

Cerame-Unie position paper on the proposal for a revised Construction Products Regulation

On 30 March 2022, the European Commission published its proposal for a revised Construction Products Regulation (CPR). As part of the Circular Economy package, this proposal aims to boost the internal market for construction products and ensure that the regulatory framework in place is fit for making the built environment deliver on sustainability and climate objectives, in the light of the EU Green Deal. In this position paper, the European ceramic industry, represented by Cerame-Unie, would like to share its views on the proposal from the European Commission.

General remarks

A functioning and stable legal framework is of utmost importance for companies to remain competitive in a construction sector, it is key for the EU economy, that has been hit recently by both the Covid-19 pandemic and war in Ukraine.

In this context, **Cerame-Unie welcomes the publication of the long-awaited Commission's proposal for a revised CPR and fully supports its objectives to achieve a well-functioning single market for construction products as well as to contribute to the green and digital transition for a resource-efficient and competitive construction industry.** Cerame-Unie supports the strengthening of the single market for construction products, the principles of circularity and environmental sustainability and an easier information among economic operators enabled with digitalisation, as highlighted in the proposal.

Given the need to manage interlinkages between environmental and structural performance of construction products, **Cerame-Unie welcomes that ecodesign requirements for construction products will be laid down under the revised CPR**, according to the proposal for the Ecodesign for Sustainable Products Regulation. This will help to avoid duplication of efforts and unnecessary regulatory burden for manufacturers.

However, Cerame-Unie would like to detail below some concerns about specific points presented in the proposal.

Chapter 1 - General provisions

Exclusion of sanitary appliances from the scope of the CPR (art. 2)

The proposal from the Commission seeks to extend the scope of the current CPR to include reused and remanufactured products as well as new families of products (e.g. 3D-printing related products). In parallel, the Commission proposes to exclude from its scope construction products which were until now included in the scope of the CPR, such as sanitary appliances, with no justified rationale. **Cerame-Unie is deeply concerned about the exclusion of sanitary appliances from the scope of the CPR, as this situation will create legal instability that will be detrimental for the industry.**

First of all, sanitary appliances were until now falling under the scope of the current CPR, as they are with no doubt construction products. **We regret that no clear rationale is justifying this exclusion in the proposal.**

Secondly, excluding sanitary appliances from the scope of the CPR will add obstacles and restrict free movement of these products on the single market, which is contradictory to the objective of the European Commission to boost the internal market for construction products with this revision.

Manufacturers anticipate an increase of costs due to the necessity of additional measurements in accredited laboratories and the re-introduction of mutual recognition principles.

Thirdly, 11 harmonized product standards for sanitary appliances will be affected by this exclusion. Both the standardization committees and **the industry fully support the goal of a common and harmonized market** for sanitary appliances and spent a lot of effort to harmonize the requirements of many national certification schemes since 2004. The situation of standards and technical specifications once the current legislation will be repealed in 2045 is unclear. Furthermore, no guidance about the transition back to national certification systems as well as how national pieces of legislation related to construction should evolve after the repeal of the current CPR are provided in the proposal.

→ **For the reasons detailed above, Cerame-Unie is asking the European Commission to reintroduce sanitary appliances in the scope of the revised CPR.**

Definitions (art. 3)

- ‘construction product’: Ceramic manufacturers fully commit to comply with specific sustainability requirements for their construction products and their packaging. However, Cerame-Unie does not consider that packaging is an essential part of the construction product as this is not incorporated in a permanent manner in construction works. **Cerame-Unie asks to remove packaging from the definition of ‘construction product’.**

- ‘reused and remanufactured products’: Ceramic manufacturers welcome the intention to define reused and remanufactured products. For clarity, in article 3.24 we would propose to include a reference to Article 3.13 of Directive 2008/98/EC (definition of re-use). In addition, further clarification with regards to the notions of cleaning and common civil engineering knowledge would be welcome. **Cerame-Unie asks to include Article 3.13 of Directive 2008/98/EC in the definition of reused products.**
- ‘permalink’: according to the Commission Delegated Regulation No 157/2014 of 30 October 2013 on the conditions for making a declaration of performance on construction products available on a website, economic operators shall ensure that the declaration of performance may be accessed by the recipients of construction products free of charge for a period of 10 years after the construction product has been placed on the market. **Cerame-Unie suggests that the permalink availability should be limited to 10 years in the definition, to be consistent with this regulation.**

Essential characteristics (art. 4)

Article 4 states that the Commission is empowered to supplement by way of derogation to cover regulatory needs of the Member States to this regulation by means of delegated acts by establishing for specific product families and categories, voluntary or mandatory essential characteristics in identified cases as well as threshold levels and classes of performance in relation to the essential characteristics to be declared by manufacturers.

