

CEN and CENELEC Position Paper on the implementation and future of the Construction Product Regulation (*August 2020*)

Executive Summary

The European Union's (EU's) construction products market is estimated at approximately €500 billion. The construction sector provides 18 million jobs through more than 3 million enterprises and is responsible to about 9 % of the European Union's GDP.

CEN and CENELEC work across the construction sector, developing harmonized European standards in support of the Construction Products Regulation (Regulation EU 305/2011 - CPR). Harmonized standards provide a common technical language to be used by manufacturers to express the technical performance of their products, by regulators to express their requirements and by designers, contractors and other construction stakeholders to exchange information efficiently. These standards help facilitate the internal market by allowing the free movement of construction products within the EU. They can also help the EU to meet their goals with the EU Green deal, circular economy, the EU industrial recovery plan and address UN development goals.

CEN and CENELEC support the current CPR framework but emphasize that for the correct implementation of the CPR, the European Commission must provide a solid legal basis for the CPR system to work. In this regard, mandates must be revised through standardization requests, and clear legal guidance must be provided.

CEN and CENELEC call for a constructive dialogue with the European Commission to find joint solutions to improve the citation of harmonized standards and remain committed to ensuring that the European standardization system remains an effective, transparent and flexible

mechanism, for the benefit of and supported by the industry and interested parties.

CEN and CENELEC Technical Committees will continue their efforts to ensure standards in support of the CPR meet the criteria of the European Commission for citation in the Official Journal of the European Union (OJEU). In this regard, two guidance documents have been developed for CEN and CENELEC Technical Committees:

- CEN-CENELEC Guide 36 'Guidance on the rules for drafting and presentation of candidate harmonized product standards for construction products', and
- Draft guidance document 'Core rules for drafting harmonized standards (hEN's) for construction products'.

The objective of these guidance documents is to answer various legal issues identified by the European Commission following rulings from the European Court of Justice for construction products. CEN and CENELEC seek a dialogue with the European Commission on these guidance documents to address pending issues with non-citations.

For more than 60 years, the European Standardization System (ESS) has proven to be an inclusive, transparent and voluntary system supported by a network of 43 National Standardization Organizations in 34 countries, which always consider the diversity and specificity of all businesses and parties involved. CEN and CENELEC are European Standardization Organizations (ESOs) recognised by Regulation (EU) 1025/2012 on European standardization that develop construction product standards through a consensus process involving industry and interested parties. This process results in standards and other deliverables approved by CEN and CENELEC.

Organizations representing SMEs and societal stakeholders play a major role within the ESS and CEN and CENELEC. They have the right, and are encouraged, to participate within CEN and CENELEC Technical Committees and Working Groups dedicated to the preparation of harmonized standards under the CPR.

CEN and CENELEC support the current CPR system. However, if the CPR revision is confirmed, European harmonized standards adopted by ESOs shall be maintained as harmonized technical specifications for construction products.

Further details on CEN and CENELEC's principal messages are provided in the Annex.

CEN and CENELEC view on the implementation and future of the CPR

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1. Background

The European Union's construction products market alone is worth approximately €500 billion. This huge business needs to keep an open internal market for construction products consistent with National regulations under a continuous technological evolution. Moreover, construction is one of the core European industrial sectors. It is responsible for 9 % of the European GDP and provides 18 million jobs through more than 3 million enterprises.

The Construction Products Directive (CPD) was aimed to remove barriers to trade and ensure the free circulation of construction products in the internal market. The Construction Products Regulation (Regulation EU 305/2011 – CPR) repealed the CPD and came into full force on 1 July 2013. The objective of the CPR is to provide a common technical language to assess the performance of construction products and to remove barriers to trade. The CPR defines harmonized standards as harmonized technical specifications that provide a common technical language for construction products. According to the CPR, if a construction product is covered by a harmonized standard, then the manufacturer shall draw up a declaration of performance and affix CE marking. Harmonized standards have a key role for the implementation of the CPR because they not only contain the assessment methods for determining the performance of the construction product in relation to their essential characteristics, but also include provision for their declaration and the clauses on Assessment and Verification of Constancy of Performance (AVCP).

