



ECOS feedback on the proposal for a revised Construction Products Regulation (CPR)

12 July 2022

Summary

ECOS welcomes the European Commission's proposal to revise the Construction Products Regulation (CPR), in particular the effort to align with the environmentally sound principles put forward by the Eco-design Regulation for Sustainable Products (ESPR).

In the EU alone, buildings and their components are responsible for 36% of EU carbon emissions or 1424 Mt of CO₂ annually, approximately equal to the carbon footprint of the African continent. Unsurprisingly enough, buildings are the sum of their parts, i.e. construction products, both functionally and in terms of environmental impacts. With most impacts embodied in products, especially in terms of carbon, it is essential that the CPR addresses these challenges to secure Europe's pursuit of the 2030 climate objectives. Still, the changes put forward by **the new CPR do not live up to this challenge**.

This is a **once in a decade opportunity to get it right**: with the repealing of the existing CPR falling only in 2045 (art.94 new CPR), it is essential that *this* revision provides concrete solutions to these urgent challenges.

For this reason, ECOS calls on policy makers to:

1. **provide effective solutions to the shortcomings of the CPR standardisation system**, notably by establishing criteria for Commission's intervention, as to facilitate the development of technical specifications even in case of failures of the standardisation system.
2. **restrict the scope of the CPR to construction products, shifting cement under the scope of the ESPR**, together with all other intermediate products such as steel and chemicals.
3. **ensure environmental provisions fully reflect the ambition of the ESPR**:
 - 3.1 by **establishing a structured approach to the development of product and information requirements mirroring the Eco-design process**, which will allow to timely tackle products' environmental hotspots.
 - 3.2 by **securing a methodology that properly assesses construction products' environmental impacts**, ensuring that reliable and comprehensive information is available to building level WLC calculation.
4. **secure the appropriate tools in support of the deployment of sustainable products**, including a more integrated approach to end of life.

ECOS - Environmental Coalition on Standards

Rue d'Edimbourg 26 · 1050 Brussels · Belgium

T +32 2 894 46 68 · info@ecostandard.org · www.ecostandard.org

1. Governance

The problem

The two main objectives pursued by the revision of the CPR are (1) to ensure a better functioning governance of the Single Market for construction products and (2) align with the objectives of the European Green Deal and Circular Economy Action Plan. For this reason, **the effectiveness of the CPR and its governance must be defined and measured against these two objectives.**

- **The “standards problem”**

The 2020 CPR evaluation report¹ notes that the standardisation system at the core of the Regulation has “several problems, notably in terms of delays and the backlog of non-cited standards”². As a matter of fact, no harmonised standards have been cited in the OJEU in support of the CPR for more than 2 years (i.e. these standards were deemed inappropriate for entry into legal force). This alone should justify a major overhaul of the standardisation system, yet the revision limits its reach to only one part of the problem – pre-standardisation activities (development of standardisation requests through the CPR Acquis Technical Expert Group). These leaves the standard development process itself unchanged, guaranteeing further failure. **Art.4 of the new CPR covers the subject but fails to introduce significant changes or solutions.**

In addition, it gives additional powers to this flawed standardisation process to set classes of performance and/or thresholds, potentially mandatory in nature, affecting a wide range of secondary measures, such as those on labelling or on economic incentives (Chapter 7). Similar to other pieces of EU legislation, a fall-back option from standardisation to legal (delegated) acts is envisaged and welcome. If used, it will ensure more effective measures of establishing specifications for products. Yet, as is, the trigger mechanism for the use of such legal acts of art 4(3)(a-g) is too general to effectively provide for a safety net in case of failure. This is because the notion of failure is not clearly defined in the text, with hard-to-trigger formulation (“undue delays”, “in case of failure”). Years may be lost waiting for the flawed standard process to reform itself, without the use of this more effective remedy. This will delay the entry into market of more sustainable construction products.

- **Lack of alignment and safety mechanisms to measure alignment with the ESPR**

As the flagship initiative of the Circular Economy Action Plan and as indicated by the ESPR impact assessment (part I-p.54), the CPR must mirror all obligations and requirements set through the ESPR, including the same level of stringency. This means **that the ESPR will need to act as a benchmark for sustainability rules** it will set and intervene if needed for these products. Yet these criteria remain too vague to be triggered.

The solutions

- Provide effective solutions to the shortcomings of the existing standardisation system by:
 - developing **clear criteria for the fall-back option present in art.4(3)(a-g)**. As of the existing shortcomings, it is essential that the conditions mentioned are properly developed to ensure a solution is readily available in case of failure of the standardisation system. In particular, a definition of “undue” delays should be provided as to cover the exact timeframe/deadline set in

¹ [DocsRoom - European Commission \(europa.eu\)](#)

² [Supporting study for the review of the Construction Products Regulation - Publications Office of the EU \(europa.eu\)](#)

standardisation requests. Moreover, the Commission should be empowered to directly step in and develop legal acts once the standards developed out of standardisation requests are rejected from citation in the OJEU.

