



OPINION

European Economic and Social Committee

Harmonised conditions for the marketing of construction products

Proposal for a Regulation of the European Parliament and of the Council laying down
harmonised conditions for the marketing of construction products, amending Regulation
(EU) 2019/1020 and repealing Regulation (EU) 305/2011
[COM(2022) 144 final]

CCMI/197

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Section responsible	Consultative Commission on Industrial Change (CCMI)
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Outcome of vote (for/against/abstentions)	138/0/0

1. **Conclusions and recommendations**

- 1.1 The EESC believes that the EC does not offer any short-term solutions to resolve the current delay in the publication of new standards in the Official Journal of the European Union. Its objective is to amend the Construction Products Regulation (CPR) which, even if successful, will only yield results within 10 years.
- 1.2 The EESC notes with concern that the proposed transition period between the current Regulation and the revised Regulation is 20 years, which may cause practical problems, since the progressive introduction of harmonised technical specifications over a period of 20 years is too long. Currently, the standardisation system is unworkable, as it does not have the means to react to the issues raised by the EC and to respond to political priorities that have been set.
- 1.3 The EESC notes with concern that, although the EC has presented several political options to the Member States, it returns to the old approach in which technical standards are written by regulators at European level, which is especially worrying, since such a centralised process would restrict the ability of smaller members of the industry to voice their opinions and see their views included.
- 1.4 The EESC, in agreement with the construction sector, supports the development of an alternative option to the one presented by the EC, keeping standardisation at its core. It will be necessary to continue the discussions and invite all the interested parties, (the Member States, the CEN, the EC, etc.) to work together to propose a viable solution in which harmonised standards play a fundamental role in the system. The objective is to involve all interested parties in a dialogue, aimed at finding an adequate system that allows the free movement of construction products. In this process, social dialogue with the employers and workers, and participation of societal stakeholders in standardisation is a key tool.
- 1.5 While the EESC acknowledges that standardisation is often seen as an industry-driven, bottom-up process, it is of utmost importance to ensure that all stakeholders work together cooperatively and flexibly to have up-to-date standards that are crucial to enable sustainability and digitisation while facilitating innovation in the construction sector. This process should also be supported by social dialogue and ensure the participation of employers, workers, and societal stakeholders in standardisation.
- 1.6 For the EESC, a well-functioning European regulatory framework for construction products, integrated into the standardisation system, will not only meet the needs of the industry, but will also serve society in general, which explains the importance of the involvement of the social partners. It will allow the EU to achieve the digital internal market, the economic recovery post-COVID-19, the strategic plans of the European Green Deal and the objectives of the circular economy.
- 1.7 The EESC notes that the proposed new CPR refers to the mandatory use of European evaluation methods, classification and criteria by all players in the construction sector. This affects more than three million companies in the EU, most of which are SMEs. The requirements must be justified and proportionate and not involve unnecessary bureaucratic and administrative burdens,

especially if their added value is limited. The EESC considers that this problem has been underestimated in the proposed revised CPR.

- 1.8 The EESC believes that a complete declaration of performance would be desirable, as well as an adaptation of Article 6 and Annex III with respect to the requirements listed in Annex I, since construction products with CE marking do not guarantee compliance with the basic requirements for construction works. This prevents a single European internal market for construction products, since Member States may be obliged under Article 8 to prevent the marketing and use of such construction products, which may endanger the safety of construction sites.
- 1.9 The EESC stresses that the procedures associated with the CPR need to be improved or further developed, in particular as regards standardisation and the definition of interfaces with national implementing standards. It should be ensured that the European Commission introduces all test requirements/performance/characteristics as harmonised standards. If this is not done, national requirements for construction products should be possible where there are special national concerns regarding the use of construction products. This would mean that national requirements and annexes would have to be approved for a certain period of time. In the event the declaration of performance is made more complete, the necessary steps need to be taken to ensure that correspondence is achieved at the level of the works (design, installation,...), both with regard to the content of the information and to its credibility.
- 1.10 The EESC notes the problem that the proposed revised CPR does not specify the mechanism to collect information on the products referred to in public contracting specifications, due to its inclusion in the new Article 7. It will be a huge and endless task to gather the properties and characteristics that correspond to the needs of all public buyers, for all uses.
- 1.11 The EESC considers it essential that the efforts that construction companies are making to implement circularity be delayed, hindered or even stopped due to the lack of regulatory clarity in the new CPR. Therefore, a clarifying regulation is necessary to prevent circularity from being stopped.
- 1.12 The EESC believes that the proposed revised CPR must include clear and proportionate provisions that take into account the fact that for reused or remanufactured products, products introduced 20, 50 or 150 years ago, there is no information, since for these CE-marked products, performance information is only available locally.
- 1.13 The EESC is convinced that it is important for the sector's competitiveness that the revised RDC proposal constitute a tool that not only allows the innovative product to be placed on the market, but also facilitates its use. This requires the ETA to also include information that mitigates users' reluctance to start using the innovation.
- 1.14 The EESC emphasises that it must be clear that the term "construction product" continues to correspond only to the definition of Article 2.1 of the current CPR and that there is no extension. It is not clear what is meant by the term "service" in the new CPR draft. It must be ensured that custom-made products remain excluded from the scope of the CPR.