European product standards, the core of the harmonized standards, are an essential tool for all stakeholders in the construction sector. They enhance the internal market allowing the free movement of construction products in the European Union and increase the competitiveness within this industry. Harmonized standards are used every day by specifiers, designers, procurers, contractors, insurers etc. The consequences of current delays reach much further than the mere incomplete or delayed CE marking on construction products. Delays in publication of new or amended standards may cause confusion and delays on construction sites throughout the European Union, especially for a sector that is so important for the revival of the European economy. Additionally, the use of outdated standards according to the state-of-

the-art and unclear handling of safety guidance or regulation also contributes to lack of safety on the work site.

On the 24 October 2019, the European Commission published a staff-working document on the evaluation of the Construction Products Regulation (CPR). Following this report, the European Commission prepared [document](#) 'Refined indicative options for the review of the Construction Products Regulation' for discussion with member states and interested parties.

As a response to these initiatives of the European Commission, the CEN and CENELEC position on the implementation and future of the CPR is depicted in the sections below.

2. Implementation of the CPR

2.1 Legal issues

Over the past two years, only 9 standards in support of the CPR have been cited in the OJEU. Following a number of EU court cases, such as the 'James Elliot' case, the European Commission is closely scrutinizing the quality of hENs of construction products for citation in the OJEU. In order to fulfil the requirements of the European Commission for citation of harmonized standards in the OJEU, CEN-CENELEC/BTWG 9 'Strategy for the construction sector' developed guidance for CEN and CENELEC Technical Committees, i.e. experts from industry, including SMEs, public authorities, academia and societal organizations. This guidance was published in June 2020 as [CEN-CENELEC Guide 36](#) 'Guidance on the rules for drafting and presentation of candidate harmonized product standards'. In addition, guidance document 'Core rules for drafting harmonized standards (hEN's) for construction products' is expected to be published in Q4/2020. This guidance has been based on:

- (1) HAS consultants' assessment reports;
- (2) EC reasons on the non-citation of standards provided to CEN and CENELEC;
- (3) [EC Guidelines](#) for harmonized standards under the CPR.

Similarly, CEN and CENELEC Technical Committees are striving to ensure that their candidate harmonized standards meet the European Commission criteria and comply with the CPR and mandates. The criteria taken into account by the European Commission when referencing standards, including any changes to these criteria, should be made available in a timely manner. CEN and CENELEC would welcome a continued dialogue with the European Commission on the expected legal analysis and future guidance on criteria for citation of hENs in the OJEU.

CEN and CENELEC request the European Commission to provide official guidance on criteria for the development of European harmonized standards in support of the CPR.

2.2 Mandates

Currently harmonized standards for construction products are developed based on mandates that were issued under the CPD. Since July 2013, when the CPR became fully effective, no mandates have been revised through standardization requests to provide the basis for development of hENs.

According to Chapter II of the mandates, CEN and CENELEC Technical Committees were permitted to include proposals to add products or essential characteristics to complement the mandates provided that the European Commission, in consultation with member states. This procedure is called 'Technical Committee answer to the mandate' and it has been common practice to prepare and use this process to establish the basis for the development of new or revised candidate hENs.

Short-term solutions are needed for the current implementation of the CPR. Therefore, CEN and CENELEC ask the European Commission to support the use of mandates and CEN and CENELEC Technical Committee answers to the mandates, until mandates for construction products are revised through standardization requests.

