technical specification instructions for use or code of practice or incorporating the content of these documents.

New Approach Directives are European Union regulations which prescribe, for certain products or a group of products, only the essential requirements in the areas referred to in Article 5 of this Law.

II PRESCRIBING OF TECHNICAL REQUIREMENTS

Article 5

Technical regulations from Article 2 shall determine obligations of legal and natural persons placing products on the market and/or putting them into service with regard to product safety, the protection of health of humans and domestic animals, environmental protection, as well as other issues relevant for regulating fields covered by these technical regulations.

Article 6

1. Technical regulations pertaining to this Law are adopted by the Ministry of Foreign Trade and Economic Relations BiH, based on the proposal of the Committee for Technical Regulations BiH.

2. The Committee for Technical Regulations BiH consists of the following permanent members: Minister of Foreign Trade and Economic Relations BiH, Minister of Economy, Energy and Development of RS, Minister of Energy, Mining and Industry of the Federation of BiH, Head of the Department for Urban Planning, Property Relations and Economic Development of District Brcko BiH, and the Director of the Directorate of European Integration. The Committee for Technical Regulations BiH shall adopt its rulebook of procedure.
3. The competent entity ministries and the Department for Urban Planning, Property Relations and Economic Development of District Brcko BiH shall participate in the preparation of technical regulations and their implementation.
4. Council of Ministers BiH shall adopt, based on the proposal by the Minister of Foreign Trade and Economic Relations BiH, and following an agreement with the Committee for Technical Regulations BiH, a program of transposing technical regulations referred to in Article 2 of this Law as well as instructions on method of drafting and procedure for adopting the said technical regulations.
5. When adopting technical regulations referred to in Item 1 of this Article, international principles and assumed obligations arising from bilateral and multilateral agreements accepted by BiH will be taken into account with the aim of preventing unnecessary barriers to international trade.
6. The Committee for Technical Regulations BiH may designate competent experts for drafting of specific technical regulations.

Article 7

1. Products, which are in conformity with the national standards adopting European harmonized standards are presumed to conform to the essential requirements, specified in the technical regulations.
2. The list of national standards referred to in Item 1 of this Article, shall be determined in accordance with the procedure described in Article 6 Item 1 and published in the Official Gazette BiH.

Article 8

If, after consulting the National Standards Institute BiH and the Committee for Technical Regulations BiH it is established that a product meeting the requirements of the Bosnia and Herzegovina standard does not meet the requirements contained in the specific technical regulations, or that this product may endanger the safety of users, health of humans and domestic animals and the environment, Ministry of Foreign Trade and Economic Relations BiH shall delete the disputed Bosnia and Herzegovina standard (partially or in full) from the list referred to in Article 6. This decision will be published in the Official Gazette BiH.

III CONFORMITY ASSESSMENT PROCEDURES

Article 9

1. Before placing a product on the market or putting it into service, the manufacturer, his authorized representative in Bosnia and Herzegovina, or the person who places the product on the Bosnia and Herzegovina market must assess its conformity with the essential requirements of the currently valid technical regulations.
2. The conformity assessment procedures are defined by the technical regulations.

Article 10

1. The technical regulations referred to in Article 5 prescribe the form, content and graphical symbol of the conformity marking, which shall be affixed to a product that conforms to the prescribed technical requirements and conformity assessment procedure.
2. The conformity marking shall be affixed to the products for which it applies.
3. It is not allowed to affix conformity markings or other markings similar to prescribed conformity markings, which could cause misunderstanding on the market and mislead the consumer, to products that do not comply with prescribed technical requirements and to products for which assigning of a conformity marking is not prescribed.

Article 11

Conformity assessment shall be subject to one of the following procedures or the combination thereof:

- conformity assessment of products carried out by the manufacturer,
- conformity assessment of products carried out by a conformity assessment body,
- manufacturer's managing of the quality assurance system of production,
- fitness assurance of the assessment and surveillance of the manufacturer's system of quality assurance of production for a particular purpose (product) which is carried out by the conformity assessment body.

IV CONFORMITY ASSESSMENT BODIES AND REQUIREMENTS THEY HAVE TO MEET

Article 12

1. In performing the conformity assessment prescribed in Article 11, the technical regulations may require the manufacturer, his authorized representative in Bosnia and Herzegovina, or the person who places the product on the Bosnia and Herzegovina market to involve a designated conformity assessment body.
2. The technical regulations will specify in more detail the nomination criteria as well as the tasks and responsibilities of the designated conformity assessment bodies in the process of conformity assessment of the products covered by the technical regulation.
3. Technical regulations, prescribe special criteria that a conformity assessment body must fulfil in order to attain the status of a designated conformity assessment body.
4. The conformity assessment bodies are designated the Minister of Foreign Trade and Economic Relations BiH, in accordance with the procedure as described in Article 6, Item 1. An appeal against this decision is not possible; however an administrative dispute may be filed.
5. The designation of conformity assessment bodies referred to in the previous paragraph can be time-limited or be valid until its withdrawal.
6. The technical competence and independence and impartiality of the designated conformity assessment body, shall be assessed and supervised according to the rules of accreditation, or rules equivalent to those of accreditation approved by the Committee for Technical Regulations BiH for a particular case.
7. When competent authority establishes that a designated conformity assessment body no longer meets the criteria mentioned in Item 2 of this Article, its designation can be withdrawn in accordance with the procedure as described in Item 4 of this Article.

