Euralarm Position Paper

Euralarm position complementing the answer to the public consultation on NLF evaluation – March 7th, 2022

1. Introduction

Euralarm, the European association representing the electronic fire safety and security industry, welcomes the opportunity provided by the European Commission to give feedback on the NLF.

Euralarm responded to all the questions and wishes to focus on the aspects laid down in the present Position Paper.

2. Focus on some aspects

Improvements brought by NLF

We remain convinced that the New Approach and the New Legislative Framework are the best tools to support the free movement of goods and the proper functioning of the European Single Market for Goods. The NLF in its broad set-up is fit for purpose to deal with upcoming challenges through technological developments. Thus, we believe that changes should be made only in response to clear needs, within the existing framework. Among the main benefits of the NLF we consider: strengthened coherence across different sectoral legislation, improved legal certainty, higher compliance levels, ease of compliance, improved level-playing field, strengthened CE marking use and functioning. When it comes to conformity assessments, we strongly believe that Module A, in combination with an effective market surveillance, provides a good and fair level playing field for manufacturers. The combination of modules (particularly the use of Module A, self-assessment), acceptable time to market and good market surveillance system is an essential element of the NLF and the most effective regime to preserve safety and the level-playing-field. The introduction of the NLF has also been beneficial for SMEs in that it has opened the EU market to them, thanks to the use of hENs and module A. Having a stronger Single Market has further benefitted the global competitiveness of European industries and it has improved the speed of adoption of state-of-the-art technologies, as compared to the old approach. The NLF has set the basis for a strong market surveillance system, notably by providing for a Union framework for market surveillance comprising both competencies and obligations for national authorities and by organising effective administrative cooperation between these authorities on the one hand and with the EU Commission on the other hand.

On CE marking itself

The meaning of the CE marking is very clear for the economic operators, the professional installers and for the market surveillance authorities but it is not clear at all for the consumers. The consumer generally doesn't know what CE means for the product he wishes to buy. This explains why we answered "Not at all" to the related question of the consultation. If this would become a target of the NLF, more communication to the consumers is certainly needed.

The consultation also asks to what extent "The CE marking is a trustworthy indicator that a product will function safely and **as intended**". Again we consider this as not clear at all for the consumers. We answered "To a moderate extent" because CE marking is a trustworthy indicator of the safety of the product but not that it will function as intended.

On harmonised standards

Harmonised standards (hENs) are an integral part of the NLF and a fundamental tool for its implementation. hENs have been very effective both as tools to achieve Presumption of Conformity (PoC) and to accommodate state of the art. Backlog of hENs awaiting citation and recent legal disputes have made the availability of new and revised hENs more difficult and have contributed to a growing distrust between the stakeholders involved and of the system itself. As a result, their effectiveness has deteriorated with an impact on the achievement of PoC and on the ability to reflect state of the art. These issues do not stem from the NLF itself but from recent interpretations of 1025/2012(EU). While there have been some improvements in the past months and there is a better communication channel now established between ESOs, industry, EUCOM and other stakeholders, there are still some issues to be solved:

1. When hENs are not available, achieving conformity with the essential requirements becomes more costly, more time consuming and less certain and market surveillance becomes harder, to the detriment of the level-playing field.

2. Often newest international standards representing state of the art are not/cannot be harmonised in the EU without making changes to the text. This either forces companies to document compliance with different generations of standards, with increased costs for them or it forces companies to avoid using the newest standards, loosing competitiveness.

3. The NLF states "the separation of essential safety requirements (in legislation) from technical specifications (formulated in hENs)" and we strongly believe that this should be preserved. hENs remain the best tool to provide PoC and accommodate state of the art. hENs developed within the ESOs framework should remain the only standardisation documents used in EU legislation, as they are developed in a consensual way, they accommodate state of the art and quickly bring innovative solutions to a wide forum. Other deliverables should not be used.

On conformity assessment procedures

Euralarm supports the NLF conformity assessment procedures and is satisfied with the modules for conformity assessment. However, we would like to stress the importance to ensure consistency in the application of modules across different products and sectors and that the choice of the module is proportionate to the risk of the product, its design complexity and the nature of its production, as stated in the NLF. Especially the use of Module A together with harmonised European Standards has been proven highly effective. As stated in our previous answers, we believe that issues with consistency in modules application are not a sign that the NLF framework doesn't work, but rather that its implementation is not fully harmonised across product legislation. We do not think that additional modules are needed.

