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## Position Paper

### CEN and CENELEC response to the European Commission proposal for the revision of the CPR

#### General Overview

On 30 March 2022, the European Commission (EC) published a proposal for [the revision of the Construction Products Regulation \(CPR\)](#). The EC also launched a [public consultation](#) to gather feedback on the CPR revision proposal.

CEN and CENELEC welcome the objective of the proposal to achieve a well-functioning single market for construction products, avoid overlap of EU legislation and contribute to the EU objectives of the green and digital transition. A summary of the CEN and CENELEC key messages is presented below.

CEN and CENELEC:

- seek to work closely with the EC on the implementation of current CPR framework and the transition period and agree on an action plan to allow citation of some harmonized standards in the frame of the current CPR framework;
- are willing to support the EC with developing guidance documents and supporting material for drafting of harmonized standards under the revised CPR (similar to the [Joint Initiative on Standardization \(JIS\) Action 5](#));
- seek collaboration with the EC, in the context of the revised CPR, to describe the roles, responsibilities and timelines for the involved stakeholders during the standardization process from standardization requests through the drafting to citation; o seek to achieve closer alignment with the EC proposal for the revision of the CPR and EU Reg 1025/2012, acknowledging that CEN and CENELEC promote the principle that harmonized standards are voluntary;
- propose that the EC set the specific product requirements directly in standardization requests;

- request that harmonized standards are considered the primary route for the development of harmonized technical specifications in support of the CPR and the development of delegated acts should be exceptional and used in limited cases as a fallback solution instead of an alternative equal solution to harmonized standards;
- request the EC to establish a flexible mechanism to update the list of essential characteristics whenever during the development of a harmonized standard under a standardization request new technological developments or specific need emerge;
- ask the EC to specify the exact products and intended uses (if needed) proposed to be excluded and request:
  - that sanitary appliances are covered in the scope of the revised CPR
  - the EC to define the final scope in cooperation with member states, European Parliament and all relevant stakeholders.
- seek a modification to Article 34(4), as presented in Annex 1, with regard to "affordable price" to avoid misinterpretation;
- call for the EC to consider EN 15804 as the reference method for the calculation of environmental performance of construction products and EN 15978 as the reference method for the calculation of environmental performance of construction works.

## 1. Introduction

CEN and CENELEC welcome the European Commission (EC) proposal for the revision of the Construction Products Regulation (CPR) which was published on 30 March 2022. CEN and CENELEC also welcome the objective of the proposal to achieve a well functioning single market for construction products and contribute to the EU objectives of the twin transitions (green and digital).

CEN and CENELEC work across the construction sector to develop harmonized European standards (hEN) in support of the CPR. hENs help facilitate the internal market by allowing the free movement of construction products within the European Union.

They provide a common technical language to be used by:

- manufacturers to express the technical performance of their products,
- regulators to express their requirements and
- designers, contractors and other construction stakeholders to exchange information efficiently.

The role of European standards in helping the successful adoption of green solutions and digital tools across the Single Market is particularly evident in the construction sector. A strong European Standardization System (ESS) is vital to make the industry, and hence, the European economy, fit for the future: to keep the European stakeholders engaged, Europe needs a transparent and inclusive process that can foster interoperability, data flow and increase efficiencies contributing to the sustainability of the construction sector,

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key for the European economy.

## 2. Implementation of current CPR framework and transition period

The CPR entered into full force in 2013. Harmonized standards for construction products have been developed based on mandates that were issued to support the Construction Products Directive (CPD). Most of these mandates are over 20 years old and contain outdated essential characteristics. As a result, harmonized standards were developed in the last years based on legal acts that did not allow to follow the technological progress. The way to go around this situation was using Technical Committee (TC) answers to the mandate that were considered by the EC an acceptable option to make small adjustments in the original mandate. Following some EU court cases, such as the 'James Elliott' case, the framework for approving candidate hENs changed and the 3 balance between practical, market and legal needs became very difficult to fulfil. Additionally, TCs "answers to the mandate" were in many cases not answered by the EC, leading to an undefined situation where the TCs continued work on standards based on implied conduct. Consequently, various harmonized standards received lack of compliance assessment by the HAS consultants and were rejected for citation due to these uncertainties, lack of standardization requests containing updated list of essential characteristics and unstable criteria for citation of standards in the OJEU.

