

The Construction Products Directive revised

Matti J. Virtanen

Building Counselor
The Finnish Ministry of the Environment
matti.j.virtanen@ymparisto.fi



Mr. Virtanen has been the Head of the Finnish Delegation to the Standing Committee on Construction since 1995. He explains why the Construction Product Directive has revised, the content of the revision and the meaning of the Construction Products Regulation.

Internal market of construction products does not function properly

One of the main goals of the European Union is the Internal Market for products and services. Construction Products Directive (CPD) was adapted already in 1988. The CPD aims to remove technical barriers to trade in the field of construction products in order to enhance their free movement in the internal market. The real implementation of the CPD will happen according to harmonised product standards. The first harmonised product standard was published in 2001. Nowadays, over 400 harmonised product standards have been published.

However, we are far from the proper functioning of the internal market for construction products. There are still a lot of technical barriers to trade. In 2008 the Commission made a proposal how to revise the CPD. The target is still to remove technical barriers to trade.

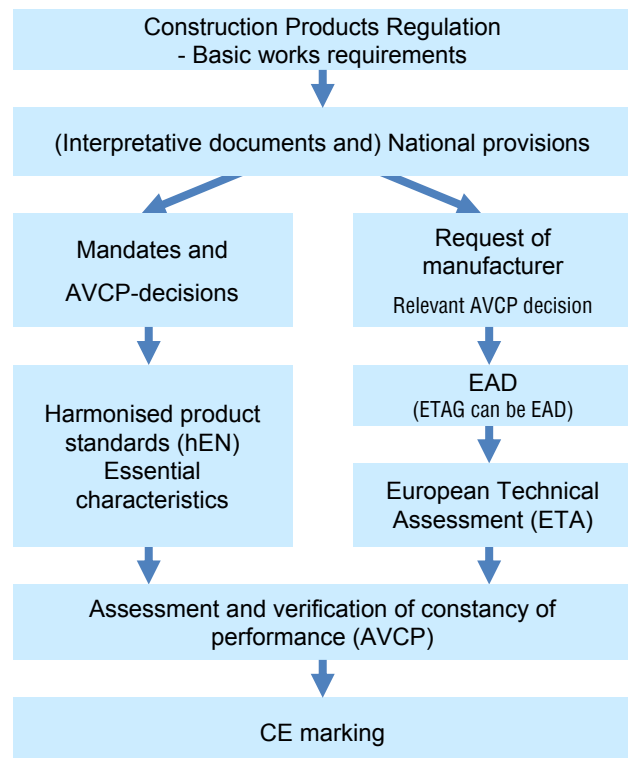
Agreed new Regulation

Construction Products Regulation (CPR) was published in the Official Journal of the EU in 4th of April 2011 after nearly three years work in the European Parliament, in the Council (Member States) and in the Commission. The regulation will partly enter into force on the 20th day following its publication. Most of the articles of the regulation shall apply from 1st of July 2013.

The status of the regulation is different compared with the directive. The regulation will enter into force as such. There is no need to implement it into national legislations. This is very good for industry because it will mean identical application of the rules how to place construction products or make them available on the market. It clarifies also duties and tasks of the manufacturers and distributors which are the same in every Member State.

Content of the CPR

CPR is much longer (68 articles and 5 annexes) compared with the CPD (24 articles and 4 annexes). The main route to CE-marking is still the harmonised product standards. In order to allow a manufacturer to enter into the internal market with a construction product not covered or not fully covered by a harmonised product standard, it is necessary to provide a European Technical Assessment (ETA). In the CPD this route was called a European Technical Approval (ETA). The huge investment of industry on standardization and on ETAs which has been done under the CPD can also be used under the CPR.



The Commission and the Member States have agreed on many Guidance Papers in the meetings of the Standing Committee on Construction. The Guidance Papers are not legally binding but followed by standardization writers. The CPR has adopted some items from these Guidance Papers thus providing a legal basis on existing practice.

The CPD has six attestation of conformity systems. The CPR has the same systems without number 2. They are called systems of assessment and verification of constancy of performance.

eu policy

The CPD has six essential requirements for construction works in its Annex I. The CPR has the same requirements on construction works except number 3 and 4 which has been refined. The CPR has also a new one which is called 'sustainable use of natural resources'. These essential requirements are renamed 'basic works requirements' and can be found from Annex I of the CPR.

The CPD demands a declaration of conformity. It is replaced by a declaration of performance which manufacturers have to draw up. When a construction product is covered by a harmonised product standard or conforms to a European Assessment which has been issued for it, the manufacturer shall draw up a declaration of performance when such a product is placed on the market. This is the obligation even if some Member States have no requirements for the product.

By way of derogation and in the absence of Union or national provisions requiring the declaration of essential characteristics where the construction products are intended to be used, a manufacturer may refrain from drawing up a declaration of performance when placing a construction product covered by a harmonized product standard on the market where:

- a) the construction product is individually manufactured or custom-made in non-series process in response to a specific order and installed by a manufacturer
- b) the construction product is manufactured on the construction site
- c) the construction product is manufactured in a traditional manner or in a manner appropriate to heritage conservation as part of a designated environment or because of their architectural or historic merit

The Commission in consultation with the Standing Committee on Construction should establish the interpretative framework for the definition of 'non-series process'.

