

Europacable calls for improvements to ensure that the new Construction Products Regulation (CPR) effectively promotes sustainable construction products and improved safety levels for European citizens while recognising the key role of industry in the standardisation process.

Brussels, 24th October 2022

Europacable, the voice of Europe's wire and cable industry, calls on EU co-legislators to improve the proposal for a new Construction Products Regulation (CPR)¹. The aim should be to ensure legal certainty for the promotion of sustainable construction products and improved safety levels all across Europe while recognising the importance of an open and transparent market-driven standardisation.

The European wire and cable industry has been and is strongly committed to the success of the CPR. This is demonstrated by its active work for more than a decade with the European Commission and Member States to achieve higher fire performance requirements for power, control and communication cables. A high-quality and CPR compliant cable infrastructure plays a key role in ensuring fire safety and providing continuity of power and communication to all crucial devices in case of a fire. Significant efforts and investment both in terms of innovation and product certifications have been undertaken by the industry with the aim of designing and manufacturing products that will contribute to improve safety levels for European citizens.

Furthermore, electrical systems and communication infrastructure using high-quality cables will play an essential role in contributing to the decarbonisation of the building stock through electrification and digitalisation.

With this in mind, Europacable calls on EU co-legislators to take into consideration the following improvements to the new CPR proposal to ensure:

- A. A clearer definition of “construction products”:** The new CPR has seen its scope significantly broadened: from traditional construction products permanently installed in buildings – as per current CPR – to products which may just be used or placed inside a building for a duration of two years (or longer) but have no direct function in the construction work itself (new art. 3 (1)). Such wide and unclear definition represents a major risk for potential overlapping with other regulations and market confusion while directly putting a threat to the legal certainty of the new proposal. In addition, the possibility of further broadening the scope by extending the new CPR to other product areas not expressly mentioned in the proposal increases the confusion (new Annex IV, table 1, row 33).

Europacable strongly recommends that:

- ***The criterion defining a “construction product” as per current CPR (art. 2.1) is maintained to make sure that new art. 3(1) only covers a product which “has an effect on the performance of the construction works with respect to the basic requirements for construction works”;***

¹ [Proposal for a Regulation laying down harmonised conditions for the marketing of construction products, amending Regulation \(EU\) 2019/1020 and repealing Regulation \(EU\) 305/2011](#)

- ***The definition of “permanent” as per new art. 3(2) is deleted to ensure a clearer definition of construction products falling within the scope of the new legislative proposal;***
- ***The product areas covered by the new CPR should be well defined. To ensure that, row 33 “Construction products not included in the product areas above” of Table I in Annex IV should be deleted.***

B. Strict alignment of sustainability requirements and Digital Product Passport provisions for all products in the Single Market: The European Commission has decided to broaden the scope of the new CPR by including environmental sustainability aspects for construction products. In parallel, the Commission has established a framework to improve the climate and environmental sustainability of all other products in the Single Market together with a Digital Product Passport via the proposal for an Ecodesign for Sustainable Products Regulation (ESPR). Europacable believes it would be vital to promote strict alignment between the CPR and ESPR to ensure a consistent and coherent implementation of the new rules all across the EU.

In particular, Europacable fears that a same product group could end up being subject to both regulations with different requirements on climate and environmental sustainability depending on the use of that product. This might be the case for power, control and communication cables currently falling within the scope of the CPR and possibly within the ESPR depending on the interpretation of the definition of “energy-related products”.

Therefore, Europacable strongly recommends that EU co-legislators ensure that the sustainability aspects of CPR are strictly and fully aligned with the ESPR to avoid unnecessary duplications which would jeopardise the Single Market:

- ***A more detailed definition of “energy-related products” within the ESPR proposal (art. 4(2)) should be envisaged together with the request for the European Commission to issue clear guidelines for the interpretation of such definition;***
- ***The delegation of power to the European Commission when defining the product groups to be covered by ecodesign requirements (Annex VI (4) of ESPR) should be framed to guide the EU’s executive body in the selection of products and therefore avoid potential overlaps with product families already covered by the CPR.***

Furthermore, it is vital to ensure a strict alignment with the suggested Digital Product Passport to avoid any unnecessary burden to construction product manufacturers. In this respect, Europacable strongly recommends that:

- ***New art. 78 ensures that CPR-required information and documentation will be processed via the Digital Product Passport and that the latter follows a product-by-product approach and avoids any overlap and duplication with already existing information requirements.***

C. A higher degree of transparency and clarity regarding the coexistence of the current and future legal framework: The new CPR sets a long transition period together with different deadlines for implementation (art. 92 and 93). These may conflict with the current legal framework according to which a product family gradually transitions to CPR as soon as dedicated harmonised standards are cited in the Official Journal of the EU (OJEU). The industry expresses serious doubts about the

possibility for economic operators and market surveillance authorities to effectively act in such a confusing environment where different requirements – either stemming from the current or the new CPR – would apply for different construction products.

Europacable strongly recommends that the EU co-legislators set up clearly defined transition periods and processes to avoid unnecessary disruption in the application of CPR:

- **A new dedicated provision (art. 93.3(a)) to ensure that existing harmonised standards remain valid until the new regime is fully operational and until a new harmonised standard under the new CPR is cited;**
- **A new dedicated provision (art. 93.3(b)) to ensure that new art. 93.3(a) applies also to necessary updates to existing harmonised standards or the development of new standards already covered by existing standardisation mandates.**

D. Targeted short-term solutions for an efficient and effective standardisation process: Europacable understands that the current standardisation process has been underperforming in the existing CPR, with challenges lying mainly with the legal nature of standards rather than their technical content. The new CPR does not effectively address these challenges, notably the problem with the standards that have been blocked from being released in the OJEU in the short term. Given the importance of CPR, concrete short-term actions should be taken to speed up the implementation of the current CPR.

Europacable recommends that EU co-legislators instruct the European Commission to develop with the direct involvement of the industry appropriate guidelines within the framework of the European Standardisation Strategy to speed up and streamline the procedure to timely approve and cite standards in the OJEU:

- **To set up a faster, more agile, flexible and, as a consequence, a more effective process to develop and approve modifications on current classifications, CPR requirements or related tests if proposed and agreed by CEN and CENELEC;**
- **To identify a faster and simpler review process to allow for modifications of standardisation mandates, notably in the case of CEN and CENELEC Technical Committee answers to the mandates for construction products;**
- **To promote a homogenous application of CPR requirements by ensuring that all Notified Bodies follow a harmonised interpretation of CPR rules and implement them accordingly.**

E. A standardisation system which continues to rely on vital industry support: The new CPR proposal foresees a more direct involvement of the European Commission in the standardisation process. The EU's executive body would be empowered to intervene – mainly via Delegated Acts – in many areas, including the possibility to develop technical specifications outside the established standardisation system, which could lead to a risk of a decoupling of the technical specifications from 'state of the art' in the market. Europacable believes that such power should be strictly limited, and that the industry input should always be taken into consideration. In more general terms, the European Commission should avoid any involvement in the standardisation process.

CEN and CENELEC are the right players in the system: they have open, inclusive, transparent and democratic standardization processes which ensure that the

standards issued by the two organisations represent a broad consensus. Furthermore, they rely on the strong commitment of the industry as well as their expertise and in-depth knowledge of both construction products and market conditions in the development of standards.

Europacable urges EU co-legislators to ensure that the responsibility of CEN and CENELEC in developing all necessary standards for construction products is maintained. In this respect, the European Commission's increased empowerment should be clearly defined and framed:

- **Delegations of power (articles 4, 5, 6, 8 and 85), and notably new art. 4(3) should be thoroughly reviewed to expressly limit European Commission's interventions outside the established standardisation processes to exceptional circumstances;**
- **Participation of stakeholders in the elaboration of Delegated Acts should be as transparent and inclusive as possible given the fact that industry-expert knowledge is vital for the success of the CPR;**
- **Dedicated guidelines to define uniform criteria on how and when to trigger technical specifications. should be developed in the framework of the European Standardisation Strategy. Such criteria should be applicable to all areas of legislation and their development should be pursued by the European Commission in a transparent manner and with the direct involvement of the industry.**

We call on the European co-legislators to take the Europacable input into consideration. We look forward to working with both the European Parliament Rapporteur Mr. Doleschal and Shadow Rapporteurs as well as the Czech Presidency of the Council of the EU and European Member States for developing effective improvements to the new CPR proposal. Europacable firmly believes that the future CPR has to promote sustainable and safe construction products while recognising and maintaining the key role of industry in the standardisation process.

