

Title Short:

Obligations of importers

Fiche Nb:

17

Subject:

Extent of the obligations of the importer with regard to demonstration that the product has been designed and manufactured in conformity with EU rules.

Last Update:

18/03/2011

Category:

Obligations for economic operators

Legal basis:

Decision, art. R4.2

Legislative references:

- **Regulation** No 765/2008/EC of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation No 339/93/EEC – Published in the [OJEU L 218/30 of 13/08/2008](#)
- **Decision No 768/2008/EC** of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC – Published in the [OJEU L 218/82 of 13/08/2008](#)

ISSUE TO BE ADDRESSED:

The obligations of importers were subject to much debate when the NLF was discussed in the European Parliament and the Council. The final wording in art R4.2 of the Decision, i.e.: “...importers shall **ensure** that the appropriate conformity assessment procedure has been carried out by the manufacturer” and “They shall **ensure** that the manufacturer has drawn up the technical documentation etc...” may lead to different interpretations of what is needed to be done to ‘ensure’.

SOLUTION ENVISAGED:

It should be clarified that the terms ‘shall ensure’ are not meant to imply the need for importers to systematically resort to additional control procedures or (third-party) testing. Rather, the objective is to make sure that importers are aware of their responsibility to place only compliant products on the EU market. Therefore Orgalime calls on the Commission to clarify that the terms “shall ensure” refer to actions of the importer with a view to ascertain that the manufacturer has fulfilled all his obligations.

The obligation to ‘ensure’ can thus be fulfilled by

- referring to the applicable EU-legislation in the contract,
- ensuring that the importer has access to the technical file,
- ensuring that the manufacturer has signed an obligation to provide the documentation if requested by market surveillance authorities.

Furthermore, the importer should check that the product bears the required marking(s) and is accompanied by the required documents.