

# Construction Products Regulation

## Revision of Regulation (EU) No 305/2011

*This briefing is one in a series of 'implementation appraisals', produced by the European Parliamentary Research Service (EPRS), on the operation of existing EU legislation in practice. Each briefing focuses on a specific EU law that is likely to be amended or reviewed, as envisaged in the European Commission's annual work programme. 'Implementation appraisals' aim at providing a succinct overview of publicly available material on the implementation, application and effectiveness to date of specific EU law, drawing on input from EU institutions and bodies, as well as external organisations. They are provided by the Ex-Post Evaluation Unit of EPRS, to assist parliamentary committees in their consideration of new European Commission proposals, once tabled.*

### SUMMARY

Designed to improve the free movement of construction products in the EU internal market, the Construction Products Regulation (CPR) lays down harmonised conditions for the marketing of those products, provides a framework for a common technical language to assess their performance and sets out provisions on the use of CE marking.

The Commission is planning to issue a proposal for a revision of the CPR by the end of March. The revision is expected to address the regulation's suboptimal performance and implementation difficulties revealed in the implementation and evaluation reports. The sustainability goals set in the Green Deal and circular economy action plan give further cause to revise the CPR. The construction sector has high potential for circularity and could therefore play an important role in the transition towards a resource efficient economy built on a regenerative growth model.

In a recent resolution on the revision of the CPR, the European Parliament welcomed the goals of the circular economy action plan and called for an ambitious revision of the CPR. The recommendations made by the European Parliament have some points in common with those of other EU institutions and stakeholders, such as those underscoring the importance of a functioning harmonisation system and a comprehensive common technical language, the need for sustainability criteria for construction products and enhanced clarity of CE marking, and the need for more effective market surveillance.

### Background

Construction products cover a large variety of products, ranging from cement, windows, doors and roof tiles to fire detection systems and smoke alarms, and steel beams to support structures, for example. As defined in Article 2 of the [Construction Products Regulation](#):

*[A construction product is] any product or kit which is produced and placed on the market for incorporation in a permanent manner in construction works or parts thereof and the performance of which has an effect on the performance of the construction works with respect to the basic requirements for construction works.*

Adopted in 2011 and fully applied since 2013, the CPR replaced Construction Product Directive 89/106/EEC. Throughout subsequent amendments, the general objectives of the CPR have stayed the same: 1) to remove barriers to trade in order to create an internal market for construction products; and 2) to provide appropriate means to define performance requirements and check compliance. The specific objectives of the CPR are to create a level playing field for all actors and to increase the credibility of the whole system by simplifying procedures and clarifying concepts. These are complemented by an operational objective to introduce a common technical language through harmonised technical specifications.

[Article 114 TFEU](#) on approximation of laws provides the **legal basis** for the CPR and requires the use of the ordinary legislative procedure. Since the aim of the legal act is to ensure the establishment and functioning of the internal market for construction products, actions to avoid disparity and fragmentation in this field can only be effective if taken at EU level.

A number of EU legal acts recently revised or under revision **interlink with the CPR through their scope**. For example, the EU's recent [strategy on standardisation](#) and an ongoing amending [proposal](#)<sup>1</sup> on the European Standardisation [Regulation \(1025/2012\)](#) will have an impact on the standardisation framework in the EU. Furthermore, the legislative package referred to as the [new legal framework \(NLF\)](#),<sup>2</sup> which addresses surveillance, conformity assessments and CE marking, is undergoing an evaluation.<sup>3</sup> This evaluation, envisaged for the second quarter of 2022, will assess the performance of the NLF and whether it remains fit for purpose.

Technological developments and the transition towards climate neutrality have triggered the need to revise legislation in the near future. Examples include legislation on waste, the [Energy Labelling Regulation \(66/2010\)](#) and the [Ecodesign Directive \(2009/125/EC\)](#). In the latter case, widening the scope of the Ecodesign Directive beyond its current sphere (energy-related products) could have a significant impact on construction products. Sustainable product policy together with ecodesign and energy labelling legislation are effective tools for improving energy efficiency and enhancing product sustainability. The Commission is expected to publish the sustainable product policy initiative, including a revision of the Ecodesign Directive, at the end of March 2022. Areas such as consumer protection, public procurement and accessibility legislation meanwhile share some common ground with the CPR, as do the Energy Efficiency and Energy Performance of Buildings Directives.

