



## Evaluation and Impact Assessment

### for the potential Revision of the Construction Products Regulation

#### CONSULTATION STRATEGY, October 2017

##### 1 - Context

EU legislation rules the marketing of construction products, while Member States are responsible for construction works, e.g. safety, environment and energy requirements. Therefore, EU legislation on construction products does not set product requirements, but harmonised rules on how to express the performance of construction products in relation to their essential characteristics and on the affixing of CE marking on those products.

The Construction Products Regulation (the CPR)<sup>1</sup> adopted in 2011 applies in full since mid-2013. It replaced the Construction Products Directive 89/106/EEC (the CPD). The main objective of the CPR is the same as the CPD's, i.e. to make the single market work properly and ensure the free movement of construction products in the EU, by laying down harmonised conditions for their marketing. The CPR, in replacing the CPD, also has specific operational objectives: to simplify the system that existed under the CPD, to clarify concepts and definitions and to increase the credibility of the whole structure. The CPR contributes to the European Union's 'Europe 2020' strategy<sup>2</sup> and to the 'Construction 2020'<sup>3</sup> objectives, namely the sustainable competitiveness of the construction sector and its enterprises.

The Commission presented an Implementation Report on the CPR in July 2016<sup>4</sup>. The report concluded that part of the challenges relate to implementation difficulties and delayed adaptation by stakeholders, and therefore that further work is necessary to improve implementation. The report also identified a significant number of issues which go beyond mere implementation and deserve further serious examination and discussion: e.g. need for clarification regarding simplification provisions, limited evidence of uptake of simplification provisions/lighter regimes by micro enterprises, link with Regulation 1025/2012 on standardisation and mandatory use of standards in the CPR triggering a call for a quicker and better streamlined standardisation process, sector-specific market surveillance and enforcement provisions, detailed rules regarding Notified Bodies and streamlining of procedural rules for finalising European Assessment Documents by EOTA, the European Organisation for Technical Assessment.

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<sup>1</sup> [Regulation \(EU\) No 305/2011](#)

<sup>2</sup> [https://ec.europa.eu/info/strategy/european-semester/framework/europe-2020-strategy\\_en](https://ec.europa.eu/info/strategy/european-semester/framework/europe-2020-strategy_en).

<sup>3</sup> [Communication from the Commission to the European Parliament and the Council, 'Strategy for the sustainable competitiveness of the construction sector and its enterprises', COM\(2012\) 433, 31.7.2012.](#)

<sup>4</sup> [Report required by Article 67\(2\) CPR, COM\(2016\)445 final, 7.7.2016](#)

As announced in the report, the Commission has engaged in wide stakeholder consultation on these aspects through the technical platforms<sup>5</sup> since then.

The REFIT Platform has adopted two opinions<sup>6</sup> on the EU rules applying to construction products. Regarding the effects of EU legislation on the construction sector, they are examined in the ongoing Fitness Check of the construction sector<sup>7</sup>; the issue relating to European harmonised standards for construction products is part of the dialogue with stakeholders launched as a follow-up to the Implementation Report; finally, the Commission reply has clarified the requirement on retailers regarding the declaration of performance.

The November 2016 Energy Union Package<sup>8</sup> mentions the need to unlock the construction sector's growth and jobs potential by improving the functioning of markets, in particular the internal market for construction products which is still fragmented. It refers to the ongoing consultation process with stakeholders<sup>9</sup>, following up on the July 2016 Implementation Report, as "possibly leading to a revision of the Construction Products Regulation within the mandate of this Commission"<sup>10</sup>.

Therefore the decision was made to launch a back-to-back retrospective evaluation and prospective impact assessment. This approach will be based on the several Commission reports and studies already available or under preparation.

The Fitness Check of the construction sector covered EU legislation affecting the construction sector, from the CPR to rules on payment delays, energy efficiency or occupational health and safety. The evaluation and impact assessment of the CPR focus on the CPR itself, i.e. the rules for marketing construction products.