The revised CPR will still take few years to enter into force. Hence, short-term solutions are needed for the current implementation of the CPR. **CEN and CENELEC ask the European Commission to work together and agree on an action plan to allow citation of some harmonized standards in the frame of the current CPR framework.** The focus should be on harmonized standards which are near Formal Vote or publication stage.

In 2020, the European Commission launched the CPR Acquis with the goal to ensure the compliance of harmonized technical specifications and legal acts with the revised or current CPR. The CPR Acquis initiative aims at defining horizontal structural information to be included in future standardization requests for the preparation of new or revised harmonized standards for construction products. CEN and CENELEC support the CPR Acquis, with TC experts actively participating and providing technical input to the different Subgroups established by the EC to address specific product families (corresponding to Mandates issued under CPD). Therefore, CEN and CENELEC request the European Commission to:

- ensure all regulatory needs of Member States are provided to the respective Acquis Subgroups (SGs);
  - accelerate the finalisation of the mandate given to SG 1 'Precast concrete' and SG 2 'Structural metallic products' of the CPR Acquis, in particular by completing the three milestones left out of four, and start the procedure for the adoption of standardization requests for these product families;
  - launch the work on SG 3 'Reinforcing and prestressing steel' and SG 4 'Doors and
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windows', so as to define the technical content to be included in future standardization requests;

- launch the horizontal SG on sustainability as soon as possible to feed the work of the other SGs;
- adapt the timeline and launch the work on more product families as soon as possible. This can be accelerated by checking which TCs have already prepared input, and by starting the process;
- ensure sufficient resources to continue the work on the following SGs and issue standardization requests as soon as possible.

### 3. Proposal for CPR revision

#### 3.1 Joint CEN and CENELEC/EC collaboration

In 2017, [Joint Initiative on Standardization \(JIS\) Action 5](#) was launched to aid the implementation of the CPR through standards. JIS Action 5 provided a fitting forum for a constructive discussion of standardization in support of the CPR. The action was aimed at mapping specific issues and challenges linked to the development and citation of harmonized standards under the CPR. This initiative brought together a wide range of actors, including standardizers, the European Commission, member states and EU organisations. JIS Action 5 led to the publication of various guidance documents to be used by TCs when drafting harmonized standards in support of the CPR.

Inspired by the JIS Action 5 initiative, **CEN and CENELEC ask the EC for a close collaboration for the development of guidance and supporting material for the drafting of harmonized standards under the revised CPR.** For CEN and CENELEC, it is crucial that guidance material is available before the revised CPR enters into force. This will ensure a smooth transition from the current to the revised CPR.

**CEN and CENELEC seek collaboration with the EC to describe the roles, responsibilities and timelines for the involved stakeholders during the standardization process from standardization requests from the drafting to citation.**

#### 3.2 Better alignment between EC proposal and EU Reg 1025/2012

The EC is proposing a **revised CPR hybrid system** where one part includes mandatory harmonized technical specifications, and a second part follows a New Legislation Framework (NLF) approach with voluntary harmonized technical specifications.

Article 34 (2) of the European Commission proposal of the revised the CPR states that construction products standards shall be of mandatory application. **CEN and CENELEC promote the principle that harmonized standards are voluntary.** This is confirmed by Regulation (EU) No 1025/2012 and this principle should form an integral part of the CEN and CENELEC standardization system.

On the contrary, Article 5 (2) states that the EC is empowered to specify product

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requirements as set out in Annex I, parts B, C and D in delegated acts and that then the EC may issue standardization requests for the development of voluntary product standards. **This is an important step to align CPR with NLF principles.**

The NLF is key for the European Commission and its Member States to be successful in achieving their high ambitions for a digital transformation and sustainable future. The NLF, since its inception, has enabled the development of standards in support of legislation in a swift, efficient and open manner in a variety of policy areas. Through the NLF, standardization has become a critical resource in building the Single Market.

