



Explanations on Art 5(a) of the CPR

Art 5(a) of CPR allows a derogation for the manufacturer when “... the construction product is individually manufactured or custom-made in a non-series process in response to a specific order ...”.

*“**Individually manufactured**” are products manufactured according to customer designs or designed by the manufacturer taking into account the requirements and needs of the client.*

*“**Custom made**” means “made to fit the needs or requirements of a particular person¹” or “made according to the specifications of an individual purchaser²”.*

*“**Series production**” is “the manufacture of goods in large quantities using standardized designs and assembly-line techniques²”.*

*One can therefore assume that in a “**non-series process**” should be understood as the manufacture of goods in small quantities without using standardised designs and assembly line techniques.*

Criteria for decision if the case of "the construction product is individually manufactured or custom-made in a non-series process" according to Art. 5(a) is given:

The criteria for this decision can be:

- **Number of manufactured products:** Only where the number of manufactured products is 1, we can speak beyond doubt of individual production. However, which number of manufactured products in which time frame can be considered to satisfy the criterion of individual production, depends in each case on the specific type of the product concerned.
- **Differences:** Where products are produced, which are similar in various aspects, or in some important characteristics, we can normally assume a series production. The difference in just one characteristic (e.g. dimensions) is usually not sufficient to assume non-series production.

¹ Merriam-Webster Dictionary

² the Free Dictionary

- Method of production: The method of production is a third criterion. Whenever the construction product concerned is manufactured or assembled by means of industrial production methods, we can assume a series production. The size of the manufacturing plant (staff number, turnover) cannot be of any influence in this connection.

It is worth reminding the reader on the provisions of Guidance Paper M developed in the framework of the CPD which are pointing to the same understanding.

In clause 4.9.3 of the Guidance Paper it is mentioned that under the term “*individual (and non-series) production*” one would understand:

“... products of individual design that are ordered for and installed in one and the same known work. They should neither be part of a range of equal products, which is manufactured in series of the same kind combining usual components in the same way³, nor should they and their field of application (e.g. dimensions, weight) be offered on the general initiative of the manufacturer (e.g. by means of published catalogues or other ways of advertising).

Under these conditions, individual and non-series production comprises products that are:

- individually designed and manufactured, upon request and for specific purposes, needing to readjust the production machines for their manufacture in order to be used in the work concerned⁴; or
- custom-made for a specific order to obtain one or several end use performances different from products manufactured in series, even if produced according to the same manufacturing process/system design.”

³ often in automatically operating processes

⁴ A product which is manufactured using the same machines the same components and the same process of manufacture, but changing only the dimensions can generally not be considered as non-series product and, instead, falls under the category *Series production of products with varying properties*.