The CE marking shall be affixed to those construction products for which the manufacturer has drawn up a declaration of performance.

Anyway, it is not probable that many construction products covered by harmonised product standards are able to derogate from the main rule (mandatory CE-marking and declaration of performance).

The content of the declaration of performance has been explained in Annex III of the CPR. The declaration of



performance will give information on characteristics and intended uses of the construction product.

The CPR sets up requirements on quality of harmonised product standards e.g. to determine the applicable factory production control rules in harmonised product standards. Manufacturers shall draw up technical documentation describing all the relevant elements related to the required system of assessment and verification of constancy of performance. Manufacturers shall keep the technical documentation and declaration of performance for a period of 10 years after the construction product has been placed on the market.

The CPR will force Member States to increase resources of market surveillance authorities. Nowadays, market surveillance resources are very limited in some Member States. The reliable control system needs reliable market surveillance.

Member States shall designate Product Contact Points also for Construction products. This Point shall provide information on the provisions of construction products in its territory. Manufacturers can ask free of charge on rules which are used in the Member States.

CPD is not giving rules to the economic operators but CPR clarifies the obligations of manufacturers, authorized representatives, importers and distributors. The meaning is to guarantee the information related to the declaration of performance and the CE-marking to pass through the whole supply chain to the users of the construction products.

The meaning of the CPR

The CPR will improve the functioning of internal market for construction products. But it does not remove all the problems. It will bring mandatory CE-marking to Finland, Sweden, UK, Ireland and Norway. In these countries the impact of the CPR will be greater than in countries where CE-marking has already been mandatory.

The removal of technical barriers to trade means an opportunity to increase competition. Increased competition means better and/or cheaper products. It has said

that internal market is useful only for big manufacturers. However the same system to “approve” products is useful also for small manufacturers because they can export to foreign markets without any additional approval costs.

The CPR will help reinforce a level of playing field. Designers and purchasers can compare products in a reliable way. Characteristics of products are tested or calculated, assessed and verified in the same way and values of characteristics are declared according to harmonised product standards or ETAs i.e. using so called European common technical language. Results of research and development work can be used in other EU countries. There will be computer programmes which can be used in whole European Economic Area.

A comprehensive set of European standards will help also to determine and monitor the technical quality of construction works. This is one of the main advantages being specially an advantage to small Member States having limited resources to develop their construction regulations.

European standards are not used only in European Economic Area. Applicant countries of the EU are eager to adapt legislation, systems and standards of the EU. Ex-colonies are using standards of their ex-parent countries. Now they have to choose if they start to use European standards because e.g. British standards do not exist any more. EU is keen to promote European standards in third countries. In the long run only USA and the EU have enough resources to develop a comprehensive set of standards for the construction sector. Wider use of European standards is a huge advantage to the European construction industry and consulting companies.

Future development

The main criterion for the success of the CPR is how well it will remove other mandatory or voluntary (de facto mandatory) marks which have more or less the same meaning than the CE-marking. In many cases these other marks are called application marks.

One of the main problems is that Member States are not willing or able to amend their provisions which should be based on harmonised product standards. There is also lack of knowledge how to amend national provisions. There is also a need for national research work to setup requirement levels based on European test methods.

Commission has to be more active against Member States which do not follow the rules. There are a lot of complaints from manufacturers concerning illegal provisions of some Member States.

There are not only harmonised product standards with test-, calculation and classification standards which will be used. There will be more and more design and execution standards. A good example is standards for structural design called Eurocodes. They are replacing national design codes and standards. In the near future structural design can be carried out according to the Eurocodes everywhere in European Economic Area.

CEN has elaborated under the ‘Energy Performance in Buildings Directive’ a set of standards how calculate total energy consumption of buildings. These EPBD-standards are under revision and it is assumed that the revised versions of these standards will be used in the same way as the Eurocodes.

Political decision makers (European Parliament and Council) have expressed their will in the recital of the CPR: “Wherever possible, uniform European methods should be laid down for establishing compliance with the basic requirements set out in Annex I “ (of the CPR). This will help national building authorities to take care of their duties because they can rely more and more on European standards.

If more and more European standards can be elaborated as expressed in the recital of the CPR it will mean a huge advantage to European industry. A lot of resources which are now used to improve the national requirements could be used on European level to further develop standards.

Few observations on HVAC-sector

There is no standardization mandate to many ventilation products. Only few HVAC products have harmonised product standard under the CPD. However there exist national requirements on these products and systems. It would be an advantage to HVAC-industry to have under the CPR harmonised product standards covering also requirements of eco-design and energy efficiency labeling directives.

For example, CE marking is mandatory for air handling units by machinery and low voltage directives, proofing safety of AHUs, but not telling anything about air moving capacity. Eurovent certification focuses on performance characteristics not covered by CE marking.

Is there any protectionism slowing down product standards development? National certification bodies seem to want to keep their own national systems. National certificates and type approvals will cause additional costs to manufacturers and will prevent competition. ☹