Voluntary and consensus-based standards support the conformity of products to regulatory requirements, including those of EU regulation, across Europe, but provide the flexibility to manufacturers and importers to use other means to demonstrate that conformity. At the core of the NLF is the practice of the 'presumption of conformity', meaning that by using a harmonized standard, a manufacturer is deemed to comply with the requirements of the regulation.

This has been a key asset for industry, in particular SMEs, and has enabled easier access to the market including self-declaration of conformity. Facilitating market access in this way, builds on trust provided that is by European standards developed by all stakeholders in an inclusive process, is a tremendous time and cost-saver for industry, helping to avoid needless third-party testing and certification.

Furthermore, with regards to Article (5), **CEN and CENELEC propose to set the specific product requirements directly in standardization requests** instead of having them defined first in delegated acts. This will speed up the overall process to trigger the development of harmonized standards and will avoid unnecessary administrative burden.

### **3.3 Harmonized technical specifications: European standards and delegated acts**

The EC proposal for the revision of the CPR points out that 'harmonized technical specifications' are construction product standards or delegated acts adopted by the EC containing technical prescriptions. **The development of delegated acts should be exceptional and used in limited cases as a fall-back solution instead of an alternative equal solution to harmonized standards.** Article 4 (3) allows the Commission to issue delegated acts in many cases without stating explicitly that the main goal should be the development of standards. Only in those exceptional cases where the standardisation system has clearly failed and only for the duration of this failure, the Commission should have competence to develop delegated acts in clearly defined cases. CEN and CENELEC propose modifications on Articles 4(2) and 4(3) as presented in Annex 1.

**Harmonized standards must be considered the primary route for the development of harmonized technical specifications in support of the CPR and this shall be clearly indicated in the revised CPR.** The European Standardization System (ESS) has ensured throughout decades a specific model of bottom-up, inclusive

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and voluntary system supported by a network of National Standardization Organizations in 34 countries 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 European standards for construction products developed in 75 Technical Bodies are established through the consensus of all stakeholders and published by CEN and CENELEC, which are recognized as European Standardization Organizations (ESO) in Regulation EU Reg 1025/2012. In short, it is a transparent, inclusive, and consensus-based system that provides all stakeholders 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 standards, thereby ensuring a coherent internal market.

### 3.4 Development of standardization requests

CEN and CENELEC are concerned that 'rigid' standardization requests, prescribing precise essential characteristics and with no possibility to amend them in an agile way, might hinder the development of market-relevant standards reflecting the state-of-the-art. CEN and CENELEC believe that the standardization requests issued by the EC according to Article 4 (2) should be flexible enough so to allow updating the list of essential characteristics whenever during the development of a standard new technological developments or specific need should emerge. Such flexibility would be in line with one of the objectives of the CPR revision, namely the contribution to the objectives of the green and digital transition. **CEN and CENELEC call on the EC to establish a mechanism for ensuring such flexibility.**

### 3.5 Scope

CEN and CENELEC welcome the EC proposal to extend the scope of the CPR to new products, such as 3D-printing related products and services, construction products manufactured on construction site, key parts or materials if requested by the manufacturer and prefabricated one-family-houses of less than 180 m<sup>2</sup> surface floor space with one floor or of less than 100 m<sup>2</sup> surface floor space on two floors. This could lead to new standardization activities in the construction sector. CEN/TC 350/SC 1 'Circular economy in the construction sector' was established to work in the field of circular economy in the built environment and the re-use of construction products will be one of the topics of this Technical Body. On the other hand, at ISO level, ISO/TC 59/SC 19 'Prefabricated building' was created in 2021 to cover basic principles of design, construction and installation of prefabricated buildings.