2.3 Joint Initiative on Standardization – Action 5 (JIS Action 5)

In the event that the CPR is revised, CEN and CENELEC ask the European Commission to consider a flexible approach for the current implementation of the CPR. In this regard, JIS Action 5 was an important initiative aimed at discussing the challenges and solutions for the development and citation of harmonized standards in support of the CPR. This initiative brought together a wide range of actors, including standardisers, the European Commission, member states and EU organizations. The outcome of this action was to share a common understanding of the CPR and address common obstructions, such as processes for standardization requests, TC answers to the mandate, request for classes and thresholds, special clauses in standards, such as release of dangerous substances and Assessment and Verification of Constancy of Performance (AVCP). The JIS Action 5 platform allowed key stakeholders to discuss opportunities to improve the rate of citation of hENs in the OJEU. The list of JIS Action 5 deliverables available on the [CEN website](#), are as follows:

1. [Guidance document – How to draft clauses on AVCP](#)
2. [Guidance document – How to draft fire clauses](#)
3. [Guidance and template for TC answer to mandate template](#)
4. [Template for introduction of new classes and thresholds](#)
5. [EC Guidelines for hENs under the CPR](#)
6. [Dangerous substances assessment and declaration in hENs](#)
7. [Delegated acts procedure](#)
8. [Standardization request procedure](#)
9. [List of common inappropriate wording](#)

CEN and CENELEC ask the European Commission to take into account guidance documents developed under JIS Action 5 to support the preparation of official European Commission guidance.

2.4 Standardization requests

CEN and CENELEC welcome the European Commission initiative in 2019 of starting formal procedures to revise the mandates M/115 ('Reinforcing and pre-stressing steel') and M/129 ('Space heating appliances') through standardization requests. Consequently, these standardization requests will have a complete set of essential characteristics linked with the basic requirements for construction works (BRCW) of the CPR that satisfy both the industry and member states. Such approved standardization requests will provide a solid basis for the development of harmonized standards in support of the CPR and should consider the specificities of the different construction products. The European Commission is invited to prepare standardization requests in a timely manner with an agile response to CEN and CENELEC Technical Committee needs.

The development of standardization requests, including life cycle environmental assessment indicators, is a huge step forward to achieve the European objectives related to the EU Green Deal and circular economy. The proposals discussed are based on EN 15804 'Sustainability of construction works - Environmental product declarations - Core rules for the product category of construction products', which was recently amended to align to the Product Environmental Footprint (PEF) methodology as requested in the relevant mandate of the European Commission. Standards developed on the basis of standardization requests will allow the delivery of environmental information from construction products within the current legal framework and enable the use of this information at building level in accordance with EN 15978 'Sustainability of construction work - Assessment of environmental performance of buildings - Calculation method' i.e. in the framework of the Level(s) and existing national regulations.

CEN and CENELEC call upon the European Commission to continue launching procedures to adopt standardization requests in a timely manner. This is considered essential for the correct implementation of the CPR and to achieve EU objectives.

2.5 Delegated acts

According to Article 3 and 27 of the CPR, the European Commission may determine threshold levels or classification of performance, respectively, in relation to the essential characteristic to be declared. This means when a CEN and CENELEC Technical Committee wishes to establish or change an existing classification or threshold level for certain essential characteristic, this requires an European Commission delegated act, which is a very lengthy process, i.e. it takes a couple of years to be published in the OJEU. When the European Commission finalises the drafting of the delegated act and the respective internal consultations, it is submitted to the European Parliament and European Council for vote.

As shown in the European Commission [roadmap](#) for the implementation of the CPR, there is a considerable backlog for the adoption of delegated acts for establishing/changing a classification. The publication of these delegated acts is key for moving forward with the revision of some harmonized standards.

CEN and CENELEC ask the European Commission to streamline and expediate the procedure of adoption of ongoing and future delegated acts.

3. Future of the CPR

In view of the potential revision of the CPR, the European Commission prepared the [document](#) 'Refined indicative options for the review of the Construction Products Regulation'. The CEN and CENELEC position on the potential review of the CPR is depicted in the sections below.