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About Europacable

Europacable is the voice of Europe's leading wire and cable producers. High-quality, sustainable power and telecommunication cables, produced by our members in Europe, empower electrification and digitalisation of our societies. Founded in 1991, Europacable represents the largest cable makers in the world providing global technology leadership, as well as highly specialized small- and medium sized businesses from across Europe.

With our future being ever more electrified and digitalised, cable technology will be the core backbone of Europe's energy and telecommunication infrastructures. Sustainable, low-carbon manufacturing and high-performance cables are essential to achieve Europe's climate neutrality objectives by 2050. Europacable is committed to the principles of free enterprise and fair trade. Our members employ over 80.000 people of which more than 50% in Europe, generating a worldwide turnover over € 70 billion in 2021. Europacable is a member of EuroFSA, FEEDS, Orgalim, RGI, WindEurope and a partner of CENELEC and EUEW. Europacable is listed in the European Commission's Transparency Register under 453103789-92. www.europacable.eu

Europacable proposed amendments

A. Ensuring a clearer definition of “construction products”

Art. 3 Definitions

Text proposed by the Commission	Proposed amendment
<p>For the purposes of this Regulation the following definitions shall apply:</p> <p>(1) ‘construction product’ means any formed or formless physical item, including its packaging and instructions for use, or a kit or assembly combining such items, that is placed on the market or produced for incorporation in a permanent manner in construction works or parts thereof within the Union, with the exception of items that are necessarily first integrated into an assembly, kit or other construction product prior to being incorporated in a permanent manner in construction works;</p>	<p>For the purposes of this Regulation the following definitions shall apply:</p> <p>(1) ‘construction product’ means any formed or formless physical item product, including its packaging and instructions for use, or a kit or assembly combining such items products, that is placed on the market or produced for incorporation in a permanent manner in construction works or parts thereof within the Union, with the exception of items that are necessarily first integrated into an assembly, kit or other construction product prior to being incorporated in a permanent manner in construction works and the performance of which has an effect on the performance of the construction works with respect to the basic requirements for construction works;</p>
Justification	
<p>The current definition of ‘construction product’ is wide and unclear, which represents a major risk for potential overlapping with other regulations and market confusion while directly putting a threat to the legal certainty of the new proposal. Furthermore, including formed or formless physical items under this definition creates confusions: a product is something that is produced, so untreated materials should not be included under this definition. This would also be the case for packaging and instructions for use which should be excluded from the definition as they are not products. Against this background, we recommend that the definition of a “construction product” as per current CPR (art. 2.1) is maintained to make sure that new art. 3(1) only covers a product which <i>“has an effect on the performance of the construction works with respect to the basic requirements for construction works”</i>.</p>	
<p>(2) ‘permanent’ means for a duration of two years or longer;</p>	<p>(2) ‘permanent’ means for a duration of two years or longer;</p>
Justification	
<p>The definition as such could lead to misinterpretation and in particular be associated to products which may just be used or placed inside a building but have no direct function in the construction work itself.</p>	

ANNEX IV Product areas and requirements for TABs

Table 1 —Product areas

Text proposed by the Commission		Proposed amendment	
AREA CODE	PRODUCT AREA	AREA CODE	PRODUCT AREA
33	CONSTRUCTION PRODUCTS NOT INCLUDED IN THE PRODUCT AREAS ABOVE.	33	CONSTRUCTION PRODUCTS NOT INCLUDED IN THE PRODUCT AREAS ABOVE.
Justification			
The possibility of further broadening the scope by extending the new CPR to other product areas not expressly mentioned in the proposal increases the confusion.			