According to Article 2(3) of the proposal, the following product families will be outside the scope of the CPR:

- boilers, pipes, tanks and ancillaries and other products intended to be in contact with water for human consumption;
- systems treating waste water;
- sanitary appliances;

- traffic signalling products

Various products from these families are covered in more than twenty harmonized standards cited in the OJEU. Just referring to product families when excluding products in the revised CPR leaves room for confusion and misinterpretation. Furthermore, some products are intended to be in contact with both water for human consumption and other purposes, e.g. the water in central heating/cooling system. Therefore, **CEN and CENELEC recommend the EC to further specify the exact products and intended uses** (if needed) to be clear on such exclusions.

CEN/TC 163 'Sanitary appliances' raised various concerns regarding the exclusion of sanitary appliances from the CPR and highlighted that sanitary appliances are construction products according to the definition in article 2 (3.) (d) of the CPR proposal. There are 11 harmonized standards for sanitary appliances cited in the OJEU that are CE marked since 2004. These standards facilitate the single market and the free movement of sanitary products within the EU. Consequently, CEN/TC 163 does not support the exclusion of sanitary appliances from the CPR.

CEN and CENELEC request:

- that sanitary appliances are covered in the scope of the revised CPR.
- the EC to define the final scope in cooperation with member states, European Parliament and all relevant stakeholders.

### 3.6 Definitions/terms/concepts

The proposal introduces new or revised definitions that should be clarified. For instance, different terms referring to a 'standard' are used and the 'construction product' definition could be interpreted in a way that some construction products could be excluded from the CPR.

Furthermore, Article 34 (4) indicates that "the Commission shall publish or publish with restrictions in the Official Journal of the European Union the list of references of accepted conforming construction products standards that have been made available at an **affordable price**". To avoid misinterpretation, CEN and CENELEC propose modifications to Article 34(4) as presented in Annex 1.

### 3.7 Environmental performance/requirements

CEN and CENELEC welcome the EC proposal to establish a framework to enable the (1) assessment and communication of environmental performance of construction products, and (2) promotion of circularity of construction products. The inclusion of life cycle environmental assessment indicators is a huge step forward to achieve the EC objectives related to the EU Green Deal and circular economy.

CEN/TC 350 'Sustainability of construction works' developed EN 15804 'Sustainability of construction works - Environmental product declarations - Core rules for the product category of construction products', which is aligned to the Product Environmental Footprint

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(PEF) methodology. EN 15804 sets out horizontal rules and guidelines for developing environmental product declarations (EPDs) of construction products based on a life cycle approach. EPDs based on EN 15804 quantify the environmental impacts of construction products. **CEN and CENELEC call the European Commission to consider EN 15804 as the reference method for the calculation of environmental performance of construction products.**

CEN/TC 350 further developed EN 15978 'Sustainability of construction works - Assessment of environmental performance of buildings - Calculation method' which is based on a life cycle approach. It is essential that the environmental performance at product level can be aggregated to an environmental performance of the entire building in order to reach the EU Green Deal goals. **CEN and CENELEC call the European Commission to consider EN 15978 as the reference method for the calculation of environmental performance of buildings.**

CEN and CENELEC agree with the inclusion of environmental product requirements in the proposal, but it is essential that EPDs of construction products are used to inform the environmental performance of the construction products (considering the building context) and for the calculation of the total environmental performance of the entire buildings.

In view of the revised CPR, if it is considered that EN 15804 requires improvement, CEN/TC 350 is willing to take up this task and collaborate with the EC to achieve this goal.

### **3.8 Classes and threshold of performance**

According to Article 4 (4) of the proposal, the EC may determine threshold levels or classification of performance in relation to the essential characteristic to be declared. The development of such delegated acts is a very lengthy process, i.e. it might take a couple of years to be published in the OJEU.

As shown in the European Commission roadmap for the implementation of the CPR, there is a significant backlog for the adoption of delegated acts for establishing/changing a classification. To avoid delays in standardization work there is an urgent need to have delegated acts available in a timely fashion or a horizontal standardization request covering the issue of classes and thresholds.

CEN and CENELEC recommends the EC to create an alternative approach to establish classes/threshold of performance in relation to essential characteristic in harmonized standards without the need to adopt delegated acts.