## **2 - Objectives and Scope of the Consultation strategy**

The consultation strategy aims at opening the debate as much as possible in order to offer all relevant stakeholders and final users the opportunity to contribute to the whole exercise possibly leading to a revision of the CPR.

Their experience and perception is expected to provide relevant information needed for the evaluation (i.e. for assessing the relevance, effectiveness, efficiency, coherence and EU added-value of the current system) and for the impact assessment (i.e. for defining the baseline scenario and

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<sup>5</sup> Five meetings have taken place so far: on 12.10.2016 on standardisation, on 18.01.2017 on simplification issues, on 14.03.2017 on information needs, on 21.06.2017 on the coexistence of EU and national systems for the marketing and use of construction products and on 04.10.2017 on EOTA.

<sup>6</sup> [https://ec.europa.eu/info/files/refit-platform-recommendations-internal-market-xii8a-construction-product-regulation\\_en](https://ec.europa.eu/info/files/refit-platform-recommendations-internal-market-xii8a-construction-product-regulation_en) ; [https://ec.europa.eu/info/files/refit-platform-recommendations-internal-market-xii8b-construction-product-regulation\\_en](https://ec.europa.eu/info/files/refit-platform-recommendations-internal-market-xii8b-construction-product-regulation_en).

<sup>7</sup> [https://ec.europa.eu/growth/sectors/construction/fitness-check\\_en](https://ec.europa.eu/growth/sectors/construction/fitness-check_en).

<sup>8</sup> [Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank, Clean Energy For All Europeans, COM\(2016\)860 final, 30.11.2016, Annex 1, p. 9.](#)

<sup>9</sup> Technical platforms and hearing organised in the European Parliament by the IMCO vice-chair on 31.01.2017.

<sup>10</sup> This refers to the Juncker Commission which took office in November 2014 and whose mandate runs until October 2019.

assessing and comparing the impacts of potential options for the future in order to identify the most appropriate option).

Feedback obtained from stakeholders via the different tools mentioned below will contribute to the analysis (triangulation of information) together with desk-research, including available evidence already collected through various reports and studies, as well as through the technical platforms.

From the geographical point of view, the back-to-back evaluation and impact assessment will cover the EU-28. Specific data collection tools may however focus on a representative sample of 10 specific Member States<sup>11</sup>.

### **3 - Stakeholders mapping**

Main stakeholders are economic actors involved in the design, marketing and use of construction products, i.e. construction products manufacturers, building industry/contractors, raw material suppliers, architects, engineers, importers and distributors of construction products, as well as their sectorial associations at EU, national, regional or local levels. Specific attention will be given to SMEs that dominate the construction sector, with an estimated share of 94% of firms with fewer than 9 employees. With respect to industrial policy goals, it would also be necessary to consider in particular innovative companies/start-up.

The consultation strategy will also target other actors of the system, i.e. European Standardisation Organisations, EOTA, testing and certification bodies, market surveillance authorities, Products Contact Points for Construction, as well as other national authorities and other public authorities concerned.

The open public consultation will allow to go beyond the targeted consultations and to give the floor to any other interested party, including citizens, consumer organisations or NGOs, academia or research institutions, trade unions and workers.

To summarize, the key target of the exercise is the construction industry in the EU, in particular SMEs. Further potential stakeholders are the following: public authorities, standardisation organisations, as well as potentially academia or research institutions, environmental NGOs, consumer associations, trade unions, consumers, workers and citizens.

### **4 - Consultation methods and tools**

The review of the CPR will include various consultation methods and tools: the already active technical platforms, interviews and surveys, an on-line open public consultation and a final validation workshop. The approach is to build on the evidence available including resulting from past consultations (for example, the open public consultation in the context of the Fitness Check on the

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<sup>11</sup> I.e.: Belgium, Denmark, France, Germany, Ireland, Italy, Poland, Romania, Spain and the United Kingdom. Those Member States represent more than 80% of the EU turnover in the sector (2013 data from Eurostat SBS). Finally, they cover the various EU geographical sub-regions and both large and small Member States and are considered as representative of the 5 main construction business systems in the EU

construction sector) and the various consultation tools will be designed based on a review of any information gaps and inconsistencies.