On notified bodies

We believe that the NLF requirements for notified bodies are sufficient, although they could be better defined and, in some cases, strengthened. For example, it should be mandatory for notified bodies to participate in round robin testing and/or in Groups of Notified Bodies' discussions. In addition, better cooperation is needed between notified bodies and competent authorities, both nationally and at European and international level. Furthermore, the current framework doesn't require accreditation for the notified bodies. Some Member States do impose it and others don't. This leads to significant differences in the depth of the conformity assessment procedures across Europe and thus to an unequal treatment depending on the chosen notified body. Euralarm is of the opinion that accreditation has to be made a pre-requisite in the Regulation for granting the notified status to a certification body. Requirements for the competency of Notified Bodies should be consistent with European and international requirements as laid down in EN 17065 for the certification body and to EN 17025 for the laboratory.

Requirements should also be strengthened in relation to the protection of confidential data / proprietary information of the manufacturers. The protection of the knowhow which is part of the information a manufacturer hands over to the notified body during conformity assessment must be protected even in case the Notified Body is acquired by a buyer from a third country. In most cases, however, ensuring better national implementation and appropriate monitoring of the existing rules at national level is needed for the effectiveness of the requirements.

On the accreditation system

Euralarm is of the opinion that the present accreditation system doesn't ensure an equal level of competence across Europe, at least in our sectors. This situation is detrimental to a uniform application of the technical requirements and thus to a fair competition. Furthermore, it reduces the actual mutual recognition of test results across Europe.

The accreditation is mainly managed and organized by the individual Member States. In most countries, there is not more than 1 laboratory per Member State who is active in our sector. As the technical auditor is designated by the national accreditation authority, he most often audits only 1 laboratory on these standards and so has very few opportunities to exercise his knowledge on these standards. Furthermore, there is no peer evaluation of the accreditation bodies across Europe on the technical audits: according to 765/2008/EC regulation (Article 10(4)), the peer evaluation is mainly focused on the system aspects of the laboratories and the certification bodies (structural, human resource and process requirements, confidentiality and complaints) so that the technical aspects are not peer evaluated.

Hence, we would like to take the opportunity of this consultation to suggest including provisions for the possibility of pan-European technical auditors for the sectors where the number of laboratories and certification bodies is very low. This would provide a more equal playing field on the aspects of performing the tests, auditing and certificating and thus help for mutual recognition of the test results by all the laboratories and certification bodies.

On digitalisation of the information

Euralarm welcomes and supports technological advances that can facilitate information obligations when these satisfy the needs of the stakeholders. We believe it is important to investigate how compliance can be facilitated and made faster in order to make it easier for manufacturers to meet information obligations. Digitalisation could apply to CE marking, conformity assessment, etc. It is of major importance that the consumer is able to identify the manufacturer and the type of product. However, when it comes to information for consumers or users of professional products, in light of the existing digitisation tools, we believe the inclusion of digital solutions for providing relevant information for products under the NLF should be considered (user instructions and information, declaration of conformity, declaration of incorporation, product marking, etc.). Digitalisation of the information is also a request from our customers. The provision of product information (such as postal address) in digital format does not infringe on the consumer's (or the professional user's) right to access this information. However, this should be an "either/or" option, not an additional requirement.

Furthermore, information should be stored in the manufacturer database and not in an EU centralised platform. The development of common standards and specifications for the contents and the format of the required product information could be helpful to further align and ensure adequate information to the consumer.

3. Closing considerations

For the past 12 years, the NLF has improved the coherence and consistency of the system and by applying the same rules for conformity assessment, market surveillance, CE marking, etc, it has contributed to strengthening the Single Market. One of the successful features of the NLF, which have maintained this framework effective, efficient, relevant, coherent and providing EU added value is the fact that it is technology neutral and that it provides a common toolbox of measures for use in future legislation, to be applied in future legislation. The NLF always provides for possibilities to deviate in specific details and allows for product specificities to be addressed in product legislation. Nevertheless, it provides for a framework that ensures consistency across sectorial legislation and facilitates compliance.

With this in mind, we believe that a full revision of the NLF might not be necessary to address specific problems with specific legislation.

About Euralarm

Euralarm represents the fire safety and security industry, providing leadership and expertise for industry, market, policy makers and standards bodies. Our members make society safer and secure through systems and services for fire detection and extinguishing, intrusion detection, access control, video monitoring, alarm transmission and alarm receiving centres. Founded in 1970, Euralarm represents over 5000 companies within the fire safety and security industry valued at 67 billion Euros. Euralarm members are national associations and individual companies from across Europe.

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Note: The English version of this document, GD-2022-004, is the approved Euralarm reference document.