



EUROPEAN CONSTRUCTION  
INDUSTRY FEDERATION

European Construction Industry Federation (FIEC) is the “Social Partner” representing employers in the European Sectoral Social Dialogue “Construction”. FIEC represents via its 30 National Member Federations in 27 countries (24 EU & EFTA and Turkey) construction enterprises of all sizes, i.e. small and medium - sized enterprises as well as “global players”, carrying out all forms of building and civil engineering activities.

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Construction Products Europe (CPE) is a international non-profit making association made up of national and European associations that represent small and medium-size enterprises and world-leading companies. CPE aims to promote the European construction industry, to share information on EU legislation and standardisation and to provide input in all European construction-related initiatives.

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## FIEC / CPE - position paper

19.04.2016

### EUROPEAN PRODUCT STANDARDS AND THEIR RELATIONSHIP TO REGULATION (EU) N°305/2011 - CONSTRUCTION PRODUCTS REGULATION

**FIEC & CPE support** an open and transparent CEN standardisation system involving all concerned parties to develop, maintain and publish inter alia product standards, which support EU industry, not least by providing a common European technical language.

**FIEC & CPE acknowledge** that Directive 89/106/EEC (CPD) and Regulation (EU) 305/2011 (CPR) have been an important catalyst for the development of European product standards and use thereof in the construction sector;

**FIEC & CPE note with concern** that CEN product standardisation in the construction sector is predominantly determined by legal necessities and the need to satisfy Regulation (EU) N° 305/2011, leading to:

- European product standards being limited to mainly addressing regulated (essential) characteristics, and not given the freedom of addressing all the product properties and characteristics stakeholders consider relevant<sup>1</sup>;
- European product standards not always being permitted to define product types on the basis of technical thresholds and technical classifications that would allow stakeholders (contractors, architects, engineers...) to easily and safely select construction products that are suitable for specific purposes<sup>2</sup>;
- users often misunderstanding Annex ZA of harmonised standards as the reference for exchanging all relevant technical product information, while in reality it only addresses essential characteristics which are presented in the context of an abstract containing the intended use(s), thereby missing “non-essential” characteristics addressed in the “voluntary” part of the standards that may be technically relevant for concrete uses;
- CEN standards making reference to Regulation (EU) N° 305/2011, even though standards in general are commonly agreed documents, the use of which is voluntary and which may be used independently of public legal requirements - moreover in non-EU, as well as EU countries;

<sup>1</sup> The essential characteristics are determined by Member States and mandated by the European Commission and stakeholders are not properly involved in this process.

<sup>2</sup> Whereas the European Commission may have an interest in limiting the use of (mandatory) levels and classes in accordance with article 27 of Regulation (EU) N° 305/2011, technical thresholds and classification should be possible for any characteristic in European product standards, included or not in Annex ZA.

- the European Commission influencing the technical content of draft harmonised standards inappropriately, in some cases contradicting the EC CEN consultants whose role is to support CEN in developing harmonised technical specifications.

**FIEC & CPE note with concern** that EC guidance and opinions have in some cases an unclear legal status and are developed with inadequate consultation with relevant stakeholders, especially concerning:

- the European Commission's Guidance papers - which were developed in the framework of the Construction Products Directive;
- new guidance or European Commission interpretation of the CPR published as "soft legislation" by means of answers to Frequently Asked Questions (FAQ);
- letters addressed to individual construction sector stakeholders, promoting the European Commission's interpretation of the CPR.

**FIEC & CPE consider** that the European Commission has not provided the necessary internal resources to implement Regulation (EU) N° 305/2011 effectively. Consequently the way the Regulation is being implemented is leading to delays in:

- updating mandates (and standardisation requests)<sup>3</sup>,
- processing delegated acts that are relevant to standards
- assessing and citing published standards<sup>4</sup> in the Official Journal;

These delays result in higher costs for manufacturers and consequently for contractors and end users and a general uncertainty, due to the processes being delayed and not always being sufficiently transparent and clear.

In summary **FIEC & CPE conclude** that:

Harmonised product standards should allow construction products users (contractors, architects, engineers...) to obtain the required information and to select fit for use products. However, due to their link with the CPR, European product standards for construction products have been too influenced by the CPR, making them less relevant for contractors. For each European product standard, contractors and other users may need (an) additional(s) document (national or even local) to allow them to select appropriate products. These additional documents may comprise criteria for the products to suit their use and properties and characteristics that are missing from harmonised product standards.

In general, the Declaration of Performance and the information accompanying CE marking are not used by construction sector players, in particular contractors.

<sup>3</sup> Mandates in some cases do not reflect Member States' needs and delays in the adoption process of mandates and delegated acts cause considerable postponements in the development process of candidate harmonised standards.

<sup>4</sup> Delays in citing harmonised standards result in manufacturers not being able to benefit from CE marking and sometimes having to apply older versions of standards which sometimes have been withdrawn by CEN and national standardisation organisations and do not reflect the state-of-the-art and good workmanship.

Standardisation of some construction products is blocked by assessment and bureaucratic action (e.g. delegated acts) creating a difficult situation for stakeholders manufacturing or using them in the market.

**FIEC & CPE propose:**

- Clear procedural timelines with regards to the establishment and amendment of standardisation requests and the amendment of existing mandates and with regards to the establishment of thresholds and classification in standards and consolidation of the already existing mandates and the CEN answers to those mandates;
- An obligation for Member States to systematically register new or amended legal construction product requirements, classifications and thresholds used, permitting the European Commission to ensure mandates or standardisation requests reflect Member States' regulatory needs;
- Communication of performance declarations (documents) may suffice for Member States' purposes, but to permit construction sector actors to work with the manufacturers' declared performances, CPR should ensure compatibility with Building Information Modelling (BIM), i.e. manufacturers should not be obliged to provide information through written declarations, but should be permitted to communicate data in computer readable formats.
- It should be possible to complete the information required by Annex ZA in European product standards with information, in those standards, necessary for construction product users and with the reliability that reflects contractors' needs.
- Coordination between all relevant European Commission Directorates General, ensuring that all regulatory requirements that apply to construction products are covered by European Commission mandates or standardisation requests and the harmonised standards.
- With the exception of some products, construction products are not consumer goods. Construction products are used to build construction works which generally have an almost permanent character and which require large financial investment. Contractors should be able to select appropriate products, taking into account the concrete (real) use of the products. Hence, product standards should:
  - be based on the consolidated results of science, technology and experience;
  - reflect the state-of-the-art and good workmanship;
  - reflect the interests of users of construction products.
- Standards should include both regulatory provisions and, when justified, provisions not referred to by Annex ZA, to cover stakeholders' needs.
- To avoid the use of products that are unfit for specific uses, standards should be free to include technical levels and technical classes also in cases where Annex ZA does not comprise (regulatory) thresholds, or requires performances - and to define product types based on these technical levels and classes.