The energy union, launched in November 2016, mentioned possible **revision of the CPR** as part of the package, and the issues highlighted by the 2016 implementation report led to an extensive stakeholder consultation. The upcoming revision builds on this history and its vast body of evidence and seeks to incorporate the sustainability elements included in the [Green Deal](#) in 2019, and elaborated further in the [circular economy action plan](#) adopted in 2020. The [Commission's 2021 work programme](#) initially envisaged the CPR revision for the third quarter of that year, but later postponed it to end of March 2022.

The Green Deal presented a vision for the sustainable transformation of the EU's economy with the aim of achieving climate neutrality by 2050. At the core of this challenge was the need to mobilise industry around the shift to a clean circular economy, using the digital transformation as a key enabler. The circular economy action plan (CEAP) presented a set of 35 key actions, including a sustainable product policy framework to put this transformation into practice. This framework aims to transform design and product production processes and to empower consumers and public buyers to be active participants in the transition towards a more circular economy. The revision of the Ecodesign Directive and necessary complementary legislative proposals, and the revision of the waste legislation are centrepieces of this proposed updated policy framework. In addition, the CEAP takes a strategic approach to key value chains and presents focused initiatives for sectors with a high potential to circularity, such as the construction sector.

Among the sectoral aspects of the CEAP, the Commission has announced a comprehensive strategy for a sustainable built environment covering the building and construction sectors. However, that strategy has been postponed until further notice. Commissioner Thierry Breton explained this delay in an [answer](#) to a written question in December 2020. He pointed out that some of the measures

that were originally intended to be part of this strategy had already been introduced in the context of the [recovery plan](#) and '[renovation wave](#)' initiatives, seizing the opportunity offered by the post-pandemic recovery and accelerating the green and digital transitions. The Commission was intending to propose a holistic approach to the built environment in the 2021-2022 period.

The EU's [new industrial strategy](#) also highlights the role of the sustainability of construction products in increasing the energy efficiency and environmental performance of buildings and their overall importance in the transition towards climate neutrality.

## Legal framework

The CPR harmonises the method for assessing the performance of construction products and creates harmonised conditions for marketing such products. When construction products are placed on the market, economic operators must be in conformity with EU-level harmonised standards. The same applies to EU countries when they set requirements for the performance of construction products. A CE-mark indicates that a construction product is in conformity with its declared performance. Member States must allow the marketing of such products without requiring any additional marks, certificates or testing.

According to the CPR the following **seven basic requirements for construction works** (BWRs) define the sphere of harmonisation. The BWRs cover essential characteristics of products and establish categories for possible national requirements:

- 1 mechanical resistance and stability;
- 2 safety in the event of fire;
- 3 hygiene, health and environment;
- 4 safety and accessibility in use;
- 5 protection against noise;
- 6 energy economy and heat retention;
- 7 sustainable use of natural resources.

The mandatory nature of harmonised standards and the division of powers between the EU and the Member States are particular to the context of the CPR.

On the division of **powers between Member States and the EU**, the CPR does not set EU-wide requirements for construction products. In accordance with shared responsibilities, the EU regulates the placing on the market of construction products, whereas the Member States set rules on the products' use, such as performance requirements. The EU is responsible for provisions relating to access to the internal market excluding product performance requirements. Member States deal with rules relating to fire safety, and environmental, energy and other requirements applicable to construction works. When it comes to **mandatory harmonised standards**, the CPR establishes a system where harmonised standards are drafted by the European standardisation organisations CEN/CENELEC on the basis of standardisation mandates. These mandates are issued by the Commission following consultation of the Standing Committee on Construction and taking into account the requirements of Member States, as well as stakeholders' views. Following an internal assessment by CEN/CENELEC, the standards are submitted to the Commission for citation in the Official Journal of the European Union (OJEU). This citation becomes the official reference for the assessment and declaration of performance<sup>4</sup> of the essential characteristics covered. Consequently, manufacturers are to use them and the CE mark for construction products covered by harmonised standards. Before citation in the OJEU, the Commission assesses the conformity of the standard submitted with the mandate.

European Court of Justice (ECJ) case law has highlighted the mandatory nature of the harmonised standards and their exhaustiveness, as well as the Commission's mandate in the standardisation process.<sup>5</sup> The exhaustive and mandatory qualities of harmonised European standards have been defined and maintained in subsequent ECJ rulings.

The current legal framework concerning harmonised European standards has resulted, over the years, in a situation where new standards no longer meet the eligibility criteria necessary to be cited

in the OJEU, often because of insufficient compliance with legal and administrative rules. Moreover, many of the standards are partially developed under outdated mandates. This so called **backlog situation** challenges the *raison d'être* of mandatory harmonised standards and hinders the proper functioning of the internal market for construction products.