### **3.9 Digitalization of the construction sector**

The proposed revision also aims to contribute to the digitalization of the construction sector. CEN and CENELEC stress the importance for the EC to first look at existing solutions and ongoing work before moving ahead with any new solution. In this regard, CEN and CENELEC wish to highlight the work already taking place within the ICT Rolling Plan and the work being conducted in CEN/TC 442 'Building Information Modelling (BIM)'.

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### **3.10 Citation of harmonized standards in the OJEU**

CEN and CENELEC remain committed to continue developing harmonized standards in support of the upcoming CPR.

When these harmonized standards are offered for citation, the EC will assess their conformity with the CPR and relevant standardization requests (see Article 34). The current process for assessing harmonized standards for OJEU citation is inhibiting the development of harmonized standards and needs to be replaced.

CEN and CENELEC seek balanced and well-known criteria, to allow for a timely OJEU citation, when the EC assess harmonized standards. This is key for a successful implementation of the revised CPR.

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This is key for a successful implementation of the revised CPR.

## Annex 1

Article 4 (2)	
EC proposal	CEN and CENELEC proposal
<p>The essential characteristics specified in accordance with paragraph 1 or listed in Annex I Part A Point 2 and the methods for their assessment shall be laid down in standards which are rendered mandatory for purposes of application of this Regulation. The essential characteristics of products shall be identified in view of the basic requirements for construction works, taking account of the regulatory needs of Member States.</p> <p>The Commission may issue standardisation requests in accordance with Article 10 of Regulation (EU) 1025/2012 laying down the basic principles and corner stones for the establishment of these essential characteristics and their assessment methods.</p> <p>[...]</p>	<p>The essential characteristics specified in accordance with paragraph 1 or listed in Annex I Part A Point 2 and the methods for their assessment shall be laid down in standards which are rendered mandatory for purposes of application of this Regulation. The essential characteristics of products shall be identified in view of the basic requirements for construction works, taking account of the regulatory needs of Member States.</p> <p>The Commission <del>may</del> <b>shall</b> issue standardisation requests in accordance with Article 10 of Regulation (EU) 1025/2012 laying down the basic principles and corner stones for the establishment of these essential characteristics and their assessment methods.</p> <p>[...]</p>

Article 4 (3)	
EC proposal	CEN and CENELEC proposal
<p>By way of derogation from paragraph 2 and in order to cover the regulatory needs of Member States and to pursue the goals of Article 114 of the Treaty on the Functioning of the European Union, the Commission is empowered to supplement this Regulation by means of delegated acts in</p>	<p>By way of derogation from paragraph 2 and in order to cover the regulatory needs of Member States and to pursue the goals of Article 114 of the Treaty on the Functioning of the European Union, the Commission is <del>empowered to</del> <b>may</b> supplement <b>in exceptional cases, after consultation of</b></p>

accordance with Article 87, by establishing, for particular product families and categories, voluntary or mandatory essential characteristics and their assessment methods in any of the following cases:

- (a) there are undue delays in the adoption of certain standards referred to in the first subparagraph of Article 4(2) by the European standardisation organisations, whilst an undue delay is given where the European standardisation organisation does not submit a standard within the time-frame set out in the standardisation request;
- (b) there is an urgency for the adoption of more harmonised technical specifications that cannot be matched with standards referred to in the first subparagraph of Article 4(2) alone;
- (c) one or more essential characteristics referring to basic work requirements set out in Annex I Part A, Point 1 or included in Annex I Part A, Point 2 are not covered by the standards referred to in the first subparagraph of Article 4(2) the references of which are already published in the Official Journal;
- (d) the standards referred to in the first subparagraph of Article 4(2) are for other reasons considered not sufficient to cover regulatory needs of Member States or the needs of economic operators;
- (e) the standards referred to in the first subparagraph of Article 4(2) are not in line with EU climate and environmental legislation and ambition;
- (f) references to standards referred to in the first subparagraph of Article 4(2) cannot be published in the Official Journal for the reasons set out in Article 34(4) or