B. Ensuring strict alignment with the proposal for an Ecodesign for Sustainable Products Regulation

Recital 28

Text proposed by the Commission	Proposed amendment
(28) In particular, in the case of energy-related products included in ecodesign working plans which are also construction products and for intermediary products, with the exception of cement, priority for the setting of sustainability requirements will be given to the [ESPR]. This should be the case for instance for heaters, boilers, heat pumps, water and space heating appliances, fans, cooling and ventilating systems and photovoltaic products, excluding building-integrated photovoltaic panels. This Regulation may still intervene in a complementary manner where needed, mainly in relation to safety aspects also taking account of other Union legislation on products such as on gas appliances, low voltage, and machinery. For other products, in order to avoid unnecessary burden for economic operators, the need may arise in future to determine the conditions under which the fulfilment of obligations under other Union law also fulfils certain obligations under this Regulation. The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to determine such conditions.	(28) In particular, in the case of energy-related products included in ecodesign working plans which are also construction products and for intermediary products, with the exception of cement, priority for the setting of sustainability requirements will be given to the [ESPR]. This should be the case for instance for heaters, boilers, heat pumps, water and space heating appliances, fans, cooling and ventilating systems and photovoltaic products, excluding building-integrated photovoltaic panels. <i>In this respect, a detailed definition of energy-related products together with a full list of energy-related products which are also construction products shall be drafted by the European Commission within the framework of the [ESPR] with the aim to avoid unnecessary legislative overlaps and duplications of sustainability requirements which may hinder the Single Market.</i> This Regulation may still intervene in a complementary manner where needed, mainly in relation to safety aspects also taking account of other Union legislation on products such as on gas appliances, low voltage, and machinery. For other products, in order to avoid

	<p>unnecessary burden for economic operators, the need may arise in future to determine the conditions under which the fulfilment of obligations under other Union law also fulfils certain obligations under this Regulation. The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to determine such conditions.</p>
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Justification

It would be vital to promote strict alignment between the new CPR and ESPR to ensure a consistent and coherent implementation of the new rules all across the EU. In this respect it is key to ensure a strict alignment with the suggested Digital Product Passport to avoid any unnecessary burden to construction product manufacturers. Therefore, article 78 should ensure that CPR-required information and documentation will be processed via the Digital Product Passport and that the latter follows a product-by-product approach and avoids any overlap and duplication with already existing information requirements.

Art. 78 – EU construction products database or system

Text proposed by the Commission	Proposed amendment
<p>1. The Commission is empowered to supplement this Regulation by means of delegated act according to Article 87, by setting up a Union construction products database or system that builds to the extent possible on the Digital Product Passport established by Regulation (EU) ... [Regulation on ecodesign for sustainable products].</p>	<p>1. The Commission is empowered to supplement this Regulation by means of delegated act according to Article 87, by setting up a Union construction products database or system that builds to the extent possible on the Digital Product Passport established by Regulation (EU) ... [Regulation on ecodesign for sustainable products] in order to avoid overlaps with other EU legislation and to ensure interoperability with already existing requirements.</p>

Justification

It would be vital to promote strict alignment between the new CPR and ESPR to ensure a consistent and coherent implementation of the new rules all across the EU. In this respect it is key to ensure a strict alignment with the suggested Digital Product Passport to avoid any unnecessary burden to construction product manufacturers. Therefore, article 78 should ensure that CPR-required information and documentation will be processed via the Digital Product Passport and that the latter follows a product-by-product approach and avoids any overlap and duplication with already existing information requirements.

C. A higher degree of transparency and clarity regarding the coexistence of the current and future legal framework

Article 93 – Derogations and transitional provisions

Text proposed by the Commission	Proposed amendment
	<p><i>New 93.3(a) Harmonised standards in place at the time of entry into force of this Regulation shall remain valid until Regulation (EU) 305/2011 is repealed and/or a new harmonised standard under this Regulation is cited.</i></p> <p><i>New 93.3 (b) Updates to existing harmonised standards and/or the development of standards covered by existing standardisation mandates valid at the time of entry into force of this Regulation shall be pursued under Regulation (EU) 305/2011 until its repeal and/or until a new standardisation mandate under this Regulation is issued.</i></p>

Justification

The new CPR sets a long transition period together with different deadlines for implementation (art. 92 and 93). These may conflict with the current legal framework according to which a product family gradually transitions to CPR as soon as dedicated harmonised standards are cited in the Official Journal of the EU (OJEU). The industry expresses serious doubts about the possibility for economic operators and market surveillance authorities to effectively act in such a confusing environment where different requirements – either stemming from the current or the new CPR – would apply for different construction products.