- **Ensuring effective alignment with the ESPR.** This should translate to:
 - **ESPR provisions are implemented through legal requirements and not through standards.** This is justified by the significant difference in the establishment of effective obligations deriving from the Regulation. As a matter of fact, standards are not developed through an ordinary legislative procedure, i.e. including consultation of stakeholders and co-decision between the European legislator. As mentioned in the EUCJ James Elliot case³, standardisation is a de facto delegation of powers to standardisation bodies. It is unacceptable that industry standardisers, with an extremely low civil society participation, assume a de facto role of legislator. This is particularly relevant as the new CPR introduces an obligation to assess and declare the environmental performance of construction products, giving powers to standardisers to set voluntary or mandatory thresholds and classes of performance.
 - **The same level of ambition is maintained and cross-checked across the two Regulations.** To satisfy these principles, it is essential that:
 - **a built-in mechanism for assessing alignment is put in place.** This would mean that the CPR draft entering into force must be assessed against the text of the ESPR.
 - **Criteria for the ESPR intervention are integrated in the legal text.** These should clearly indicate that ESPR provisions directly apply in case the above-mentioned assessment indicates a lack of alignment.

2. Scope

The problem

In the new CPR, the definition of "construction product" has been extended as to explicitly include cement, as an intermediate to an end product (art.3(1)). All other intermediate products, including those used in construction, are covered by the provisions of the ESPR. Intermediate products are defined as "*products that require further manufacturing or mixing, coating or assembling to make it suitable for end-users*" (ESPR, art.1(3)).

Minimum eco-design requirements pending on manufacturers as of art.5 and 22, notably tackling embodied carbon in products, will only be applicable to product categories, including cement, if delegated acts are developed. **Without a clear timeline or prioritisation methodology set in place, the relatively slow pace of construction legislation might see high energy intensive products regulated at an unsustainably slow pace for Europe's decarbonisation plan.**

³ [A Harmonised European \(technical\) Standard-Provision of EU Law! \(Judgment in C-613/14 James Elliott Construction\) – European Law Blog](#)

A compelling case to redefine the scope of the CPR exists, as:

- **Cement is the number one emitting sector in the EU and worldwide**, covering approximately 8-10% of global emissions each year⁴. This makes it a priority with regards to the objectives set in art.1 CPR as well as the objectives of the revision to phase-in sustainability requirements for construction.
- **Failing to tackle cement's embodied environmental impacts means substantially failing to mirror the ESPR's ambition** of making sustainable products the norm on the EU Single Market.
- **Other intermediaries such as steel regulated under the ESPR will be soon integrated on the top of the Eco-design working plan⁵** and appropriately regulated through delegated acts in a timely manner.
- The justification provided by the impact assessment concerning the exclusive use of cement in construction⁶ and the negative stakeholder reception do not appear proportionate to the negative environmental impacts caused by cement all along its lifecycle.

The solutions

Policy makers must:

- **roll-back to the existing definition of "construction product"** and cover end-products exclusively.
- **introduce a definition of "intermediate product"** to bring additional clarity to the scope of the CPR and of the ESPR.
- **regulate cement as an intermediate product under the ESPR** and tackle its impacts together with other high energy intensive intermediates.

3 Addressing embodied environmental impacts of construction products for real

3.1 Step 1: getting the methodology straight

What's on the table and why we need to do it well

Art. 4 CPR introduces a critical obligation for manufacturers to assess and disclose the environmental performance of products being placed on the European Single Market. This is **very positive change** compared to the current voluntary system.

Yet, this needs to be done right. Pulling through comprehensive and reliable sets of information on the environmental impacts of construction:

- **At the product level:**
 - represents the first step to understand and quantify the embodied environmental impacts of construction.
 - Is the basis for key tools intended to pull in low-carbon, circular and non-toxic products, such as labelling and Green Public Procurement.

⁴ [Lower CO2 emissions on the horizon for cement | News | CORDIS | European Commission \(europa.eu\)](#)

⁵ [New proposals to make sustainable products the norm \(europa.eu\)](#)

- **At the building level:** is critical to provide information to building-level whole life carbon (WLC) measurements and comply with the newly announced mandatory WLC assessment for new large buildings from 2027⁷.