- 1.15 The EESC agrees with EU-OSHA's positive assessment of the EC proposal as regards the additional criteria to the functional and safety requirements for construction products, in particular environmental and occupational health and safety criteria, often related to the circular economy and sustainability. All of this reinforces the evidence of the positive impact of good management of health and safety at work.
- 1.16 The EESC expresses concern because, in general, national regulations allow the use of contaminated waste under roads (contaminated with old tar, PCB, PCP, asbestos, old mineral wool up to a certain percentage); or they are placed in special landfills. Construction and demolition waste accounts for more than a third of all waste generated in the EU¹. There are some areas where there are different conflicting concerns, for example, if the subsoil from road construction and other infrastructure is not used as a large repository for construction waste.
- 1.17 The EESC expresses its concern at the fact that preparation for reuse, re-manufacturing and recycling require design, facilitating the separation of components and materials in the recycling phase and avoiding mixed or intricate materials and that all of this will massively expose workers to these substances. EU-OSHA encourages companies that have proposed innovative solutions to such problems, for example, "Remove hazardous solvents from the analysis of reclaimed material in the road construction and repair sector". That is why the EESC considers that these essential aspects for safety and health at work must be taken into account in the new regulation. The EESC believes that it must ensure not only jobs and economic progress, but also socio-economic and environmental improvements on the basis of Corporate Social Responsibility (CSR) principles and the relevant regulation.
- 1.18 The EESC considers that the proposal needs to be significantly revised if it is to achieve its main objectives.

2. **General comments**

- 2.1 The Commission's 2016 implementation report on the CPR identified certain deficiencies in its implementation. The CPR evaluation, the opinions of the REFIT platform and the feedback from Member States and stakeholders clearly pointed out the shortcomings of the framework, which hampers the functioning of the single market for construction products and therefore does not achieve the objectives of the CPR.
- 2.2 The European Green Deal Communication, the Circular Economy Action Plan and the Renovation Wave Communication highlighted the role of CPR as part of efforts towards energy and resource efficient buildings and renovations, and to address the sustainability of construction products and the shift towards a circular economy. The proposal for a revised Directive on the energy performance of buildings highlighted the importance of GHG emissions from the lifecycle of buildings and construction materials in calculating the global warming potential of new buildings after 2030.

¹ https://ec.europa.eu/environment/topics/waste-and-recycling/construction-and-demolition-waste_en

- 2.3 The EU Forestry Strategy and the Communication on the sustainable carbon cycle announced, in the context of the revision of the Construction Products Regulation, the development of a methodology and robust and transparent standard for quantifying the climate benefits of building products and carbon capture and utilisation.
- 2.4 Both the European Parliament and the Council have called for action to promote the circularity of construction products, address barriers in the single market for construction products and contribute to the objectives of the European Green Deal and the Circular Economy action plan.
- 2.5 The two broad objectives of the CPR review are (1) to achieve a well-functioning single market for construction products and (2) to contribute to the goals of the green and digital transition, in particular the modern, efficient market in the use of resources and competition.
- 2.6 The CPR significantly limits the possibilities of the sector to declare, in a consistent and harmonised way, the performance of its products and to differentiate products with respect to climate, environmental and sustainability performance. It also significantly limits the possibilities for Member States to set national requirements for buildings or to include criteria in public procurement on sustainability objectives without jeopardising the functioning of the single market.
- 2.7 The Communication on *A New Industrial Strategy for Europe* of March 2020 sets out a plan for EU industry to lead the dual green and digital transition. The Communication updating the New Industrial Strategy 2020 identified construction as one of the priority ecosystems that faces the most important challenges to meet climate and sustainability objectives and embrace digital transformation, and its competitiveness depends on it.
- 2.8 The proposal for a regulation that repeals the current CPR, aims to address the identified deficiencies of the CPR and the objectives of the European Green Deal and the circular economy action plan in relation to construction products. Improving the core workings of the CPR framework, in particular the standardisation process, is imperative to achieving the policy goals. However, it does not take into account the necessary aspects related to health and safety at work and other EU-OSHA recommendations.
- 2.9 The EESC believes that education, training, retraining life-long learning, and certification are extremely important and it is important for the future of the industry that they take place through social dialogue. The EESC also notes that acquiring the necessary skills requires time and financing.

