

The European Commission has proposed new rules to be brought to bear on construction products.

This is a bid to resolve the current deadlock in standardisation, to make the regulatory framework clearer and to deliver on green and digital targets, but it falls short of bringing solutions to long-standing problems.

As part of another legislative package dubbed the *Sustainable Products Initiative*, the European Commission published in late March its proposal for a revised Construction Products Regulation (CPR).

The proposal aims, on the one hand, at addressing the shortcomings of its predecessor, the 2011 Construction Products Regulation, and at reducing the complexity of the existing framework for all operators in the single market.

On the other hand, it aims at contributing to the objectives of the green and digital transitions – an ambition that has been broadly welcomed by the construction sector – by introducing new requirements related to the environmental performance of construction products.

### THE MAIN PROBLEMS OF THE CURRENT CPR FRAMEWORK

The main reason for the revision of the CPR lies in the underperformance of the existing legislative framework. This underperformance was due to major problems related to the development and citation of harmonised standards, which, in recent years, led to an

# More complexity, more confusion

important backlog in the citation of references to harmonised standards in the Official Journal of the EU; to problems related to the legal framework surrounding construction products, that led, for example, to uncertainties on how to correctly declare the performance of products; to problems related to the quality of market surveillance; or to problems related to the absence of climate, environmental and sustainability performance requirements of construction products.

The revised CPR proposal now foresees a series of new measures, the majority of which would, however, not bring solutions to these problems.

Instead, the proposal patently falls short of its objective, which is to set clearer rules, as well as risking increasing the complexity for all actors of the “construction ecosystem” – including contractors.

### THE NEW CPR PROPOSAL: AN EXTENDED SCOPE OF APPLICATION, RESULTING IN A MORE COMPLEX FRAMEWORK

The proposal extends the scope of application of the Regulation to a many more operators than before.

It not only covers manufacturers, suppliers, importers, or distributors but also contractors when marketing products or carrying out construction works, as well as architects, designers, public procurers, contractors and other actors when specifying or buying products.

Most notably, the proposal includes contractors into its scope when manufacturing products on-site for immediate incorporation into the construction works and subjects them to the same rules as other construction products. It also adds significant burdens on contractors regarding the reuse and remanufacturing of products, which would be subject to protocols on the

## FIEC runs an eye over the European Commission's proposed revised Construction Products Regulation

place, conditions, and presumed length of use of the de-installed products.

SMEs and micro-enterprises would be particularly affected by these new administrative obligations, for example, by new requirements for drawing up a declaration or performance and a ‘declaration of conformity’ in specific cases. All these new obligations would lead to a more complex framework and, although the proposal foresees simplified procedures for SMEs, these do, on closer inspection, not introduce simpler rules at all.

### A VERY LONG TRANSITION PERIOD, CREATING TWO CO-EXISTING SYSTEMS AND EVEN MORE CONFUSION

The proposal also foresees that the current regulation would remain in force until...2045. The transition to the new framework would thus take more than two decades during which both the current and the future regulation would have to be applied. Should the proposal be adopted in its current form, the 2045 repeal date for the “old” CPR would create even more confusion.

Moreover, the new proposal does not address the demand of the sector for short-term or interim solutions that would allow to resolve the described backlog in the citation of harmonised standards. Present or outdated harmonised standards would only be progressively replaced during the transition period that could last, for some product families, twenty years. This would be largely incompatible with the challenges the sector will face (Green Deal, circular economy, digitisation).

### NEW DELEGATED POWERS FOR THE EUROPEAN COMMISSION

The proposal further foresees wide sweeping delegated and implementing powers for the Commission in numerous cases (some 20 articles of the Regulation), for example, special powers to further specify the rights and obligations of economic operators or to set specific green public procurement criteria. Most notably, it would allow the Commission to circumvent the “traditional” standardisation route via so-called “delegated acts” if harmonised standards are not available via a fast-track procedure in which the European Parliament, EU countries and industry stakeholders only have a limited say. Although the Commission insists this route will only be used under exceptional circumstances, it might become more than a ‘fall-back’ option.

### THE PROPOSAL NEEDS A MAJOR OVERHAUL

Instead of offering simple, clear, and user-friendly solutions to well-known problems, cutting red tape, and reducing the administrative burden on economic operators, the proposed revised CPR comprises many changes and new obligations that would make construction stakeholder's lives, including those of contractors and in particular of SMEs, more difficult. If adopted in its current form, the new regulation also could seriously hamper the efforts of the sector to become climate neutral. It therefore must be improved in many areas.

This will be FIEC's main objective during what we expect to be a complicated and long legislative procedure.

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