- Following-up on the 2016 Implementation report, the Commission services have initiated regular technical platforms<sup>12</sup> with interested stakeholders (mainly Member States, industry, industry representatives and standardisation organisations): these are meetings dedicated to specific issues, i.e. existing problems and how they could be solved in the future. Five meetings have taken place so far and additional meetings are scheduled. The summaries are published on Europa<sup>13</sup>.
- The publication of the roadmap on the Better regulation website has given any potentially interested stakeholders (121 actually<sup>14</sup>) the opportunity to contribute to the design and to the evidence basis of the exercise.
- Interviews and surveys will aim at completing, validating and testing the evidence already available (in particular from other studies<sup>15</sup>) and filling the gaps in order to have available a robust and credible basis to substantiate the evaluation and impact assessment's findings.

Therefore they are expected not to duplicate the existing sources of information and to avoid targeting too much the usual counterparts who were already consulted in past exercises and will be invited to take part in other data collection tools (i.e. validation workshop, see below). The main target shall be industry and in particular SMEs.

The interview and survey programme is expected to focus on a representative sample of 10 Member States<sup>16</sup>.

- A twelve-week on-line open public consultation will complement data collection by expanding it to any voluntary stakeholder or interested party, including environmental NGOs, consumer associations, trade unions, consumers, workers, citizens etc. The consultation will be launched in all EU languages, allowing for any potentially interested party to contribute.

Available tools will be used to draw attention of potential contributors, especially SMEs, including innovative companies/start-ups, to the consultation, e.g. the Enterprise Europe Network.

- Validation workshop: the preliminary findings and conclusions of the evaluation and impact assessment will be discussed at a dedicated technical platform meeting with relevant stakeholders, including sector associations, representatives of governments, standardisation organisations and other organisations, as well as other stakeholders interested identified during the data collection phase.

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<sup>12</sup> See footnote 5.

<sup>13</sup> On [http://ec.europa.eu/growth/sectors/construction/product-regulation/review\\_en](http://ec.europa.eu/growth/sectors/construction/product-regulation/review_en).

<sup>14</sup> See on [https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-3070078/feedback\\_en](https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-3070078/feedback_en).

<sup>15</sup> Including completed studies: [Economic Impacts of the Construction Products Regulation](#), 2016; [Supporting study for the evaluation of the relevance of EOTA tasks](#), 2016; Analysis of implementation of the Construction Products Regulation, July 2015 ([main report](#), [annexes 1 to 4](#), [annex 5: topical reports](#)); as well as the ongoing study on the EU cross border trade of construction products and the ongoing survey on the information needs of professional users of construction products.

<sup>16</sup> See footnote 11.

In order to increase the efficiency of the consultation process, the consultation activities described above will cover both the evaluation and the impact assessment.

Overview of the key stakeholders categories targeted by the various consultation activities:

	Public authorities	Industry associations	Companies / SMEs	Environmental NGOs	Consumer associations	Trade unions	Consumers / workers / citizens
<b>Technical platforms</b>	√	√	√				
<b>Feedback on the roadmap</b>	√	√	√	√	√	√	√
<b>Targeted interviews/surveys</b>	√	√	√				
<b>Open public consultation</b>	√	√	√	√	√	√	√
<b>Validation workshop</b>	√	√	√				

## 5 - Websites

The Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs has set up a website dedicated to the back-to-back evaluation and impact assessment in view of the potential review of the CPR ([http://ec.europa.eu/growth/sectors/construction/product-regulation/review\\_en](http://ec.europa.eu/growth/sectors/construction/product-regulation/review_en)). The website includes the Roadmap, the consultation strategy and the summaries of the technical platform meetings. It will serve as the major information tool concerning the open public consultation.

The on-line questionnaire for the open public consultation will be published on the following website: <https://ec.europa.eu/info/consultations>.