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Implementation of the Construction Products Regulation

European Parliament resolution of 10 March 2021 on the implementation of Regulation (EU) No 305/2011 laying down harmonised conditions for the marketing of construction products (the Construction Products Regulation) (2020/2028(INI))

(2021/C 474/03)

The European Parliament,

— having regard to the Treaty on the Functioning of the European Union, in particular Article 114 thereof,

— having regard to Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products ([1]) (the Construction Products Regulation — CPR),

— having regard to Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council ([2]) (the Standardisation Regulation),

— having regard to the Commission evaluation of 24 October 2019 of Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products (SWD(2019)1770),

— having regard to the Commission report of 24 October 2019 on the outcome of the evaluation of the relevance of the tasks set out in Article 31(4) that receive Union financing pursuant to Article 34(2) of Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (COM(2019)0800),

— having regard to Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 ([3]),

— having regard to Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 ([4]),

— having regard to Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC ([5]),

— having regard to Regulation (EU) 2019/515 of the European Parliament and of the Council of 19 March 2019 on the mutual recognition of goods lawfully marketed in another Member State and repealing Regulation (EC) No 764/2008 ([6]),

— having regard to its resolution of 21 October 2010 on the future of European standardisation ([7]),

([1]) OJ L 88, 4.4.2011, p. 5.
([2]) OJ L 316, 14.11.2012, p. 12.
([3]) OJ L 169, 25.6.2019, p. 1.
([4]) OJ L 218, 13.8.2008, p. 30.
([5]) OJ L 218, 13.8.2008, p. 82.
([6]) OJ L 91, 29.3.2019, p. 1.
([7]) OJ C 70 E, 8.3.2012, p. 56.

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— having regard to the Commission communication of 30 November 2016 on clean energy for all Europeans (COM(2016)0860),

— having regard to the European Green Deal (COM(2019)0640),

— having regard to the Commission communication of 11 March 2020 on a new Circular Economy Action Plan for a cleaner and more competitive Europe (COM(2020)0098),

— having regard to Rule 54 of its Rules of Procedure, as well as point (e) of Article 1(1) of and Annex 3 to the decision of the Conference of Presidents of 12 December 2002 on the procedure for granting authorisation to draw up own-initiative reports,

— having regard to the report of the Committee on the Internal Market and Consumer Protection (A9-0012/2021),

A. whereas the construction industry directly provides 18 million jobs in Europe and generates 9 % of GDP ([8]);

B. whereas the purpose of the Construction Products Regulation (CPR) is to remove technical barriers to trade in construction products in order to enhance their free movement in the internal market while ensuring that those products are fit for their intended use and meet their declared performance, taking into account the health, safety and environmental aspects related to their use, regardless of where they are manufactured;

C. whereas the European system of technical regulation and standardisation has shown itself to be a driver for competitiveness and innovation, while contributing to consumer safety and reducing accident rates, making EU standards a global benchmark;

D. whereas the slow adoption and non-citation of harmonised standards is problematic, as the adoption process is not keeping pace with developments in the sector, creating uncertainty for businesses; whereas the lack of harmonised standards and the incomplete nature of existing standards have contributed to additional national requirements for construction products that create obstacles to their free movement in the single market; whereas these requirements can be detrimental to consumers and to Member States when meeting their responsibilities with regard to structural safety, health, the protection of the environment, other construction-related matters and consumer protection;

E. whereas the rules on construction works set by Member States should be designed and executed so as to guarantee the safety of workers and consumers and so as not to damage the environment, which may also have an impact on the requirements for construction products;

F. whereas CPR compliance costs represent 0,6 % to 1,1 % of the construction sector's turnover, borne mainly by manufacturers, which can be very burdensome for SMEs;

1. Welcomes the Commission's CPR evaluation and ongoing review, which seek to further address barriers in the internal market for construction products and contribute to the objectives of the European Green Deal and the Circular Economy Action Plan, while taking account of technological developments and innovation;

2. Points to the specific nature of the CPR, which differs from the general principles of the new legislative framework (NLF), chiefly because it does not harmonise any specific requirements or minimum safety levels for construction products, but instead only defines a common technical language, which is the same for all construction products falling under the CPR, for assessing the performance of construction products over their essential characteristics, laid down in harmonised technical specifications;

3. Highlights that the current CPR ensures the free circulation of construction products within the Union, while Member States retain control of the rules on construction works; notes, in this regard, that the rules of the Member States require that construction works be designed and executed so as neither to endanger the safety of persons, domestic animals or property nor damage the environment; points out that building regulations set at Member State level are generally influenced by the performance of the construction products which are integrated in the works;

([8]) European Commission, 'The European construction sector — A global partner', 2016.

