

Position Paper

Harmonization of Technical Regulation - First steps for improvement in harmonization and mutual acceptance between the EU and the EAEU

EAEU not reinventing wheels

Russia, the member states of EAEU and the other CIS states inherited the whole system of technical regulation, norms and standards from the Soviet Union. It is an enormous task to modernize this set of technical rules and standardization documents. Compared with the big amount of state norms (GOST) and other standards until 2010 only a few of them have been modernized. With the move from national GOST systems to the system of Technical Regulation (first national, then for the Customs Union), big progress has been made. Nowadays more than 60% of documents of the Russian Standard System (GOST R) have been updated after 1991. Still there is a lot to do, and of course standardization around the globe is a dynamic and ongoing development. There is a clear trend to see, that on the level of Technical Regulation in the EAEU as well on the level of interstate standards of CIS and on the national levels (e.g. GOST R, ST-B) the wheel is not being reinvented. International standards (ISO, IEC), harmonized European Norms (EN), and American Standards (e.g. ASME) have often served as blueprints for the new standards in the EAEU or CIS countries or being referred to in the updated standards. The system of EAEU Technical Regulation is based on the model of the European Directives. Although there are some systemic differences, on the technical level some of the TR CUs are almost 1:1 copies of the EU directives. Often one can see regulators in Russia/EAEU to follow updates in European legislation (e.g. on car emissions or energy efficiency) with a time gap of approximately 2 years.

Cooperation and Dialogue

EASC (CIS Interstate Council for Standardization), CEN, CENELEC cooperation formally is signed on paper. There is also a work level of communication and collaboration between the standard institutions of both Economic Areas. For Future cooperation in modernization and harmonization of standards lifting the dialog on political level between EU Commission and EAEU Commission is considered helpful. On this level a discussion could be initiated, if the harmonized EN Norms can serve in EAEU as “acceptable norms” for the conformity assessment process. Further on the level of EASC, CEN, CENELEC it would be necessary to push for harmonization of Testing standards as they are most relevant for conformity assessments.

Problem Areas

Applicant and Product Liability

Although EAEU Technical regulation similarities to EU directives are clearly to be seen, there are systemic differences in the way to provide the necessary conformity proofs. In the EU this is a manufacturer oriented Process which results in a declaration of conformity in sole responsibility of the manufacturer. In the EAEU more and more products are subject to declaration, however the process is different and still involves 3rd parties (Certification Bodies) who need to register the declaration. What is also missing in the EAEU is a clear regulation on the liability and responsibility of the manufacturers as it is in effect in the EU with the product liability directive 85/374/EEC dd 25th July 1985 or the general product safety directive 2001/95/EC. Manufacturers and manufacturers’ representatives in the EU who sign CE Declarations of conformity clearly take over these responsibilities of product liability and product safety. In Russia and EAEU these concept still is far from realization. Also the idea to have manufacturers’ representatives who sign declarations or apply for certifications (so called “Applicants”) which seems a copy from EU legislation don’t serve the purpose of product liability as such “applicant” agencies can be easily founded (400 EUR liable capital) and simply closed in any case of claim. At the end it has become a more bureaucratic process for importers without any benefit for the product safety and the consumers/end users in the countries of EAEU.

Here we recommend to search for a mutually agreed and defined process which allows European manufacturers to act directly as manufacturers in the territory of EAEU. As suggestion this could be realized with a white-list of Founding Members “trustful manufacturers” and/or contractual clauses which regulate the clear takeover of product liability as well as clarifications for court and applicable law. In the EAEU there is currently an ongoing discussion and revision of the schemata of conformity assessments. This is a good momentum to bring into this discussion a harmonization of the schemata with the modules of EU Decision No 768/2008.

Acceptance of Labs

Another problem arises from the fact that only proofs and Test Reports from Labs, accredited on the territory of EAEU, can be used for TR CU Conformity assessment. Thus many products which have already been tested by accredited labs in EU or elsewhere need to be tested again, which will lead to logistic efforts for sample sending or Lab expert traveling. And so, in practical terms the test protocols are often only paper fiction for big money. For further discussion a more honest approach would be to allow acceptance of the results from accredited or notified Test Labs (e.g. mutual white lists of acceptable TL). Unfortunately the current discussion in EAEU seems to go into opposite direction trying to reverse acceptance of Test Reports which already exists (e.g. in sphere of Low Voltage, Electrical Safety). Beside the political levels and technical regulation level it is necessary to involve lobby of interested Russian Industry (e.g. Oil & Gas, Power, Mining - who import equipment for investment projects) into this discussion, because they will suffer most from those retrograde steps.

Summary:

First of all work on the development of a lasting platform of communication between EU commission and EAEU commission as the both lawmaking instances for EU Directives resp. EAEU Technical Regulation.

The following points could be subject of further dialogue/initiatives:

- Influence European and Eurasian standardization organizations to activate a formal process on harmonization EN – GOST
- Propose the initiation of active harmonization of Testing Standards under the lead of EASC and CEN/CENELEC, as testing standards are most relevant in conformity assessment.
- Develop further the discussion on the working levels of EU and EAEU commissions about mutual acceptance of Test Laboratories and/or their Test Reports as basis for conformity assessment certification. Thinkable would be common accreditations for EU/EAEU. This should not be a one way road.
- Harmonize the certification/declaration schemes of EAEU (which are currently under discussion/revision) with the modules of the EU.
- Involve European exporters and interested parts of Russian industry in a discussion with EAEU commission about a solution with the “applicant” issue, that makes sense in terms of bureaucracy and a valid product liability
- Implement and further develop a communication/working platform on Harmonization of Technical Regulation for exchanging experiences, addressing issues, search for solutions etc. for the interested partners from the industry with involvement of politics. At the time being the topic of technical harmonization is being treated in the available work groups / discussion forums under “other”, if it will be touched at all.

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