Construction products not or not fully covered by a harmonised standard can be voluntarily CE marked through a European technical assessment (ETA) issued by a technical assessment body (TAB) and based on European assessment documents (EAD). The European Organisation for Technical Assessment EOTA,<sup>6</sup> established under the CPR, provides the [framework for this alternative route](#) for CE marking specifically designed for non-standard and innovative construction products.

Together, harmonised European standards and EADs form a common technical language that is considered essential to ensure common assessment methods, guarantee availability of reliable performance information and enable comparison of products from different manufacturers. However, the CPR provides some simplified procedures in specific cases (Chapter VI). Manufacturers can use them in order not to replicate certain testing types when appropriate technical documentation already exists. The simplified procedures are designed to alleviate the financial burden for micro-enterprises and small and medium-sized enterprises (SMEs) when drawing up declarations of performance and they are available in some special cases, such as for individually manufactured construction products.

A construction product assessed according to a harmonised European standard or for which an ETA/EAD has been issued can and must be **CE marked**. There are three exceptions to this obligation to draw up a declaration of performance and put a CE mark on a construction product: first, when the construction products are individually manufactured or custom-made; second, when the products are manufactured on the construction site; and third, when the manufacturing process follows a tradition necessary for the conservation of officially protected works.

When a product is not covered by a harmonised standard or an ETA is not issued for it, the principle of mutual recognition applies. Member States may set out requirements for the use of these construction products under the CPR framework. These products will not receive a CE mark under CPR, but CE marking might be among the requirements of other relevant EU legislation.

**Market surveillance** of construction products is organised by Member States in accordance with Chapter VIII of the CPR, [Regulation \(EC\) 765/2008](#) setting out the requirements for accreditation and the market surveillance of products and [Regulation \(EU\) 2019/1020](#) on market surveillance and compliance of products.

Delegated acts can be used to define threshold levels and classes of performance in relation to the essential characteristics of products.<sup>7</sup> They can also be used to establish conditions under which a construction product shall be deemed to satisfy a certain level or class of performance without testing or without further testing. The Commission has published 20 delegated acts under the CPR and an implementing act on the European technical assessment format.

## Commission reports and consultations

The revision of the CPR has triggered extensive consultation of various stakeholders by the Commission, performed in different phases and over several years.

### Extensive consultation of stakeholders since 2016

**Since 2016 the Commission has engaged in wide stakeholder consultation** on a variety of aspects. Following the publication of the implementation report in July 2016 (see below), it organised five theme-based meetings on the CPR review, through technical platforms, with Member State representatives, business representatives, companies, technical bodies and testing bodies. The topics of these meetings organised between October 2016 and April 2017 were: [standardisation](#), [simplification issues](#), [information needs](#), [coexistence of EU and national systems](#),

and the [future of EOTA](#). The Commission also examined the findings of the construction sector fitness check<sup>8</sup> and the opinions of the REFIT platform.

Consequently, the evaluation report of 2019 was underpinned by a rich body of evidence and several publications. The report made use of the various Commission reports, [studies and surveys](#) and of a dedicated external study. The evaluation also included [feedback](#) from the initial inception impact assessment of 2017 and the results of the [public consultation](#).

The publication of the revised inception impact assessment in 2020 was followed by a [feedback period](#) and a further [public consultation](#), which offered all stakeholders and final users the opportunity to give their opinion via an online questionnaire. In addition, the Commission organised a [dialogue with Member States](#) comprised of a set of discussions addressing the main topics of the upcoming revision. A second [public consultation](#) on the impacts of potential options for the future took place from September to December 2020. The feedback from these consultations will feed into the impact assessment accompanying the upcoming Commission proposal.

## Implementation report

The **Commission's implementation report** of [7 July 2016](#), fulfilled the requirement set out in Article 67(2) CPR of a regular implementation assessment of the regulation. By then the CPR had been fully applied for three years, and it was time to assess its achievements and limitations.

According to the overall remarks, all elements of the CPR had been implemented and were in place, such as notified bodies and technical assessment bodies across Europe, which was considered an achievement. On the side of insufficiencies, the report revealed that the objectives set for the CPR had not been fully attained and required further efforts.