Common technical language, including standards

4. Notes that the common technical language introduced by the CPR is defined by harmonised European standards, and by European Assessment Documents (EADs) for products not — or not fully — covered by harmonised standards in order to address Member States' performance requirements; acknowledges that the European Committee for Standardisation (CEN) and the European Committee for Electrotechnical Standardisation (CENELEC) are the competent organisations for the drafting of harmonised standards, while the European Organisation for Technical Assessment (EOTA) and Technical Assessment Bodies (TAB) are responsible for the preparation of EADs;

5. Points out that unlike other NLF legislation, the use of harmonised standards under the CPR is mandatory, which requires an effective system for their adoption in order to address the needs and reflect the most effective practices of industry, pave ways for innovation, keep up with technological developments, ensure legal clarity and a level playing field for SMEs, and meet the regulatory needs of the Member States; calls on the Commission, to that end, to ensure the active involvement of the industry and relevant stakeholders in order to ensure that new standards are as relevant as possible; notes the importance of the active participation of Member States in the standardisation process;

6. Is concerned by the fact that of the 444 existing harmonised standards for construction products, only 12 new standards were issued after the adoption of the CPR; believes that the time required for the development and citation of standards, the backlog for revising and updating existing standards (CPR *acquis*), the lack of legal clarity in the current legislative framework and the lack of a productive dialogue between all partners currently involved in the process are among the most significant problems associated with the implementation of the CPR;

7. Points to the fact that a significant number of standards do not fully cover all basic requirements necessary for the use of construction products in construction works; is concerned that this incomplete nature of harmonisation has led in part to additional national requirements and mandatory national marks for construction products, which serve to create unjustified barriers, fragment and weaken the internal market and create legal uncertainties for businesses, builders, contractors, planners and architects, leading to potential safety risks for construction works;

8. Urgently calls on the Commission to find a quick and viable solution to improve standardisation processes and remove the backlog of non-cited standards; supports, in this regard, a combination of short-term measures to tackle the backlog and regulatory deficiencies alongside long-term measures to improve the process of defining the common technical language by means of comprehensive harmonised standards;

9. Points to the fact that problems with the development of harmonised standards need to be addressed in all steps of the preparation process; calls on the Commission to closely consult with all the relevant stakeholders during the preparatory phase, in line with the Standardisation Regulation, and stresses the importance of balanced representation and of transparency and openness of all parties involved in order to find workable solutions; highlights the need to ensure that the standardisation requests issued by the Commission are of high quality and the necessity to provide clear and pragmatic guidance; further encourages the Commission to develop comprehensive and horizontal guidelines for standardisation bodies outlining the structure and requirements of a requested standard; suggests establishing clearly defined timeframes for the Commission to assess the prepared standards and clear deadlines for all parties to ensure further revision if a standardisation request or the CPR is found not to have been adhered to; considers it important to define the scope of the standards more precisely so that manufacturers can have clear guidance when declaring that their products fall within the scope;

10. Believes that owing to the mandatory nature of standards in the context of the CPR and the fact that they are considered part of Union legislation, the texts of issued harmonised standards should be available in all Union languages; highlights the need to ensure access to high-quality translation at no additional cost and to enhance the involvement of national standardisation bodies in the translation process; calls on the Commission to further support and simplify the financial arrangements for the translation of harmonised standards;

11. Is concerned by the fact that while the alternative route for products not or not fully covered by harmonised standards was included in the CPR to allow innovative products to enter the market, the vast majority of EADs do not concern innovative products;

12. Believes, in consequence, that the current underperformance of the standardisation system is one factor leading to an increasing use of the EOTA route as an alternative means of standardisation;

13. Points to the lengthiness and high cost of the EOTA route, which is not SME-friendly and mostly only affordable to big market players; stresses that notwithstanding the need for general improvements in the standardisation process, the current procedure for developing EADs can be helpful as a supplementary route to encourage the development of innovative products and the participation of SMEs, but also has to address the manufacturers' goal of putting innovative products on the market as quickly as possible while respecting Union product requirements, and should not be seen as a permanent alternative to the standardisation system;

14. Underlines that a common technical language could help to promote a circular economy as it enables the performance of construction products to be declared in a common manner; considers that greater focus should be attached to standards that can help to promote a circular economy in Europe;

CE marking and Declaration of Performance (DoP)

15. Notes that the CE marking is a means to allow construction products legally placed on the market in one Member State to be marketed on the territory of any other Member State; is concerned by the fact, however, that since the CE marking under the CPR differs from other NLF legislation, as it only refers to product performance and does not attest to conformity with specific product requirements, such a difference in approach from other NLF legislation could create confusion as regards the CE marking and diminish its value; points, in this regard, to the overlaps in the information required by the CE marking and the Declaration of Performance (DoP); believes that this duplication creates additional unnecessary administrative burdens and costs for businesses and should be addressed, including by enhanced use of digital solutions;