- **Cerame-Unie shares its concern about the delegated acts procedure. We highlight that a proper participation of stakeholders is of critical importance to gather technical knowledge and expertise on those issues and to avoid creating legal uncertainty. Threshold classes should be adopted via harmonized technical specifications through the standardization process.**

Product requirements (art. 5)

Article 5 paragraph 1 states that construction products shall satisfy applicable product requirements set out in Annex I part D and the product requirements laid down in Annex I part B and C as specified for the respective product family.

- Annex I part C sets out the requirements for the safety of professionals throughout the life of the product, or re-use or recycle. **Cerame-Unie fears that these requirements will create a heavy bureaucratic burden for the manufacturer and shift the considerable degree of responsibility for safety throughout the product's lifetime (and for further use and recycling) to the manufacturer.**
- **Cerame-Unie points out that the complete generic product information set out in Annex I Part D 1.3 cannot be provided by the manufacturer (e.g. ‘maintenance needs’ and ‘safety**

during use'). These requirements are related to the way the product is installed in the building, so not always available a priori when placing the product on the market.

Article 5 paragraphs 2 and 3 states that the Commission is allowed to adopt delegated acts to specify product requirements and by laying down the corresponding assessment methods for specific product families.

- **Cerame-Unie stresses the valuable contribution of technical expertise from the industry and from standardization committees to define both product requirements and assessment methods.**

Assessment and verification systems and their product specific modalities (art. 6)

Article 6 paragraph 3 states that the Commission is empowered to introduce additional assessment or verification steps in the systems of Annex V, in order to counter non-compliances of notified bodies or manufacturers or in view of adaptation to technical progress.

- **Cerame-Unie highlights that adding additional verification or assessment would create an additional bureaucratic hurdle in placing products on the market.**

Chapter 2 – Procedure, declarations and markings

Modified declaration of performance for used, remanufactured and surplus products (art. 12)

Cerame-Unie supports circular economy principles for construction products, including the reuse of products. Article 12 paragraph 2 states that where there is no declaration of performance (DoP) available for a used product issued by the initial manufacturer or another economic operator, an economic operator may issue a new declaration of performance without undergoing a full procedure where it limits the intended use to 'decoration'. Cerame-Unie expresses some concerns about this provision:

- **For Cerame-Unie, a product used to decoration purposes is no longer considered as a construction product. The concept of 'decoration' should be further defined.**
- **The DoP situation for a used product used for a structural function is not addressed: Cerame-Unie requires a clear rule for this specific case.**
- **Cerame-Unie underlines the importance of ensuring a level playing field between new and used products.**

Declaration of conformity (art. 13)

In principle, Cerame-Unie agrees with the requirements for the declaration of conformity (DoC), although further clarification is required. However, Cerame-Unie stresses the risk of increased administrative burden and unjustified complexity for manufacturers.

Obligations of manufacturers (art. 21)

Art. 21 paragraph 5 states that the manufacturer shall label a product as ‘only for professional use’, if it is not intended for consumers or other non-professional users. Cerame-Unie believes that this provision can constitute a major issue for manufacturers. As a general principle, construction products are used by professionals. However, the use of those products by unprofessional users cannot be controlled or avoided and depends on the knowledge of the end-user and the complexity of the product.

→ **Cerame-Unie asks to define construction products clearly as products for specialists. The purpose of the labelling ‘only for professional use’ should be clarified.**

Art. 21 paragraph 7 states that the manufacturer shall upload the data of the DoP, of the DoC and all technical information in the EU product database or system.

- **Cerame-Unie expresses some concerns when it comes to the mandatory registration of products in a Union database as it could lead to an additional burden for manufacturers.**
- **Cerame-Unie would like to get further clarification on this database and its added value, especially on how it will substitute or complement existing private databases.**

Additional environmental obligations of manufacturers (art. 22)

Although sustainability and environmental aspects are most relevant at building level rather than a product level, Cerame-Unie welcomes the growing need for communicating on the environmental performance of construction products. The ceramic industry reminds its commitment to delivering information related to the environmental performance of its products through a life cycle assessment (LCA) approach and the use of voluntary Environmental Product Declarations (EPDs). Since long, the assessment tools at building level exist and EN 15804, developed within CEN/TC 350, provides a harmonised methodology at European level to determine the product input for the assessment at building level.

- **Cerame-Unie requests that the same methodology to assess environmental performance is used for all construction products. This methodology should be based on CEN/TC 350 developments such as EN 15804.**
- **Further clarification should be made on the use of the ‘software made freely available on the website of the European Commission’.**

Chapter 7 - Simplified procedures

Use of simplified procedures by micro-enterprises (art. 65)

In principle, simplification of procedures for the industry are always welcome.

→ **Cerame-Unie highlights that a level playing field should be ensured between all enterprises.**

Chapter 8 – Market surveillance and safeguard procedures

Complaint portal (art. 68)

The use of this portal should be clearly defined to prevent potential misuse.

- **Cerame-Unie requires further clarification on the setting up of the complaint portal: how will relevance of complaints be determined? Will criteria be developed?**

Complying products which nevertheless present a risk (art. 72)

Article 72 states that certain products that are in compliance with this Regulation, could nevertheless present a risk for the fulfilment of the basic requirements for construction works, to the health or safety of persons, to the environment or to other aspects of public interest protection.