3.1 CEN and CENELEC and the future of CPR

CEN and CENELEC support the current CPR framework. CEN and CENELEC will continue to have a constructive dialogue with the European Commission to find joint solutions to improve the citation of harmonized standards and ensure that the ESS remains an effective, transparent and flexible mechanism in strengthening the European internal market embedded in global value chains, for the benefit of the industry and interested parties.

CEN-CENELEC/BTWG 9 'Strategy for the construction Sector' and JIS Action 5 developed a number of solutions and guidance documents that can be used for improving the implementation of the CPR (see section 2.3). In order to improve the implementation of CPR, the European Commission should issue standardization requests to revise mandates (see section 2.4) and accelerate the adoption of European Commission delegated acts (see section 2.5).

CEN and CENELEC Technical Committees will continue their efforts to ensure standards in support of the CPR meet the criteria of the European Commission for citation in the OJEU. In this regard, CEN-CENELEC/BTWG 9 have developed guidance for CEN and CENELEC Technical Committees to follow to meet the European Commission criteria. Additionally, CEN and CENELEC will ensure that rules in Articles 3(3) and 27 of the CPR on classes and thresholds are used and respected.

CEN and CENELEC is undertaking an internal quality control process for harmonized standards for construction products. The aim of this pilot project is to assess whether certain elements in draft harmonized standards, e.g. AVCP clauses or Annex ZA, have been correctly addressed by CEN and CENELEC Technical Committees. However, it is crucial that the European Commission defines clear criteria to be used as the reference for such internal control.

Additionally, CEN and CENELEC, and the European Commission, have established Key Performance Indicators (KPIs) on the process for assessment

and citation of harmonized standards. The goal is to improve the Harmonized Standards (HAS) consultant's system and consequently increase the number of standards cited in the OJEU.

3.2 Role of standards in potential revised CPR

If the CPR revision is confirmed, European harmonized standards adopted by ESOs shall be maintained as harmonized technical specifications for construction products and thus be the main pillar of the system. European harmonized standards must play a fundamental role in the revised CPR considering that they are a powerful tool to provide a common technical language for construction products. They can also help the EU to meet their goals with the EU Green deal, circular economy and address UN development goals. Harmonized standards under CPR, and the process of CE marking and DoP in particular, act as a vehicle for the free movement of construction products within the internal market.

3.3 Advantages of the European Standardization System

The ESS has ensured throughout decades a specific model of bottom-up, inclusive and voluntary system supported by a network of 34 National Standardization Organizations which always take into account the diversity and specificity of all businesses and parties involved. More than 200,000 technical experts from industry, associations, public administrations, academia and societal organizations are involved in the CEN and CENELEC network. As such, the ESS is a unique system, where construction product European standards are established through the consensus of all stakeholders in 75 Technical Bodies and published by CEN and CENELEC, which are recognized European Standardization Organizations (ESO). In short, it is a transparent system, inclusive and consensus based that provides industry a unique framework which all understand. Reaching a consensus, however, requires time and resources but ensures that standards are implemented identically by all the CEN and CENELEC national members, removing conflicting national standard, thereby ensuring a coherent internal market.

The industry is supporting the ESS and strongly relies on harmonized standards for the well-functioning of the internal market. If there is a decision to revise the CPR, industry wants standards to play a fundamental role as it is crucial that industry remain strongly involved in the development of the harmonized technical language. The development of technical specifications requires in-depth knowledge of construction products and market conditions that only the industry can provide.

European Standardization Organizations, CEN and CENELEC hold the view that the system of harmonized standards cited in the OJEU has been widely beneficial for all the stakeholders involved but consider that solutions to ensure a better reactivity of the CPR model should be put forward. It is vital that the CPR model is capable of reacting to and supporting developing technologies and advances

in standards for construction products. For that to happen we envisage more openness and interaction among all the parties involved.