**the relevant European standardisation organisations and European stakeholder organisations receiving Union financing under Regulation (EU) No 1025/2012,** this Regulation by means of delegated acts in accordance with Article 87, by establishing, for particular product families and categories, voluntary or mandatory essential characteristics and their assessment methods in any of the following cases:

- (a) there are undue delays in the adoption of certain standards referred to in the first subparagraph of Article 4(2) by the European standardisation organisations, whilst an undue delay is given where the European standardisation organisation does not submit a standard within the time-frame set out in the standardisation request;
- (b) there is an urgency for the adoption of more harmonised technical specifications that cannot be matched with standards referred to in the first subparagraph of Article 4(2) alone;
- (c) one or more essential characteristics referring to basic work requirements set out in Annex I Part A, Point 1 or included in Annex I Part A, Point 2 are not covered by the standards referred to in the first subparagraph of Article 4(2) the references of which are already published in the Official Journal **and a revision of the standards has, without reason, not been accepted by the European standardization organisations;**
- (d) the standards referred to in the first subparagraph of Article 4(2) are for other reasons considered not sufficient to cover regulatory needs of Member States or the needs of economic operators **and a revision of the standards has, without reason, not been accepted by the European standardization organisations;**



<p>other legal reasons;          (g) references to standards referred to in the first subparagraph of Article 4(2) have been withdrawn from the Official Journal or were published with a restriction.</p>	<p>(e) the standards referred to in the first subparagraph of Article 4(2) are not in line with EU climate and environmental legislation and ambition and a revision of the standards has, without reason, not been accepted by the European standardization organisations;;          (f) references to standards referred to in the first subparagraph of Article 4(2) cannot be published in the Official Journal for the reasons set out in Article 34(4) or other legal reasons;          (g) references to standards referred to in the first subparagraph of Article 4(2) have been withdrawn from the Official Journal or were published with a restriction.</p> <p><b>The delegated act shall be withdrawn as soon as a standard referred to in the first subparagraph of Article 4(2) covering the same essential characteristics and including their assessment methods of which the references were published in the Official Journal is in place.</b></p>
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Article 34 (4)	
EC proposal	CEN and CENELEC proposal
<p>The Commission shall assess the conformity of construction products standards established by the European standardisation organisations with the relevant standardisation requests, with this Regulation and with other Union law. The Commission shall publish or publish with restrictions in the Official Journal of the European Union the list of references of accepted conforming construction products standards that have been made available at an</p>	<p>The Commission shall assess the conformity of construction products standards established by the European standardisation organisations with the relevant standardisation requests, with this Regulation and with other Union law. The Commission shall publish or publish with restrictions in the Official Journal of the European Union the list of references of accepted conforming construction products standards that have been made available at an <b>affordable price in each</b></p>



affordable price. Where a reference to a standard cannot be published otherwise in the Official Journal, the Commission is empowered to supplement this Regulation by delegated acts adopted in accordance with Article 86 to modify the respective standards for purposes of legal effects under this Regulation.

**Member State, applying the principle such as laesio enormis when judging the affordability.** Where a reference to a standard cannot be published otherwise in the Official Journal, the Commission is empowered to supplement this Regulation by delegated acts adopted in accordance with Article 86 to modify the respective standards for purposes of legal effects under this Regulation.

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## ABOUT CEN AND CENELEC

CEN (European Committee for Standardization) and CENELEC (European Committee for Electrotechnical Standardization) are recognised 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 European Regulation 1025/2012. The members are the National Standards Bodies (CEN) and National Electrotechnical Committees (CENELEC) from 34 European countries. European Standards (ENs) and other standardization deliverables are adopted by CEN and CENELEC, are accepted and recognized in all of these countries. These standards contribute to enhancing safety, improving quality, facilitating cross-border trade and strengthening of the European Single Market. They are developed through a process of collaboration among experts nominated by business and industry, research institutions, consumer and environmental organizations, trade unions and other societal 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).