8. A notification of designation of a conformity assessment body, as well as of withdrawal of this designation, shall be published in the Official Gazette BiH. This notification shall contain the name and address of the designated conformity assessment body, possible time limitations to the designation, and the product groups and conformity assessment procedures for which the designated conformity assessment body is designated.
9. Ministry of Foreign Trade and Economic Relations BiH shall keep a register of the designated conformity assessment bodies. This record is a public book.

V VALIDITY OF CONFORMITY DOCUMENTS AND CONFORMITY MARKINGS ISSUED ABROAD

Article 13

1. Conformity documents and conformity markings issued abroad are recognized in Bosnia and Herzegovina if they are made in accordance with the international agreements on mutual recognition of documents of which Bosnia and Herzegovina is a signatory.
2. Minister of Foreign Trade and Economic Relations BiH who adopted a technical regulation may recognize the validity of conformity documents and conformity markings issued in the states with which Bosnia and Herzegovina did not sign international agreements referred to in the previous item if they have been issued in accordance to technical regulations, which are equivalent to the adopted Bosnian and Herzegovina technical regulations, and if the competence of the bodies that carried out conformity assessment has been verified according to the same procedure and requirements as those prescribed for such bodies by Bosnia and Herzegovina technical regulations.
3. Ministry of Foreign Trade and Economic Relations BiH shall keep a register of the recognized conformity documents and conformity markings, as well as of conformity assessment bodies referred to in Item 2 of this Article. This register is a public book.

VI SURVEILLANCE

Article 14

Ministry of Foreign Trade and Economic Relations BiH and the Entity ministries and District Brcko BiH competent for the specific products or a group of products shall carry out the surveillance of the implementation of this Law.

Article 15

Where it is ascertained that the products that comply with the technical regulations and when correctly installed, maintained and used for their intended purpose, may endanger the health and/or safety of users or other persons, the competent authorities shall take all necessary measures to withdraw such products from the market or to prohibit or restrict their being placed on the market or put into service, and shall immediately inform the public of the measure by placing a note in the Official Gazette BiH.

Article 16

Market Surveillance is performed in accordance with the rules and procedures described in a separate law.

VII PENALTIES

Article 17

1. A legal entity shall be charged a fine from 2.000 KM up to 10.000 KM and a natural person independently performing an activity a fine from 1.000 KM up to 5.000 KM in case of the following:
 - a) placing on the market or putting into service a product contrary to Article 3 of this Law,
 - b) placing on the market or putting into service a product contrary to Article 5 of this Law,
 - c) does not affix a conformity marking to the products conforming to prescribed technical requirements in accordance to Article 10, Item 2 of this Law,
 - d) affixes a conformity marking or other markings similar to prescribed conformity markings, in so far that they could cause misunderstanding on the market and mislead the consumer, to products that do not comply with prescribed technical requirements based on Article 10, Item 3 of this Law,
 - e) does not perform the activities of a conformity assessment body in accordance with Article 11 of this Law,
 - f) performs the activities of a designated conformity assessment body without being designated as such or outside the subject and scope of designation as prescribed in Article 12, Item 4 of this Law.
2. The responsible person of the legal entity shall be charged a fine from 500 KM up to 2.000 KM for the above stated violations.

VIII TRANSITIONAL PROVISIONS

Article 18

1. With the entry into force of this Law, provisions of all Bosnia and Herzegovina, Entity and District Brcko BiH laws which are in conflict with the provisions of this Law cease to apply.
2. Within 90 days following the entry into force of the technical regulations referred to in Article 6, all provisions of laws, regulations, technical regulations, standards or any other document that apply in the Entities to products mentioned in Article 5 of this Law, are to be brought in line with the provisions of this Law as well as the provisions of the adopted Technical regulations.

Article 19

The Council of Ministers shall adopt the program and instructions referred to in Article 6 Item 4 as well as a special regulation referred to Article 13, Item 2, within the period of 60 days from the day of entering into force of this Law, based on the proposal of the Minister of Foreign Trade and Economic Relations BiH.

Article 20

The Committee on Technical Regulations BiH shall adopt its rulebook of procedure referred to in Article 6 Item 2, within the period of 60 days from the day of entering into force of this Law.

Article 21

This Law shall enter into force on the eighth day following that of its publication in the Official Gazette of Bosnia and Herzegovina and it will also be published in the Official Gazettes of the Entities and District Brcko of Bosnia and Herzegovina.

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9. September, 2004

Sarajevo

Speaker of the
House of Representatives
of the Parliamentary Assembly BiH
Martin Raguz

Speaker of the
House of Peoples
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Goran Milojevic