Many of the challenges pointed out by the report related to implementation difficulties and delayed adaptation by stakeholders. Moreover, the Commission highlighted several other issues, such as transparency and the speed of finalising EADs; clarification of the content of the declaration of performance (DoP) and derogations from it; increased information on CE marking; efficiency and uptake of the simplification procedures for micro-enterprises; and better functioning market surveillance, including sector-specific surveillance. The report also highlighted that the use of national marks and testing requirements was ongoing in several Member States, contrary to the principles of the CPR.

The Commission considered that addressing the findings of the report required more time, a close dialogue between all parties and in depth analysis. In order to support adequate implementation by all players, particularly at national level and among CEN/CENELEC, the Commission committed to monitor the situation and entered into a dialogue with different stakeholders.

## Evaluation of the Construction Product Regulation

The **evaluation report** of [24 October 2019](#) on the CPR confirmed many of the conclusions of the implementation report and revealed some new findings based on consultations of various stakeholders. An evaluation **report on the performance** of the European Organisation for Technical Assessment (EOTA) was [published simultaneously](#).

Regarding the **effectiveness** of the CPR, the evaluation report highlighted three overarching issues:

- Under-performance of the standardisation mechanism under the CPR and its impact on the internal coherence of the legal act

According to the evaluation report, any revision of the current method of developing harmonised technical specifications should be carefully considered. The current backlog situation is slowing down the validation of new mandatory standards, which contributes to supplementary national requirements leading to the fragmentation of the internal market of construction products.

- Ineffectiveness of market surveillance activities in Member States and their varying quality

National marks and certifications hinder the creation of an internal market for construction products. According to the evaluation, work remained to be done amid good progress attained under the CPR. Therefore, enhanced cooperation between market surveillance actors was considered a priority in bringing the market surveillance activities to an equal level across Member States and thus ensuring a level playing field for all in the internal market.

- Suboptimal simplification activities, not fulfilling expectations

The report concluded that the articles on simplification for the benefit of SMEs and micro-enterprises should be scrutinised closely and possibly even deleted. The original aim had been to reduce the compliance costs of smaller companies. According to the evidence, this had turned into a lost opportunity to the extent that some of the smaller companies found it more attractive to comply with the general regime than with the derogations.

Other relevant findings included remarks on the internal and external coherence of the CPR, which could both be increased.

- The future role of EADs and the EOTA route was raised as one of the key questions. Currently, to some extent the EOTA route acts as a substitute for the dysfunctional system of harmonised standards, which was not its original purpose.
- In terms of the CE mark, information offered to users has improved transparency and the possibility to assess product performance. However, the evidence suggests that the meaning of the CE mark in construction products is often misinterpreted.

Regarding the **efficiency** of the CPR, a comparison of costs and benefits by stakeholders showed a mixed outcome. Access to other EU markets was the main benefit listed in the evaluation report alongside other achievements, such as uniform information for end-users and greater focus on quality. The report revealed that the CPR had fallen short of stakeholders' expectations in terms of cutting red tape and simplifying procedures – both measures intended to support SMEs and micro-enterprises. With a view to the future revision, the report stressed some areas for improvement, such as the creation of EU-level measures on sustainable use of natural resources and inherent product safety, without in any way eroding Member States' responsibility for safety of construction works.

The objectives of the CPR remained **relevant**, according to the Commission's investigation, although it had not met all the stakeholders' expectations or priorities. The backlog situation and other challenges of the mandatory system of European harmonised standards was identified as one of the major issues to have undermined the relevance of the CPR. Legal certainty, safety, increased opportunities for cross-border trade and credible information on the environmental impact of construction products were key to stakeholders in terms of building a relevant framework for the marketing of construction products in the EU internal market.

The evaluation report recognised that the **internal coherence** of the CPR could be improved. Here again the system of mandatory standards and the current backlog situation were mentioned as areas in need of practical measures. Another element of internal coherence was the overlapping nature of measures on the CE marking and the DoP. A third aspect pointed out in the report was the need to clarify the simplification clauses, market surveillance and safeguard procedures, which were inefficient due to a lack of internal coherence.

As regards the **external coherence** of the CPR, several potential situations of measures overlapping or conflicting with national and/or EU legal acts were cited. For example, the harmonisation systems used in the Ecodesign Directive and the CPR could create a conflict where the performance of a product is assessed in two different ways. Nevertheless, possibilities for synergy between the CPR and other EU level legislative acts also exist. For example, the CPR harmonised rules for marketing construction products allow a comparison of the energy performance of products from different manufacturers. The evaluation report suggested that a harmonised European standard on sustainability of energy economy could help to achieve the objectives of the Energy Performance of Buildings Directive.

