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## TEXTS ADOPTED

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### **P9\_TA(2024)0188**

#### **New Regulation on Construction Products**

**European Parliament legislative resolution of 10 April 2024 on the proposal for a regulation of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products, amending Regulation (EU) 2019/1020 and repealing Regulation (EU) 305/2011 (COM(2022)0144 – C9-0129/2022 – 2022/0094(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2022)0144),
- having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0129/2022),
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
- having regard to the opinion of the European Economic and Social Committee of 26 October 2022<sup>1</sup>,
- having regard to the provisional agreement approved by the committee responsible under Rule 74(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 2 February 2024 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
- having regard to Rule 59 of its Rules of Procedure,
- having regard to the opinion of the Committee on the Environment, Public Health and Food Safety,
- having regard to the opinion of the Committee on Industry, Research and Energy,
- having regard to the report of the Committee on the Internal Market and Consumer Protection (A9-0207/2023),

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<sup>1</sup> OJ C 75, 28.2.2023, p. 159.

1. Adopts its position at first reading hereinafter set out<sup>2</sup>;
2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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<sup>2</sup> This position replaces the amendments adopted on 11 July 2023 (Texts adopted, P9\_TA(2023)0253).

**P9\_TC1-COD(2022)0094**

**Position of the European Parliament adopted at first reading on 10 April 2024 with a view to the adoption of Regulation (EU) 2024/... of the European Parliament and of the Council laying down harmonised *rules* for the marketing of construction products ■ and repealing Regulation (EU) No 305/2011\***

**(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Acting in accordance with the ordinary legislative procedure<sup>2</sup>,

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\* TEXT HAS UNDERGONE PARTIAL LEGAL-LINGUISTIC FINALISATION.

<sup>1</sup> OJ C 75, 28.2.2023, p. 159.

<sup>2</sup> