

## Euralarm position

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### on the revised Construction Products Regulation (CPR) proposal

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#### Executive Summary

Euralarm represents Europe's electronic fire safety and security industry, a sector whose products are already largely subject to the existing CPR and an industry, that relies on European Union harmonization legislation to provide the consistent and reliable products needed to realize safe and effective fire and security systems in buildings.

Our industries welcome the publication of the Commission's proposal for a new Regulation on construction products (hereafter "the new CPR"), We note that the legal framework proposed is very flexible and, contrary to the consultation process, makes fundamental changes to the CPR. However, the times scale for the introduction of the new legislation, coupled with complexity of options *and* need for delegated acts to establish the details and consequences for our sector, fail to address the core issue which is that the EU standardization process has stagnated under the weight of the legal interpretations and obligations of the current CPR.

Notwithstanding this fundamental observation we provide input into the Commission's proposal consultation to address key points for our industry.

#### We welcome:

- ❖ CE-marking being still a part of the new CPR and a stronger Single Market
- ❖ increased focus on sustainability
- ❖ the use of digital tools
- ❖ empowerment to adopt delegated acts to avoid double assessment of products
- ❖ product requirements now being in the new CPR becoming mandatory by delegated acts

#### We call for clarifications and ask for reconsideration on the following points:

- ❖ Complexity and missing simplification
  - ❖ Scope
  - ❖ Product requirements
  - ❖ Double testing
  - ❖ Modified declaration of performance for used, remanufactured and surplus products
  - ❖ Declaration of Conformity
  - ❖ Product marking
  - ❖ Obligations on manufacturer
  - ❖ Construction products standards and derogations and transitional provisions
  - ❖ Standardization
  - ❖ Product information requirements
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## 1. Introduction

Euralarm, the European association representing the electronic fire safety and security industry, welcomes the opportunity provided by the European Commission to give feedback on their proposal for a Regulation laying down harmonised conditions for the marketing of construction products (hereafter, “*the new CPR*”), amending Regulation (EU) 2019/1020 and repealing Regulation (EU) 305/2011.

Within the Construction sector many of our national industry associations and international industry members represent a variety of large and smaller industries that manufacture, install and maintain fire detection systems and fire protective products. Euralarm actively contributed at the previous stages of this topic through participation in various consultations/conferences and wishes now to provide focused points.

Euralarm welcomes the publication of Commission’s proposal for a new CPR, but also have a number of concerns. This paper aims to share the key observations and concerns for our industry.

Besides these focus points, Euralarm generally supports the comments from the ESO’s CEN/CENELEC and from our partner association ORGALIM.

## 2. Aspects to be welcomed

We welcome this proposal for a new CPR as the start of a journey towards a more sustainable and digital construction sector. Euralarm finds it positive that:

- the CE-marking is still a part of the new CPR. This is an important aspect of the harmonisation of the Single Market for construction products which has allowed our companies to enjoy the free movement of these goods.
- the focus on sustainability is increased, as most Europeans spend up to 90% of their time indoors and building are said to account for 40% of the energy consumption, it is easy to see why the construction products industry plays such an important role in the implementation of the circular economy package and environmental sustainability.
- the use of digital tools for compliance procedures is extended.
- the Commission is empowered to adopt delegated acts to avoid double assessment of products (Art 8)
- product requirements are now in the new CPR and that they are becoming mandatory and are law by delegated acts.

However, we believe that these goals need to be implemented in a practical and transparent way.

## 3. Focus areas of concern to Euralarm

### 3.1. General

**Failure to address the core problem:** We note that the legal framework proposed is very flexible and, contrary to the consultation process, makes fundamental changes to the CPR. However, the times scale for the introduction of the new legislation, coupled with complexity of options *and* need for delegated acts to establish the details and consequences for our sector, fail to address the core issue which is that the EU standardization process has stagnated under the weight of the legal interpretations and obligations of the current CPR.

**Complexity of the proposal:** We are not sure if we understand the big picture correctly - processes aren’t clear. The multiplication of using delegated act brings unnecessary complexity.

**Simplification:** Euralarm is concerned that the combination of the DoP with a DoC related to inherent product safety requirements does not result in the simplification that many stakeholders mentioned during the impact assessment.

Furthermore, the link between the inherent product and building safety needs to be clarified.

### 3.2. Scope (Article 2 and parts of Article 3)

**Problematic:** The scope of new CPR has been significantly broadened. The change in wording in the definition of a construction product and the definition of “permanent”, means that the new regulation will cover items and products when they are integrated into a building for more than two years. Furthermore, the addition of Row 33 to Table 1 in Annex IV – “Construction Products not included in the product areas above” constitutes a major change from the current CPR. These additions open the possibility for a significant increase in the number of products and items that are included in the scope, e.g. Video Fire Detectors, Remote control panels, Door Closers and Electromagnetic Door Holders, Photo-luminescent and Self Luminous Exit Signs & Path Markers etc.

As a consequence, it is not clear how the new CPR will be applied to products in Annex I part A because only a voluntary EN is cited but not a hEN based on Annex I, Part A. We consider that these changes are a risk to the legal certainty of the new CPR.

**Proposal:** We suggest to keep the current criteria for construction products: that the product “*has an effect on the performance of the construction works with respect to the basic requirements for construction works*”.

### 3.3. Product requirements (Article 5)

When reading Art 5(1) “*All products covered by this Regulation shall, prior to their placing on the market or direct installation, satisfy the generic, directly applicable product requirements set out in Annex I Part D ...*” it seems that all construction products (“*any formed or formless physical item.... for incorporation in a permanent manner in construction works*”) according to Art 3(1) have to fulfil the product information requirement of Annex I Part D even when there is no harmonized technical specification covering a specific particular product family or category or a delegated act specifying the product family or category.

**Problematic:** There are a lot of products which are currently not covered by the construction product regulation. Many may be some smaller items where a characteristic according Annex I part 1 cannot be applied or is not relevant. For example, a nail to fix a picture on the wall or a small safety sign on the wall. The requirement of Art 5(1) would be new for the manufacture of such products and require to provide a lot of information for the user. The scope is very wide which might result in a need for additional interpretation and explanatory information. It is also not clear which of the information listed in Annex I Part D is sufficient to fulfil the revised Construction Product Regulation.

- ? Is it up to the manufacturer to define which information is needed? Does the manufacturer have to add more information compared to the current situation?
- ? Is it necessary to provide additional information like ‘key parts’, ‘conditions of uses’ or for safety during transport, installation, maintenance, deconstruction and demolition for a nail to fix a picture for more than two years on the wall? It can be questions if this adds much benefit.

### 3.4. Double testing (Article 8)

**Problematic:** This article provides for an empowerment to adopt delegated acts determining to avoid double assessment of products.

**Proposal:** It should be stated more generally that if an existing EU regulation/directive exists then the CPR regulation should not cover the same topic.

### 3.5. Modified declaration of performance for used, remanufactured and surplus products (Article 12)

It is unclear, whether this enumeration is either alternative or cumulative. As it is obviously the intention, that all the requirements have to be met, this should be clarified by adding “and” to the text of 1. (a)-(c)

*(a) the intended use is not changed otherwise than by reduction in terms of performance or intended uses or to merely decorative purposes **and;***

(b) the lifespan of the initial product or the relevant durability performance has been specified in the initial declaration of performance, the harmonized technical specification on which the initial declaration of performance was based, or is generally known on the basis of common civil engineering knowledge **and**;

(c) the time that expired after the first integration of the product into a construction work does not exceed the lifespan of the product or the relevant durability performance, whatever is shorter.

#### 1. (b) common civil engineering knowledge:

**Problematic:** There are a lot of different products and systems from very different technological origins, which are subject to the CPR and which are used and installed in a building. With regard to this, the half-sentence „...or is generally known on the basis of common civil engineering knowledge“, reduces the pool of experience far too much. For example, Fire Detection Technologies are not the subject of civil engineering, but are issues of electrical and electronic engineering.

There are a lot of different ways to codify knowledge; different kinds of standards are a widespread way and therefore should be mentioned

**Proposal:** Replace “common civil engineering knowledge” by “**state of the art subject-specific knowledge**” and add “**The subject-specific knowledge may be laid down in national or international handling standards**”.

### 3.6. Declaration of Conformity (Art. 13)

**Art 13 (1)** *"Before placing a product on the market, the manufacturer who is not exempted from the obligation to produce a declaration of performance shall: ... draw up a declaration of conformity"*

**Problematic:** When reading this in combination with Art 9(1): *"Where a product is covered by a harmonised technical specification adopted in accordance with Article 4(2) or (3), the manufacturer shall undergo the applicable assessment and verification system set out in Annex V and draw up a declaration of performance before such a product is placed on the market."* it is not fully clear if the manufacturer needs to draw up a declaration of conformity even in those cases where the product is not covered by a harmonised technical specification adopted in accordance with Article 4(2) or (3).

**Proposal:** A better way to express this would be the following change to Art. 13(1): *"Where a product is covered by a harmonised technical specification adopted in accordance with Article 4(2) or (3), the manufacturer who is not exempted from the obligation to produce a declaration of performance shall before placing the product on the market: ..."*

### 3.7. Other markings (Art 18)

The sentence *"No other marking than marking set out by Union legislation may be affixed on a product in a distance smaller than the double length of the CE marking measured from any point of the CE and the other marking set out by Union law."* requires a much larger marking space than currently required by all other EU directives and regulations.

**Problematic:** When it is assumed that the CE marking will be affixed on the product as required according Art 17 and next to the CE marking a lot of other information must be affixed on the product due to many of other legal requirements (from EU regulation, legal requirements from other countries etc.) it gets very difficult to apply all requirements. For smaller products (current label size for example 20-30 cm<sup>2</sup>) it will be impossible to fulfil all applicable marking requirements. If you look at some products, especially products sold globally (for example a computer power supply) you will see that marking space can be very limited. It is acknowledged that each marking should be readable and recognized by the user. But it is not fair to reserve empty space for one marking so that there is less space for other markings left. There might also the danger that other countries and other organizations may copy this requirement to their regulations. This will open the door for even more space requirements for each marking. This would result in a problematic situation and a huge burden for all industries.

**Proposal:** It is proposed to delete the sentence *"No other marking than marking set out by Union legislation may be affixed on a product in a distance smaller than the double length of the CE marking measured from any point of the CE and the other marking set out by Union law."* in Art. 18.

### 3.8. Obligations on manufacturer (Art 21, 22, 23 and 78)

The new CPR proposal introduces several obligations on the manufacturers in addition to those set out in the existing set of rules:

**Art 21(5):** New additional requirement on **labelling and marking “Only for professional use”**

**Art 22 (2f):** “make available, ..... , information on how to repair the products and any additional information necessary for repairing” –

**Problematic:** Information on how to repair a product does not seem reasonable. It is very difficult to determine what the problem is and thereby how to repair it.

**Art 22(2g):** “*spare parts for their products for 10 years after the last product of the respective type has been placed on the market*” is a huge and unreasonable burden on the manufacturer and there is a risk of manufacturers producing more spare parts than needed to make sure that they can meet the obligation, which is not necessarily beneficial from a sustainability perspective.

**Problematic:** It is also not clear how to fulfil this obligation for products withdrawn from the market for technical or from legal reasons.

**Art 22(5):** New additional requirement on **labelling and marking - “traffic light labelling”**

**Art 23 (1):** **Obligations of authorized representatives:** The requirement “*A manufacturer not established in the Union shall appoint a single authorized representative.*” does not exist in the current CPR and do not exist in many of the other directives and would also be in contradiction with the EU Market Surveillance Regulation 2019/1020.

**Problematic:** The REGULATION (EU) 2019/1020 (market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011) states in Art 4(2)(b) “*an importer, where the manufacturer is not established in the Union*” as one of other options for an economic operator. This means that a manufacturer not established in the Union it is sufficient to have an importer and it is not required to appoint a single authorized representative. This is in line with the CE Blue Guide 2016. chapter 3.2., first paragraph and other current EU directives.

The requirement in Art 23(1) would also be in direct contradiction to the EU Market Surveillance Regulation 2019/1020 (Article 4 of that Regulation requires manufacturers established outside the Union to have either an authorized representative or an importer), which Article 86 of the CPR proposal declares applicable for construction products. This would lead to greater irritation in the market and additional effort for all manufacturer of construction products outside the EU.?

**Proposal:** It is recommended to delete the sentence “*A manufacturer not established in the Union shall appoint a single authorized representative.*” in Art 23(1) and in Art 17(2)(c) the sentence part “*where the manufacturer does not have a place of business in the Union or ...*”.

**Art 78:** **New EU Database for DoC’s and DoP’s** with question marks on IP of manufacturers and publication on manufacturer’s website in parallel.

The sum of the new, additional obligations on manufacturers mentioned will certainly lead to an increase in the costs of production and of bringing products to the market. An increase in prices and increased cost of construction work will be a logical consequence of this.

### 3.9. Construction products standards (Art 34) and transitional provisions (Art 93)

The sentence in Art 34(2) "*Construction products standards developed pursuant to Article 4(2) [for harmonised technical specifications] shall be of mandatory application for purposes of this Regulation as of six months after the publication of their reference in the Official Journal in accordance with paragraph 4...*" and in Art 93(6) "*The requirements set out in Chapters I, II and III applicable to economic operators with regard to a certain product group or product family shall apply as from one year after the entry into force of the harmonised technical specification covering that product group or family*" sets a specific deadline for the manufacturer to implement the application of standards.

At the same time the Commission may define the applicable assessment and verification system (AVS) of Annex V via delegated act according Art 6(1) and the manufacturer has to apply it by Art 9(1) Art 13(1) and Art. 21(1). Depending on the selected AVS a notified body must assess the performance of the product on the basis of type testing.

**Problematic:** A type testing by notified bodies for all product types of all manufacturer of this product types takes much longer than 6 or 12 months. Experience during the last centuries showed that even a time frame of 4 years for such a type testing resulting from an updated harmonised standard may be challenging. It is assumed that a fix timeframe within the construction product regulation (CPR) will result in a requirement which is impossible to fulfil.

**Proposal:** It is proposed to delete the fixed deadlines in the (CPR) and specify the deadlines via implementing decision in the Official Journal as currently done for the regulation No 305/2011 ('End of coexistence period'). A possible way to do this would be as drafted in Regulation No 305/2011, Art. 17(5).

This would allow much more flexibility depending on product type, applicable standard and AVS.

### 3.10. Standardisation (chapter IV)

It is difficult to see how the new CPR will solve the problem with the standards that have been blocked from being released in the Official Journal in the short term.

Furthermore, the principles and rules concerning when to call a harmonized standard mandatory or not mandatory are missing. We would also like to see a better balance achieved between the confidentiality for the individual manufacturers and the need for transparency for the overall industry. Unless these rules are clarified for the different new elements introduced, we see the risk that the implementation of the new CPR may be blocked even more.

### 3.11. Product information requirements (Annex 1 Part D)

Transport, installation, maintenance, deconstruction and demolition rules.

Safety and Security Industry has created an "umbrella standard" EN 16763:2017 "Services for fire safety systems and security systems" to have the same level of services all across Europe. This is an issue at the core of the creation of the Single Market, as services have traditionally proven somewhat more difficult to harmonize across the EU, due to the fact that they are often provided by small, local companies.

The objective of this standard is to set minimum levels of service, it presents a list of requirements that service providers all around Europe shall abide to, describing in detail what is expected from the different phases and actors in the work for fire safety and security systems and how to demonstrate compliance. These standards do not contain product requirements, so there is no conflict to the CPR, but they are a necessary supplement

As installation and maintenance are the very core part of this umbrella-standard and the complementary standards, CPR should refer to them.

**Proposal:**

Add: "*The information or parts of it may be laid down in national or international handling standards.*"

## 4. Conclusion

Euralarm welcome the publication of the Commission's proposal for a new Regulation on construction products and believes that the suggestions and questions presented in this position paper would contribute to a clearer regulatory environment for the construction sector if the proposal goes ahead.

However, Euralarm also observes that the core problem facing our sector is the stagnation of the standardisation process and have reservations that the processes and legislative complexities contained within Commission's proposal for a new CPR will address this fundamental issue.

We look forward to working with all stakeholders involved to build a future Regulation that provides for timely generation of standards which can reflect best and latest practices – including both a high level of sustainability, and ensures the free flow of goods in the European single market with a high level of product quality, which meets the state of the art requirements of the markets.

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### About Euralarm

Euralarm represents the fire safety and security industry, providing leadership and expertise for industry, market, policy makers and standards bodies. Our members make society safer and secure through systems and services for fire detection and extinguishing, intrusion detection, access control, video monitoring, alarm transmission and alarm receiving centres. Founded in 1970, Euralarm represents over 5000 companies within the fire safety and security industry valued at 67 billion Euros. Euralarm members are national associations and individual companies from across Europe.

EURALARM, Gubelstrasse 11 • CH-6300 Zug • Switzerland

E: [secretariat@euralarm.org](mailto:secretariat@euralarm.org)

W: [www.euralarm.org](http://www.euralarm.org)

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