Despite all the shortcomings and suboptimal implementation, stakeholders acknowledged **the EU added value** of the CPR and there was strong support for the overall objectives of the CPR. Consequently, the possibility of repealing the CPR did not gain support in the consultations. On the contrary, four out of five agreed on the need for an EU-level legislative act on construction products.

The **EOTA evaluation report** concluded that the EOTA route had duly fulfilled the tasks set out in the CPR and that evidence confirmed it had offered the expected flexibility. However, the report identified several structural issues and pointed out certain areas for improvement. The outcome showed that the EOTA route was not widely used, on the contrary, it served a limited number of manufacturers of construction products. Although its aim was to facilitate speedier entry onto the market of innovative products, the overwhelming majority of ETAs did not concern innovative products but products already on the market. The evidence strongly suggested that the EOTA route had above all made up for the underperformance of the standardisation system. All in all the evaluation report proposed that the role of EOTA and of the EOTA route should be analysed in depth as part of any CPR revision.

## The initial and revised inception impact assessments

An **initial inception impact assessment** was launched on [19 June 2017](#) and a **revised inception impact assessment** on [17 June 2020](#). During the three years between the two assessments, the Commission developed further the future options and different scenarios as well as its analysis on their expected economic, social and environmental impacts and their effects on red tape. The revised inception impact assessment confirmed the twofold aim of the revision. While addressing the areas of improvement identified in the evaluation report, it also put forward the sustainability and environmental goals underpinned by the Green Deal and the CEAP.

The revised inception impact assessment raised some systemic challenges at the centre of the upcoming revision.

- One of the focus areas would be the system of harmonised standards, owing to insufficiencies in the current standardisation process. As explained in the evaluation report, the current system does not meet the needs of either Member States or industry because of the insufficient quality of standards, ineffective market surveillance and the on-going existence of national marks and certificates.
- Other key elements are high compliance costs affecting in particular SMEs and micro-enterprises that cannot reap the benefits of scale.
- The evaluation report also raised the importance of clarifying the meaning of the CE marking for construction products and removing duplication of information between the CE mark and the declaration of performance.

The objectives and goals of the circular economy action plan underlined the importance of fostering innovation and developing the safety and environmental aspects of construction products.

- The inception impact assessment mentions a comprehensive environmental footprint assessment system in order to increase the sustainability of construction products and enhance the sustainability of construction works. This would have to be considered in conjunction with other relevant policies.
- Similarly, the introduction of requirements for green construction products is considered to depend on the development of general environmental product policies. Bamboo, straw bales and reclaimed wood are examples of green building materials that are composed of renewable resources and have a low environmental impact.

In addition to the above mentioned issues, the inception impact assessment provides a list of other aspects considered in the context of the CPR revision, such as establishing a product database creating transparency; strengthening notified bodies and their designation system; streamlining non-conformity procedures; and complementing the powers of enforcement authorities.

## European Parliament activities

The European Parliament has called for an ambitious review, both to address the shortcomings of the CPR and to include new elements to promote the green and digital transitions.

### Resolutions of the European Parliament

On 21 March 2021, the European Parliament adopted a [resolution](#) on the **implementation on the CPR**, welcoming the Commission evaluation report and praising the comprehensive preparatory work. The Parliament focused specifically on the following issues:

**Common technical language, including standards:** regarding the common technical language, Members expressed their concern on the backlog of issuing new standards. Parliament urged the Commission to find a quick and viable solution to the situation in order to improve the process and complete the common technical language with comprehensive harmonised standards.

**CE marking and declaration of performance:** Members underlined the fact the CE marking under the CPR is often misunderstood to be a quality label of construction products determining safety or usability for construction works. Parliament called for a solution that would provide end users with the necessary information on safety and compliance of construction products. In this context, Parliament called on the Commission to explore the possibility of including in the CPR additional information obligations and product performance obligations in terms of health, safety and environmental aspects. In addition, Members encouraged the construction sector to harness the full potential of digital technologies.

**Market surveillance:** Member States were invited to implement the new amending Regulation No (EU) 2019/1020 on market surveillance and compliance of products in full. The Commission was called on to adopt necessary implementing acts in order to align and guide the market surveillance authorities. Parliament also underlined the need to take into account products sold online in market surveillance activities, especially those made available by non-EU economic operators.

**Sustainability in construction products:** Parliament stressed the importance of a green transition covering all aspects from sourcing and manufacturing of construction products to their reuse and recycling in construction works. Members called on the Commission to assess how the CPR could enhance circularity, taking into account reused or remanufactured products, or those manufactured from recycled materials. The Commission was also called upon to incorporate environmental performance and sustainability criteria throughout the life cycle of specific construction product categories and related harmonised standards under the CPR.