The problem

In the new CPR, art. 22(1) touches upon methodology but leaves the door open to the use of existing harmonised technical specifications, notably under EN 15804. The latter lays out the core rules of Environmental Product Declarations (EPDs), upon which product category rules are standardised and applied to cover product-specific aspects. However, EPDs are not able to deliver on the decarbonisation objectives posed by the CPR and ESPR, as well as horizontal whole-life-carbon measurements and reduction targets set at the building-level⁸.

We cannot entrust EPDs to be the basis of Europe's decarbonisation plan for construction and buildings, because:

- they remain inconsistent due to varying interpretation and implementation across EPD schemes in different Member States.
- they are overly flexible, variable, and leading to lack of comparability between products, even within the same product category (same Product Category Rules)
- they lack mandatory data quality requirements
- they constitute an opaque and burdensome framework, only accessible to experts.
- alignment with the Product Environmental Footprint (PEF) methodology has not been fully achieved. The aim of PEF is to support EU goals for more sustainable products and will notably underpin measurements under the ESPR. In contrast to EPDs, PEF is a more effective tool as the overall approach is generally more comprehensive, multi-criteria and suitable for application across all sectors. This is to say that the ESPR impact assessment states that the CPR needs to phase in the same or equivalent assessment methodology used for other products. This strongly indicates that PEF should be the preferred methodology to measure the environmental impacts of construction products.

The solution

Policy makers must establish the appropriate methodology and reporting system to assess and disclose environmental performance of construction products. In particular:

- as integration of fragments of PEF into standards is proving too slow of a process, **foresee the direct use of PEF to underpin the CPR.**
- To ensure effective limits to embodied impacts are set, set **mandatory thresholds limits and classes of performance** for the environmental performance of construction products in construction work within standardisation requests. Ensure these go above the provided definition of state-of-the art (art. 4(4)), are future-proof, i.e. index to the EU's climate goals, to justify the right to make green claims consistently over time and gradually phase out worst performers from the European Single Market.

⁷ https://eur-lex.europa.eu/resource.html?uri=cellar:c51fe6d1-5da2-11ec-9c6c-01aa75ed71a1.0001.02/DOC_1&format=PDF

⁸ Environmental Performance of Buildings Directive (EPBD)

- On the basis of the system described above, **secure the timely development of Delegated Acts establishing a mandatory labelling system** in substitution of existing standards covering B2C and B2B communication. As of the importance of communicating environmental assessment results, it will be essential to propose formats that strike a balance between granularity of information and ease of understanding for professional users and consumers. This will be essential to ensure sustainable products are pulled into the market.

3.2 Step 2: information provision as the cornerstone of sustainable construction

The problem

Annex I part D provides directly applicable product information requirements. Yet, the parameters proposed do not fully align with the inherent requirements on performance, as it is the case under the ESPR. In particular, art. 7 ESPR (b)(i) requires products to be accompanied by information on the performance of products in relation to an extended list of parameters referred to in Annex I (product parameters). Yet these do not align with the relatively short list of requirements set by the new CPR in its Annex I.

To ensure full alignment, the CPR must mirror product parameters set in Annex I ESPR.

Some of the missing essential product information parameters include:

- **Carbon footprint**
- Full bill of materials
- Full list of chemical substances and composition
- Microplastic release

Disclosure and collection of information on these key impact categories is of primary importance, as it will constitute the basis for the setting of minimum inherent product performance requirements (see section 3.3).

The solution

Policy makers must:

- introduce a full list of product information requirements (Annex I part D) in the CPR based on the full list of inherent product requirements listed in Annex I part C.
- **Ensure full alignment with the ESPR's product information parameters**, notably by introducing requirements on bill of materials, chemical content as well as microplastic release.
- Where needed, ensure these parameters **are specified by product category through legal acts** in a timely manner according to the approach proposed in section 3.3.

3.3 Step 3: Develop and implement inherent product requirements

The problem

A big step forward in the revision has been made by acknowledging that environmental impacts of construction mainly happen at the level of building materials. Yet, **the ambition of the new CPR remains far from the ESPR**.