16. Regrets the fact that the CE marking under the CPR is wrongly understood as a quality mark and does not determine whether a construction product is safe or could be used in construction works; believes that further solutions are needed to provide end-users with precise and clear information on the nature of the CE marking, with regard to the safety of construction products and their compliance with national building safety and construction works requirements;

17. Calls on the Commission to consider and thoroughly assess the possibility of gradually enhancing the CPR by including therein additional information obligations and product performance requirements with regard to health, safety and environmental aspects following an impact assessment and the assessment of Union and Member States' regulatory needs for each product category; calls on the Commission, furthermore, to evaluate which approach would prove to be effective for the CPR;

18. Notes the lack of digitalisation in the construction sector and emphasises the importance of fully harnessing digital technologies, which could allow for clear, transparent and reliable information to be provided to economic operators and end-users, address the overlap in information requirements and enable market surveillance authorities to carry out their activities more effectively; calls on the Commission to evaluate the benefits of using such technologies and to develop solutions towards the smart integration of existing data that can be utilised throughout different information systems;

19. Believes that digital solutions could enhance the transparency of the market of construction products and ensure the accuracy and reliability of the information provided in the DoP, as well as facilitate the comparability of construction products based on their declared performance, including safety and environmental performance, thereby allowing economic operators and end-users to benefit from the information provided by manufacturers by quickly assessing and comparing requirements for construction works with the information provided in the DoP;

20. Stresses the need to raise awareness among economic operators, in particular SMEs and micro-enterprises, with regard to CE marking and the DoP, including through the single digital gateway; believes that such an approach would increase trust in Union harmonisation and the quality of harmonised standards and help to reduce the fragmentation of the single market; highlights the important role of national Product Contact Points for Construction (PCPC) in informing economic operators about the application of the CPR and providing reliable information on the provisions within the territory of a Member State on the requirements for construction works applicable for the intended use of each construction product; suggests that further efforts be undertaken to increase awareness of the existence of these contact points, as only 57 % of stakeholders were aware of them in 2018;

Market surveillance

21. Is concerned by the fact that market surveillance for construction products is seen as insufficient and ineffective by the industry; emphasises that such a situation undermines the level playing field for economic operators who comply with the legislation, to the benefit of rogue traders, who do not; points out that weak and inconsistent market surveillance could lead to an increase of products that do not meet their declared performance, putting end-users at risk;

22. Calls on the Member States to fully implement Regulation (EU) 2019/1020, which aims to strengthen the market surveillance of products covered by Union harmonisation legislation, including the CPR, and establishes the framework for cooperation with economic operators; stresses the need for a consistent, harmonised and uniform enforcement of new rules by the national market surveillance authorities and for enhanced cross-border cooperation to this end in order to ensure a level playing field in the construction sector and fair competition in the Union market;

23. Recalls the requirement for Member States under Regulation (EU) 2019/1020 to dedicate the necessary financial, human and technical resources to market surveillance authorities, including ensuring that they have sufficient expertise and competences; encourages the Member States to enhance cooperation among their market surveillance authorities, including at cross-border level, and to improve the number, efficiency and effectiveness of checks in order to be able to identify construction products that are not in conformity with their declared performance and prevent their circulation in the single market;

24. Calls on the Commission to swiftly adopt implementing acts under Regulation (EU) 2019/1020 in order to further align the performance of market surveillance authorities by determining the uniform conditions of checks, criteria for the determination of the frequency of checks and the amount of samples to be checked in relation to certain products or categories of products, and by laying down benchmarks and techniques for checks on harmonised products, taking due account of the specificities of the sectors involved, including construction products, and of the impact on a reviewed CPR; notes the important role of the Union Product Compliance Network and administrative cooperation groups (AdCos) in ensuring structured coordination and cooperation between the enforcement authorities of the Member States and the Commission and in streamlining market surveillance practices to make them more effective;

25. Considers it crucial that national market surveillance authorities responsible for construction products cooperate closely with national building control authorities in order to ensure a nuanced approach in assessing the conformity of construction products used in construction works with the declared performance or intended use, as well as to ensure their compliance with building regulations, thereby guaranteeing protection for the health and safety of workers who use construction products and of the users of construction works;

26. Stresses that Member States should take responsibility when introducing national provisions on construction works, including requirements related to the safety of buildings during the construction, maintenance and demolition of construction works, by taking into consideration other aspects important to the public interest, such as the health, safety and security of workers and protection of the environment;

27. Points to the increase in online sales in the construction sector; highlights the need to ensure the effective market surveillance of construction products sold online, especially those purchased from non-EU economic operators, as they might not comply with Union legislation and could therefore influence the quality and safety of construction works, in order to ensure the conformity of construction products circulating in the single market with their declared performance or intended use, irrespective of their origin; underlines the role that online marketplaces could play in this respect;