- **Cerame-Unie requires further clarification on this article as this provision presents a contradiction.**

Chapter 9 – Information and administrative cooperation

EU Construction database (art. 78)

Article 78 states that a Union construction products database will be established by the European Commission and that economic operators may access all information in that database.

- **Cerame-Unie underlines that data privacy is key in the context of the EU Construction database in order to ensure that no confidential information is made publicly available.**

Chapter 14 – Final provisions

Delegated acts (art. 87)

The power to adopt delegated or implementing acts to supplement the CPR provisions is mentioned at multiple times in the proposal, as example to establish essential requirements (art. 4), to adopt product requirements for specific product groups (art. 5), for assessment and verification systems and their product specific modalities (art. 6), for environmental obligations for manufacturers such as the ‘traffic light labelling’ (art. 22).

- **Cerame-Unie expresses some concerns about this Delegated Act procedure which does not allow for a proper consultation of stakeholders, such as the industry, on technical issues.**
- **The ceramic industry is committed to provide technical knowledge and expertise when required, especially through the CEN procedure.**
- **Manufacturers of construction products need a clearly defined process, a system that may be operated easily, and a legal framework that is stable and predictable, thereby allowing to remain competitive.**
- **When a product is compliant with the CPR it will fulfil the necessary sustainability and safety requirements, which makes the use of a traffic-light labelling questionable.**

Repeal (art. 92)

The coexistence period between the current and the new CPR will last until 2045.

- **Although the market needs time to adapt to new legal requirements, Cerame-Unie expresses some concerns about this long coexistence period. It might create confusion on the market**

and two coexisting ways to issue CE marking and DoPs as well as harmonized standards and technical specifications.

→ **Cerame-Unie welcomes further clarification.**

Annex I Requirements

Part A – Basic requirements for construction works and essential characteristics

Cerame-Unie notices that the list of essential characteristics in annex I part A (2) matches the list of indicators from EN 15804 +A2/PEF, but that only the first indicator “climate change effect (GWP)” becomes mandatory. Cerame-Unie wishes to draw the necessary attention to the fact that it is important to come to a correct picture of the complete environmental impact of a product (at building level), to take into account all indicators and also to make the assessment over the entire life cycle.

→ **Cerame-Unie welcomes further clarification on the above-mentioned aspects, which should be based on EN 15804.**

Part B – Requirements ensuring the appropriate functioning and performance of products

The requirements described in this part B are quite unclear from Cerame-Unie’s point of view.

→ **Cerame-Unie requires more specific and detailed requirements to demonstrate compliance with regards to the functioning and performance of products.**

→ **Some of the topics listed in Annex I part B are subject to national regulations or building codes (e.g. way of installation and/or maintenance). It is not possible for a manufacturer to maintain a full list of these documents.**

Part D – Product information requirements

Cerame-Unie notices that a lot of requirements mentioned in part D are already covered in the DoP. It seems that product information requirements are too extensive and might lead to a duplication of information that could be detrimental for the industry. The meaningfulness and verifiability of certain requirements need to be reconsidered (e.g. possibilities of misuse). The ceramic industry points out that a lot of this product information is not already available when placing the product on the market because this can be related to the ‘design’ of the building or the way a product is installed.

Annex V - Assessment and verification systems (AVS)

Cerame-Unie welcomes the introduction of the new 3+ system for the notified body’s control of environmental sustainability assessment in the proposal for Annex V. However, a number of drastic changes have been included, which could lead to extra costs and burden for the manufacturers and consequently are difficult to accept as an industry. In the currently valid text, system 3 only involves the intervention of a notified laboratory for the assessment of performance based on tests, while the new text refers to a notified body that must prepare a certificate. We understand the introduction of the

requirement of a number 'random checks' per AVS to achieve more uniformity, but it is not clear how these 'random checks' should be 'defined'.

→ **Cerame-Unie considers that the list of these "random checks" should be part of the harmonised technical specifications, and therefore defined in consultation with all relevant stakeholders.**

Furthermore, there are still some ambiguities in the proposal that need to be clarified:

- 'sampling of the item to be taken as representative of the type' > what is meant by 'type'? Is this product -type as defined in art 3 (31)?
- System 2+ > what is the definition of 'non-compliance' and 'grave non-compliance'?

→ **Cerame-Unie welcomes further clarification on the points mentioned above.**

Cerame-Unie Aisbl (CU) is the European Ceramic Industry Association. Based in Brussels since 1962, it is the voice of the European Ceramic industry to the EU institutions. The European ceramic industry covers a wide range of products including bricks & roof tiles, clay pipes, wall & floor tiles, refractories, sanitaryware, table- & ornamentalware, technical ceramics, expanded clay and flowerpots. The industry generates over 200,000 direct jobs and a production value of €26 billion in the EU.