This is because:

- **No implementation measures exist within the CPR**, meaning that no structural approach to the development of the general requirements set in Annex I C through Delegated Acts is presented. This is important because:
 - The general requirements set in Annex I are relatively extensive and mostly cover sustainability provisions out of the ESPR, but are not directly implementable until legal acts are developed.
 - Considering the slow-paced developments typical of the CPR as well as the great range of product categories to be covered, such legal acts are unlikely to be developed any time soon. It is essential therefore that a meaningful and participatory process is integrated, which can act as a driver of such development
 - While most construction products have an impact on our health and the planet all along their lifecycle, some score higher than others in terms of environmental impacts. This is mainly the case of structural products, with concrete on top of the list.
- **The ESPR sets a clear implementation structure**, in line with the existing Eco-design process. These measures are laid out in *Chapter V ESPR* (c.f. art. 16-17) and concern prioritisation and planning as well as the so-called Eco-design Forum, for the co-creation of product requirements involving representatives from Member States, the industry and civil society.
- **No timeline is mentioned or set within the CPR text**. With a progressive date of entry into force, it is essential that the process to develop product requirements is kick started as soon as possible. This is justified by:
 - The negative contribution of construction products to the EU's climate (and circularity objectives)
 - The complete absence of requirements related to environmental performance of products under the legislation in force, meaning that the sector is starting from a very low baseline.

The solution

As there is a direct obligation for the CPR to align with the ambition of the ESPR, policy makers must:

- **Include in the CPR text provisions contained in Chapter V ESPR to ensure the timely development of the requirements contained in Annex I part C**. Specifically, this entails the creation of a working plan (as of art. 16 ESPR) as well as a preparatory study identifying key environmental hotspots per product category. This will ensure prioritisation of products and a systematic process to address the wide range of product categories.
- **Ensure these requirements take the form of minimum performance (embodied carbon,..) and functional (circularity, durability,..) requirements**, meaning requirements clearly setting thresholds for market access for the relevant impact category set in Annex I part. C.

- Ensure all information pending on manufacturers are reported through the Declaration of Conformity established by the new CPR.

Responsibly supporting the use of wood in construction

The use of wood products as a structural product in construction holds significant potential to overall bring down the sector's emission, especially due to carbon storage properties. The increased use of wood in the construction sector should contribute to ecological forest management and not worsen the state of EU forests.

For this reason, **the CPR should serve as a key framework to ensure a balance between the better recognition of wood's climate benefits and the risks attached to its increased use in the construction sector.** On top of recommendations for all products delineated in section 1-3, to achieve these objectives, the CPR should **support carbon storage effect reporting for wood**, such as by encouraging the use of dynamic LCA for construction products, or by separately reporting the stored carbon in products and specifying the wood is sustainably sourced.

4 Fully replicate the ESPR tools for construction products

The problem

ECOS welcomes the introduction of a series of tools aiming at fostering circularity and sustainability on the EU Single Market for construction. While most of the measures part of the ESPR toolbox have been effectively introduced (i.e. on market surveillance), this is much less the case for other instruments. In particular:

- **Digital Product Passports (DPP) for construction:** the CPR does not go as far as introducing a DPP for construction. Yet, it establishes a EU construction product database, a relatively outdated centralised system to collect data. The latter cannot support the wider objectives of the Regulation, as:
 - Manufacturers will have to disclose increasing information on their products, which will have to be easily updated.
 - Information is only useful when it's communicated all along the value chain, and notably to end-of-life operators.
- **Measures in support of circularity:**
 - **Destruction of unsold goods:** while the ESPR goes as far as requiring economic operators to disclose information on volumes of discarded products and a potential ban, the CPR simply requires manufacturers to take back surplus or unsold goods. This will only become applicable once these obligations are effectively laid out in Delegated Acts.
 - **Extended Producer Responsibility schemes for construction products:** the construction sector is a substantial contributor to our waste problem, representing 1/3 of EU waste yearly⁹. As for other Regulations recently reviewed (i.e. on Batteries), the CPR should

⁹ [Waste generation — European Environment Agency \(europa.eu\)](https://europeanenvironmentagency.europa.eu)

adopt a more integrated approach to its value chain till end of life. EPR schemes are an effective method to ensure the proper financing of collection, treatment, reuse of construction products reaching their end of life, while fostering eco-design of products.

- **Economic incentives:**
 - **Green Public Procurement Criteria:** very positively, art.84 new CPR gives the power to the Commission to develop EU-wide GPP criteria for construction products. Yet, the article does not indicate (1) the scope of the criteria and (2) a timeline for development.

The solution

Policy makers must:

- **Avoid setting up a centralised database, and introduce a DPP for construction**, reconciling all information required by the CPR, notably under the Declaration of Performance (DoP) and Conformity (DoC).
- **Introduce reporting requirements and a ban on unsold construction products within the CPR.**
- Attempt a reconciliation with end-of-life legislation to ensure tackling impacts all along products' life cycle. To this regard, **introducing EPR schemes** for construction can effectively incentivise circularity and internalise responsibility for better end of life management.
- **Establish a clear and quick timeline for the development of GPP criteria directly applicable at national level**, and ensure parameters reflect the full set of information and inherent product requirements set in Annex I of the new CPR.

With the support of the European Environmental Bureau (EEB)

