



## EUROLAB Briefing

### Vote on the Consumer Product Safety Regulation and the Market Surveillance Regulation in the IMCO Committee – Introduction of an ‘EU Safety Tested’ marking

On Thursday, 17th October the IMCO Committee voted on the amendments ***on the proposal for a regulation of the European Parliament and of the Council on consumer product safety and on the proposal for a regulation of the European Parliament and of the Council on market surveillance of products. Both reports were accepted.***

The members of the IMCO Committee **accepted** a new compromise amendment on an ‘**EU Safety Tested**’ marking, which was drafted by representatives of S&D (Socialists and Democrats), EPP (European People’s Party) and EFD (Europe of Freedom & Democracy).

#### The vote

The compromise on CE+ / ‘EU Safety Tested’ marking came as a surprise. On Monday it still looked like the different parties would not agree on Mrs Schaldemose’s idea of a CE+ marking and that this amendment would thus be rejected (*see section ‘Background’ at the end of the document for more information*). In the three days that followed several controversial points of the Schaldemose report were changed so dramatically that in the end the majority of the committee accepted it.

#### **Compromises were reached in the following nine areas ([link](#)):**

- Products used in connection to services
- Child-appealing products
- Penalties
- ‘EU Safety Tested’ marking
- Precautionary principle
- The regulation as a safety net
- Reasonable foreseeable conditions, vulnerable consumers
- Obligations for economic operators
- Exemptions from certain obligations of economic operators

All of these compromises have to be seen as part of a bigger compromise package. This becomes especially evident when looking at the new ‘EU Safety Tested’ marking, where the Conservatives, Greens and Liberals are still very sceptical about the usefulness of this new marking and about the added value of independent third party product testing in general.

## 'EU Safety Tested' Marking

The 'EU Safety Tested' marking will be a voluntary scheme and the marking can be withdrawn should the necessary requirements no be longer met. The main change compared to the previously proposed amendments (besides changing the name) is that it is now clearly stated that the product testing has to be conducted by an **independent** body. The use of the logo of the certification body next to the new safety marking is however not foreseen. **Other markings** may only be affixed to the product provided that they do not mislead third parties regarding the meaning of the 'EU Safety Tested' marking and that they do not impair the visibility, legibility and meaning of the 'EU Safety Tested' marking. **One major point of concern is however that third party bodies conducting sample tests shall be liable for the results of these tests, for awarding of the marking and for certifying and supervising the compliance of the specific product.** Member States shall also provide for penalties for infringements.

The amendment reads:

### **Article 6a**

#### **'EU Safety Tested' marking**

1. The 'EU Safety Tested' marking is a **voluntary additional scheme** for the economic operators and shall be affixed only by the manufacturer or his authorised representative.
2. The 'EU Safety Tested' marking shall be affixed only to consumer products covered by this Regulation, and shall not be affixed to any other product. The 'EU Safety Tested' marking shall be affixed after testing on representative samples of the products put up for sale pick randomly under the control of a judicial officer, an authority or any other **accredited third party body designated by each Member State and notified to the Commission.**
3. By affixing or having affixed the 'EU Safety Tested' marking, the manufacturer indicates that the product has been tested and found compliant with the safety requirement in this Regulation **by an accredited and notified third party body** which is responsible for awarding the marking and certifying and supervising the compliance of the specific product with the safety requirements set by this Regulation.
4. Products tested by third parties through national product safety requirements in the Member States shall de facto be rewarded the 'EU Safety Tested' marking.
5. Member States shall ensure the correct implementation of the regime governing the 'EU Safety Tested' marking and take appropriate action in the event of improper use of the marking. **Third party bodies conducting sample tests shall be liable for the results of these tests, for awarding of the marking and for certifying and supervising the compliance of the specific product with the safety requirements set by this Regulation.** Member States shall also provide for penalties for infringements, which may include criminal sanctions for serious infringements. Those penalties shall be proportionate to the seriousness of the offence and constitute an effective deterrent against improper use.
6. The affixing to a product of markings, signs or inscriptions which are likely to mislead third parties regarding the meaning or form of the 'EU Safety Tested' marking shall be prohibited. Any other marking may be affixed to the product provided that the visibility, legibility and meaning of the 'EU Safety Tested' marking is not thereby impaired.
7. The Commission shall through an implementing act on a yearly basis approve the national product safety schemes as laid down in Paragraph 4 of this Article.

The EU Safety Tested marking is also mentioned in the new recitals 14a and 14b, where it says that this new marking **applies to both harmonised (New Approach) and non-harmonised products**: *Harmonised products can bear both CE and 'EU Safety Tested' marking and thus ensuring conformity with harmonisation legislation and compliance with safety requirements. Non-harmonised standardised products bearing the 'EU Safety Tested' marking ensures compliance with safety requirements and through this consumers will be able to distinguish between the current simple CE marking and the 'EU Safety Tested' marking in which the latter is the only marking indicating products tested of their safety.*

## Next Steps

The amended text will now have to be voted on in the Plenary (indicative date: 11.12.2013) and in the Council. The IMCO committee will decide on 05<sup>th</sup> November whether or not Mrs Schaldemose will receive the mandate to enter into immediate negotiations with the Council and the Commission (Trialogue; shortened procedure).

**For further information please contact the EUROLAB General Secretariat.**

### Background

The European Commission had presented its proposal for a regulation in February this year ([link](#)). The IMCO rapporteur Christel Schaldemose published her report on the proposal at the end of June ([link](#)). In her report Mrs Schaldemose mentioned for the first time the idea of a CE+ marking:

Amendment 52 reads:

*Article 6a*

*CE+ marking*

- 1. The CE+ marking shall be affixed only by the manufacturer or his authorised representative.*
- 2. The CE+ marking shall be affixed only to consumer products covered by this Regulation, and shall not be affixed to any other product.*
- 3. By affixing or having affixed the CE+ marking, the manufacturer indicates that the product has been tested and found compliant with the safety requirement in this Regulation by an accredited body competent to assess the safety of the specific product.***
- 4. The CE+ marking shall be the only marking which attests that the product has been tested and found to be a safe product.*
- 5. The affixing to a product of markings, signs or inscriptions which are likely to mislead third parties regarding the meaning or form of the CE+ marking*