3.4 Participation of organizations representing SMEs and societal stakeholders

Organizations representing SMEs and societal stakeholders are granted a major role within the ESS and CEN and CENELEC. The national standardization organizations are fully committed to support small and medium-sized enterprises and organizations representing them, as well as consumers, workers and environmental interests in standardization. In particular, the so-called Annex III organizations of Regulation 1025/2012 (the European stakeholder organizations) cover a major role within the system and are actively participating and contributing to the work of CEN and CENELEC Technical Committees and Working Groups and they also have the right to submit an opinion on all final draft standards.

Organizations representing SMEs and societal stakeholders are also encouraged and have the right to participate within Technical Committees and working groups dedicated to construction products and falling within the CPR. This inclusivity helps ensure CEN and CENELEC standards represent the broadest consensus possible: all stakeholders are also encouraged to engage with the national standardization organizations and, through them, to take part in the European and international standardization system.

3.5 Basis for harmonized standards

If the CPR is revised, harmonized standards adopted by ESOs must be maintained as the harmonized technical specification for construction products delivered using the common technical language. The idea of including technical content in delegated and implementing acts raises fundamental concerns: The omission of input by technical experts representing industry, the very sector for which standards are developed, is worrying. Another major concern to the manufacturing sector is the delay in the use of novel technologies, some of them developed in projects funded in EU Framework programs like Horizon 2020 or in the forthcoming Horizon Europe, due to the exclusion of the most up to date testing methodologies within the standards. Also, the time it takes for delegated acts to be approved could be a drawback.

The establishment of a system which relies on the adoption of delegated and implementing acts produced by the European Commission does not provide a solution to the current challenges of implementation of the CPR.

Changing the current CPR framework to a new one could increase burdens for industry, SMEs and other interested parties. To solve the challenges of the implementation of the CPR, collaboration and constructive dialogue is fundamental between European Commission, CEN-CENELEC and stakeholders to find solutions to improve the implementation of the current CPR framework. This is the most effective solution for all the stakeholders.

The use of standardization requests is a straight forward approach to defining the scope of harmonized standards in an efficient way. It sets the parameters to which CEN and CENELEC Technical Committees work, removing the time delays historically seen when technical content has been forthcoming via the process of delegated and implementing acts. However, it is recognised that sufficient resources need to be made available to the European Commission for developing these standardization requests. Once a standardization request is agreed, the time to develop the standard is streamlined such that the technical committee sets its time agenda and follows the process without delay.

From the beginning, the CEN and CENELEC standardization procedure has proven to be transparent, inclusive, consensus based and is welcomed by industry as a viable means for successfully developing standards.

3.6 Repealing the CPR

CEN and CENELEC consider harmonized standards as a fundamental tool for providing a common technical language for construction products with the aim to remove barriers to trade. CE marking of construction products has helped establish guidelines for professionals, in their various areas of expertise, from designers to developers, and has allowed standardizing some technical concepts and terminology, less regulated before implementation of CPR.

The repeal of the CPR would mean the end of the EU internal market and member states would have to rely on rules on the free movement of goods in the Treaty on the Functioning of the European Union, which allows for individual national rules on movement of goods. Therefore, harmonization of the technical content for construction products would not be reached.

About CEN and CENELEC

CEN (European Committee for Standardization) and **CENELEC** (European Committee for Electrotechnical Standardization) are recognized by the European Union (EU) and the European Free Trade Association (EFTA) as European Standardization Organizations responsible for developing standards at European level, as per the EU Regulation 1025/2012. The members of CEN and CENELEC are the National Standardization Bodies and National Electrotechnical Committees of 34 European countries. European Standards (ENs) and other standardization deliverables adopted by CEN and CENELEC, are accepted and recognized in all these countries. European Standards (ENs) contribute to enhancing safety, improving quality, facilitating cross-border trade and strengthening the European Single Market. They are developed through a process of collaboration among experts nominated by business and industry, research institutes, consumer and environmental organizations, trade unions and other stakeholders. CEN and CENELEC work to promote the international alignment of standards in the framework of technical cooperation agreements with ISO (International Organization for Standardization) and the IEC (International Electrotechnical Commission).