**Commission responded** to Parliament's requests in its [follow-up](#) to the implementation resolution published on 20 August 2021.<sup>9</sup> On common technical language and standards, it referred to the upcoming revision and the parallel review process of the CPR *acquis*. It mentioned specifically a pilot project together with CEN/CENELEC on drafting standards and finding solutions under the current legal framework. It also referred to guidance on preparing standards eligible for citation in the OJEU sent to CEN/CENELEC in January 2021.

In terms of the CE marking, the Commission acknowledged Parliament's observations and committed to addressing them in the revision. It pointed out that ambiguous information was partly due to the fact that a majority of construction products are covered by standards based on the repealed CPD. The Commission pointed out that some of the observations on market surveillance have already been addressed in new Market Surveillance Regulation No (EU)2019/1020 and made reference to the measures envisaged in the 'options paper'.<sup>10</sup> On sustainability in construction products, Parliament's support for the green transition was welcome. A single framework for assessing and testing products and efforts to increase the consistency of construction products, measures and horizontal environmental policies were mentioned as objectives, along with the introduction of recycled content requirements for certain construction products as practical measures.

On [10 February 2021](#), Parliament adopted a **resolution on the new circular economy action plan** where it welcomed the new circular economy action plan (CEAP). It called on the Member States to steer direct investments and post-pandemic recovery funds to support the transition towards circular economy. Parliament called on the Commission to propose binding EU targets for 2030 to reduce the use of raw material and consumption footprints and to introduce harmonised, comparable and uniform circular economy indicators by 2021.

Parliament welcomed the Commission's intention to propose a sustainable products initiative broadening the scope of the Ecodesign Directive and invited the Commission to present a proposal by the end of 2021. Durable, circular, safe and non-toxic products and materials should become the norm in the EU internal market. In terms of empowering consumers and public purchasers, Members were in favour of introducing a digital passport for products. This would allow businesses, consumers and authorities to keep track of climate, environmental, social and other impacts throughout the value chain of the product.

Parliament made a series of remarks on strengthening the decision-making process for consumers by means of clear and easily understandable, harmonised labelling. It also highlighted the need to ensure stakeholders' free access to information on repair and maintenance and the importance of developing a high-quality infrastructure for the collection, sorting, reuse and recycling of materials. Members expressed their support for research and innovation and called on the Commission to put forward a legislative proposal on green public procurement procedures. Moreover, the resolution supported the Commission's proposal for sector-specific measures in areas with a high potential for circularity and made a series of recommendations for each of these sectors, including the construction sector.

Parliament called on the Commission to implement the 'renovation wave' initiative fully in accordance with the circular economy principle and stressed the potential for greenhouse gas savings and environmental gains by prolonging the lifetime of buildings as opposed to demolition. On setting a binding framework for construction performance, the Parliament called on the Commission to consider setting reduction targets for carbon use and materials in buildings by using the [levels\(s\) framework](#). Parliament underlined that the introduction of minimum legal requirements on the environmental performance of buildings is essential and necessary in order to improve the resource efficiency and energy performance of buildings. Members reminded the Commission of its obligation to consider revising the material recovery targets for construction and demolition waste under the Waste Framework Directive. They also suggested including reuse and recycling targets and a target for the use of secondary raw materials in the construction sector, while also enhancing their traceability.

In this context, Parliament called on the Commission to revise the Construction Products Regulation and welcomed the announcement of a strategy for a sustainable built environment. In addition, Parliament stressed the importance of putting in place building planning policies that prioritise renovation, conversion and the continuing use of buildings over the construction of new buildings.

The **Commission responded** to the Parliament in detail on [16 July 2020](#).<sup>11</sup> It referred to construction products in the context of the sustainable products initiative, more specifically, the digital product passport, which is expected to cover high impact intermediary products such as steel, cement and chemicals, among others. The Commission also mentioned the possibility of minimum recycled content requirements in the context of upcoming revision of the CPR. In terms of actions taken in key product value chains, the Commission referred to the level(s) framework and possible measures to reduce both carbon emissions over the full life cycle of buildings and other environmental impacts.

## Selected parliamentary questions

On [26 May 2021](#) Member of the European Parliament (MEP) Dennis Radtke (EPP, Germany) put forward a **written question on the backlog situation**. He pointed out that the procedure for harmonised standards was currently time-consuming and costly for companies. Mr Radtke asked

how and when the Commission intended to solve the situation. He also asked if the Commission had considered introducing temporary certificates.