3. **Specific comments**

- 3.1 Standardisation plays a crucial role for the European construction sector. It is the main pillar of the Internal Market (IM), it facilitates the free movement of construction products in the EU and stimulates construction activities. This important role is recognised in European legislation, in particular the Construction Products Regulation (CPR) and the European Standardisation Regulation.

- 3.2 The goal of standardisation work in sustainability of construction works, should include the equal assessment of the environmental, economic and social aspects of the sustainability of products, buildings and services, and its communication to the consumer (preferably by labelling).
- 3.3 Without up-to-date standards, the internal market for construction products could neither be achieved nor maintained. However, in recent years the integration of standards into the regulatory system has often failed, leading to lower efficiency in the construction sector and damage to the internal market, including increased direct or indirect costs for companies (especially for small and medium-sized ones).
- 3.4 The EC can set the standards for the development of harmonised standards using standardisation applications. However, the EC has been passive in not using this approach and consequently the European Committee for Standardization (CEN) has been forced to continue working with outdated mandates and discouraging experts from working on standards, which are often blocked for reasons beyond their control.
- 3.5 The EC notes problems in the current standardisation procedure through CEN (which could certainly be improved) and which led the EC to block many standards. The EESC believes that the solution proposed by the EC, that is, the use of more and more "delegated acts", cannot be satisfactory because it leaves employers, workers and societal stakeholders in standardisation out of the standardisation process. Also, there are many standards blocked by the EC and therefore a short-term solution has to be found on how to unblock them. The EESC critically questions whether this form of extension, ultimately, does not lead to the overlapping of powers with the Member States. We consider that this should only be applied in exceptional cases, where its implementation is duly justified, and a clear set of enabling conditions should be established.
- 3.6 The proposal for a new EC regulation refers to the influence of supply chain management and public procurement practices on the environment, safety and health at work, in order to stimulate the use and commercialisation of quality products and materials. EU-OSHA has also identified this fact as an important influencing factor that can lead to the greater use of products that respect the environment and are safer for workers.
- 3.7 The new EU-OSHA project LIFT-OSH (Leveraging Instruments for Health and Safety at work) reinforces the evidence of the positive impact of good management of health and safety at work.
- 3.8 The EESC expresses its concern at the fact that preparation for reuse, re-manufacturing and recycling require design, facilitating the separation of components and materials in the recycling phase and avoiding mixed or intricate materials and that all of this will massively expose workers to these substances. EU-OSHA encourages companies that have proposed innovative solutions to such problems, for example, "Remove hazardous solvents from the analysis of reclaimed material in the road construction and repair sector". That is why the EESC considers that these essential aspects for safety and health at work must be taken into account in the new regulation. The EESC believes that it must ensure not only jobs and economic progress, but also socio-economic and environmental improvements on the basis of CSR principles and the relevant regulation.

- 3.9 The proposed revised CPR mentions that, in order to ensure the safety and protection of the environment and to close a possible regulatory loophole, construction "products" manufactured on the construction site for immediate incorporation into the construction works would be subject to the same rules as other construction products placed on the market by manufacturers. The Committee does not consider that any such regulatory loophole exists when these products are not placed in the market. Contractors manufacturing "products" on site for immediate incorporation into the works (e.g. a concrete lintel, sprayed polyurethane foam, windows and door frames, etc.) are subjected to regulatory requirements applicable for the (parts of) works and these are mostly, if not always, based on exactly the same technical requirements as manufacturers. i.e. operating a factory production control system, establishing technical documentation, evaluating "products", declaring performances and conformity and affixing CE marking. This unnecessary provision would be particularly detrimental to SMEs.
- 3.10 Article 7 of the proposed revised CPR widens the scope to all product requirements referred to in public procurement specifications. However, it does not specify the mechanism to collect such information, which may relate to a broad and diverse set of construction works, such as dog compounds for police dogs, administrative buildings of the authorities, highways and nuclear facilities, etc. The EESC is concerned about the feasibility of collecting all information concerning the properties and characteristics, as well as how to determine appropriate evaluation methods that correspond to the needs of all public procurers, for all uses. Moreover, depending on the intended use, the credibility sought by public procurers will also be very different (the credibility of the performance of waterproofing membranes intended to be used on a dog compound will be different compared with the same product used on the roof of a museum of fine arts) and may not correspond with the assessment and verification systems specified in the proposed revised CPR. The EESC questions whether this approach is realistic.

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The president of the European Economic and Social Committee