28. Highlights the importance of ensuring a uniform level of performance of notified bodies carrying out assessments of the performance of construction products, so that their functions are carried out at the same level and under the same conditions; notes, in this regard, the role of the Union testing facilities introduced by Regulation (EU) 2019/1020 in contributing to enhancing laboratory capacity, as well as ensuring the reliability and consistency of testing, for the purposes of market surveillance across the Member States;

29. Stresses the need to enhance the provision and exchange of information on potentially dangerous substances in construction products and to strengthen cooperation with the European Chemicals Agency databases in accordance with the current legislation;

30. Calls on the Commission to continue to effectively monitor and address unjustified barriers in the internal market stemming from national regulatory measures; stresses the need for enhanced dialogue and cooperation between the Commission and the Member States in order to tackle practices that impede the free movement of construction products in the internal market, such as the continuous use of national marks and additional certifications for construction products;

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Sustainability in construction products

31. Highlights the overall need for a transition to a sustainable and more circular economy in the sourcing, manufacturing, reuse and recycling of construction products and in their use in construction works; stresses the need to improve the sustainability of construction products and the availability of secondary and renewable products and materials on the market;

32. Welcomes, in this regard, the Commission's objective to make the construction sector more sustainable by addressing the sustainability performance of construction products in the revision of the CPR, as announced in the Circular Economy Action Plan; supports the Commission's commitment to aligning and making more consistent the legislation on construction products with horizontal environmental policies;

33. Calls on the Commission to envisage incorporating certain requirements regarding environmental performance and sustainability criteria across the lifecycle of products into the harmonised standards for specific product categories under the CPR, while taking account of market and technological developments and national regulatory requirements for the construction sector or buildings policies, in order to provide manufacturers with one single framework for the assessment and testing of products where relevant common compliance requirements arise; highlights the fact that current basic requirements for construction works set out in the CPR can already constitute the basis for preparing standardisation mandates and harmonised technical specifications with regard to the environmental performance and sustainability of construction products; stresses the importance of a proper assessment of the product categories to which such requirements would be relevant and the need for all the relevant stakeholders to be involved in the assessment process; highlights that such incorporation should not lead to an increase in the prices of construction products;

34. Calls on the Commission to assess how the CPR could support the circularity of construction products, including reused or remanufactured products or those manufactured from recycled materials; stresses that this will require reliable data on the previous use of construction products, taking into account the potential costs involved; welcomes, in this regard, the Commission's aim of establishing a common European Dataspace for Smart Circular Applications with data on product information ([9]);

Specific recommendations on the review of the CPR

35. Highlights the need to ensure the proper involvement of all stakeholders in the consultation and evaluation process; emphasises the importance of an extensive impact assessment of the possible regulatory choices; highlights the need for a level playing field and a lighter administrative burden in construction products legislation for all businesses, especially SMEs, while taking account of new business models, as well as for fair competition at global level; calls, in this regard, for further clarification and enhancement of the simplified procedures for micro-enterprises;

36. Stresses the importance of avoiding duplications and of ensuring that the revised CPR is consistent with existing legislation and future legislative initiatives; calls on the Commission, therefore, to clarify the relationship of the CPR to related internal market legislation, such as the Ecodesign Directive ([10]), the Energy Labelling Regulation ([11]), the Waste Framework Directive ([12]) and the Drinking Water Directive ([13]) in order to avoid possible overlaps and, where necessary, to streamline the relevant provisions in order to ensure legal clarity for businesses;

37. Emphasises that any revision of the CPR should be in line with the principles and objectives of the Standardisation Regulation as regards the preparation of harmonised standards in order to ensure their transparency and quality; highlights that any revision should ensure the appropriate involvement of all interested parties and address Member States' regulatory needs;

38. Stresses the need to ensure legal clarity for a transitional period as regards any revision of the CPR and the review of the CPR *acquis*, in order to avoid a legal vacuum and secure the smooth transition from existing to new provisions;

([9]) As stated in the Circular Economy Action Plan.
([10]) OJ L 285, 31.10.2009, p. 10.
([11]) OJ L 198, 28.7.2017, p. 1.
([12]) OJ L 312, 22.11.2008, p. 3.
([13]) OJ L 330, 5.12.1998, p. 32.

39. Is concerned that any revision of the CPR and, in particular, the review of the CPR *acquis* will take significant time, while manufacturers, builders, contractors, planners, architects and other end-users need immediate solutions to overcome the legal uncertainty resulting from, among other issues, the lack of updated harmonised standards and regulatory gaps; calls on the Commission to address these issues as part of its expected review of the CPR, including devising a solution to get to grips with the urgent legal and technical challenges;

40. Calls for an ambitious revision of the CPR with a view to creating a solid regulatory framework with effective, easily enforceable and harmonised rules;

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41. Instructs its President to forward this resolution to the Council, the Commission and the Member States.