Internal Market Commissioner, Thierry Breton, answered on [17 August 2021](#). The main reason for the considerable delay in publishing proposed harmonised standards in the OJEU were problems relating to quality. He reported that the Commission had taken corrective action together with CEN and the German, Portuguese and Slovenian Presidencies of the Council, meaning the review of the CPR acquis. As solid progress on results was expected to produce positive impacts soon, the Commission did not see a need for temporary or ad hoc solutions.

On [6 November 2019](#), Elena Lizzi (ID, Italy) asked the Commission a written question about the **situation of European harmonisation** of volatile organic compound (VOC) requirements for the wood industry. She referred to the CPR's harmonisation objective, which means that products fulfilling the requirements should be compatible for production and consumption in all Member States. Ms Lizzi expressed her concern that growing fragmentation put this objective in question, referring specifically to Germany's rules on and testing methods for wood products. She asked the Commission whether it intended to take action in such cases to minimise fragmentation of the internal market. In specific terms, Ms Lizzi asked what action the Commission intended to take to adjust the German rules.

Thierry Breton answered on [6 February 2020](#) that the Commission was aware of the additional national requirements for CE-marked products introduced in some Member States. He stated that such actions were not in compliance with the CPR and the related case law of the Court of Justice. According to the [infringement procedure](#), the Commission had ongoing bilateral dialogues with Member States. In terms of the specific question on Germany's rules and testing methods for wood products, the Commissioner referred to [the detailed opinion](#) of the Commission on the subject where it requested explicitly that the situation be adjusted in order to eliminate issues of non-compliance.

## Council of the European Union

On [4 October 2019](#), the Council adopted conclusions on the circular economy entitled '**More circularity – Transition to a sustainable society**'. The Council recognised the work already done in this field and encouraged further efforts to implement existing commitments relating to the transition towards a sustainable and circular economy. It supported the bid to step up the level of ambition in order to stimulate a systemic transition to a sustainable society. It called on the Commission to present an ambitious long-term strategic framework, including a vision for a circular economy and an action plan with targeted measures, recognising the need to address key sectors, such as construction, in order to foster circularity across the value chain. The Council stressed the importance of a coherent circular product policy and supported the extension of the ecodesign principles to new product ranges. Furthermore, the Council called on Member States and the Commission to develop further the public procurement framework. It also called for action to address certain sectors specifically, such as construction products, as part of the CPR revision.

On [17 December 2020](#), the **Council adopted conclusions on 'Making the recovery circular and green'** in response to the Commission communication on the circular economy action plan for a cleaner and more competitive Europe. The Council welcomed the ambitious approach and its broad range of actions. However, it noted that implementation needed to take into account the different starting points of Member States and highlighted the need to develop indicators and metrics in order to monitor progress. The Council called on both the Commission and the Member States to strive to make a shift to a circular economy and highlighted its important role in post-pandemic recovery. In general terms, the Council underlined the importance of decoupling economic growth from resource use and developing a coherent legal framework, making sustainable products the norm.

On the construction and building sectors, the Council noted that they presented a high-impact value chain in terms of material, energy and greenhouse gas intensity and mentioned the

sustainability performance potential of all construction products, buildings, infrastructure and other construction assets. It noted that the existing EU level(s) provided a framework for assessing and comparing the sustainability of buildings throughout their life-cycle. The Council welcomed the aim to create a sustainable whole life-cycle approach. In terms of renovation of buildings in accordance with sustainability and circularity criteria, it noted that the availability of high-quality construction products and certified secondary raw materials is essential. The Council also highlighted the social aspects of greening the construction and building sectors and raised the importance of appropriate training as well as upskilling of the work force. Furthermore, the Council recalled the connection between the targets of the Waste Framework Directive and the recycling of construction and demolition waste.

## European Economic and Social Committee

In its [15 July 2020](#) opinion on **the new circular economy action plan**, the EESC welcomed the CEAP and emphasised the momentum to foster the shift towards a sustainable economy in the post-pandemic recovery actions. The EESC highlighted the [European circular economy stakeholder platform](#), which could offer practical support in this transition.

The EESC welcomed the proposal to widen the scope of the Ecodesign Directive. In the context of creating a life-cycle approach to the use and reuse of materials, the EESC encouraged the Commission to issue delegated acts to determine a set of criteria for various commonly used products, that could feed into other products. It underlined the importance of recognising the complementary nature of climate change, circular economy policies, corporate social responsibility and the circular nature of renewable energy sources.

The EESC highlighted the link between the EU's industrial strategy and the CEAP and called for a focus on sectors with a high potential for circularity, such as construction and buildings. As regards construction materials, the EESC called for the use of legal requirements to boost the market for secondary raw materials. It also supported the empowerment of consumers with information on product composition and possibilities for repair, with the goal of developing product management, traceability and transparency.

## Committee of the Regions

In its opinion on the **circular economy action plan**, adopted at its [12-14 October 2020](#) plenary session, the Committee of the Regions (CoR) emphasised the importance of local and regional authorities as crucial players and the importance of local and regional guidance and the promotion of best practices in making the transition to a more circular economy a reality on the ground. It invited the European Commission, Member States and local and regional authorities to steer the investments from the EU recovery plan towards long-term economic, social and environmental progress.

The CoR stressed the importance of public procurement as a means to drive the market towards more sustainable products and services. In this context, it called for further development of green public procurement. It emphasised also that circular economy principles should become a common aspect for all sectors, mentioning the construction sector in particular.

The CoR insisted in validating the 'there is no waste' principle and preventing the use of virgin resources together with an obligation to use recycled materials. It also called on the Commission to put forward criteria for the value chains of products to ensure that a substantial proportion of new products are made of recycled materials. It also encouraged the Commission to propose a target for absolute waste generation per capita, as well as waste prevention targets for businesses and industry.

## MAIN REFERENCES

[Legal obstacles in Member States to single market rules](#), Policy Department for Economic, Scientific and Quality of Life Policies, European Parliament, November 2020.

[Revision of the Construction Product Regulation \(REFIT\)](#), Legislative Train Schedule, European Parliament, Guillaume Ragonnaud, February 2022.

## ENDNOTES

- <sup>1</sup> Proposal for a Regulation of the European Parliament and of the Council on general product safety, amending Regulation (EU) No 1025/2012 of the European Parliament and of the Council, and repealing Council Directive 87/357/EEC and Directive 2001/95/EC of the European Parliament and of the Council COM(2021) 346 final, 2021/0170/COD.
- <sup>2</sup> Regulation (EC) 765/2008, Decision 768/2008 and Regulation (EU) 2019/1020.
- <sup>3</sup> Evaluation roadmap: [Evaluation of certain aspects of the New Legislative Framework](#) (Decision No 768/2008/EC and Regulation (EC) No 765/2008), 4 November 2020.
- <sup>4</sup> A declaration of Performance (DoP) accompanies the product when it is placed on the market or sold. It describes the essential characteristics of the construction product in accordance with applicable harmonised standards.
- <sup>5</sup> In the *James Elliot* ruling in 2016 (C-613/14), the Commission took a new stance on monitoring and controlling the harmonisation process with a stringent interpretation of whether a proposed standard complied with the requirements of its mandate. In case C-100/13 the Court established the principle of exhaustive mandatory harmonisation. Consequently, Member States have to align national systems with the CPR framework and refrain from setting additional requirements. The ECJ developed further and clarified the concept of exhaustiveness in ruling T-229/17 by saying that the harmonised system created under the CPR is to be considered exhaustive and that Member States are to refrain from actions, even when harmonised standards do not contain all the elements necessary to fulfil their regulatory needs. This outcome was confirmed in case T-53/18. These cases led to appeals in the ECJ (joint cases C-475/19 P and C-688/19 P), which the Court dismissed in its ruling of 17 December 2020.
- <sup>6</sup> The EOTA is a European non-profit association of technical assessment bodies established under Article 31 of the CPR and performing its task in close cooperation with the Commission, Member States, CEN/CENELEC and other stakeholders of the construction products sector.
- <sup>7</sup> Article 27 of the CPR. An [Advisory Group on Construction Products](#) functions as an expert group assisting the Commission on issues related to the CPR, among others preparation of delegated acts.
- <sup>8</sup> Supporting study for the fitness check on the construction sector: [EU internal market and energy efficiency legislation](#), Economisti Associati, Milieu and CEPS, October 2016.
- <sup>9</sup> Follow up to the European Parliament non-legislative resolution on the implementation of Regulation (EU) No 305/2011 laying down harmonised conditions for the marketing of construction products, [SP\(2021\)361](#).
- <sup>10</sup> [Refined indicative options for the review of the Construction Products Regulation](#), April 2020.
- <sup>11</sup> Follow up to the European Parliament non-legislative resolution on the new circular economy action plan, [SP\(2021\)247](#).

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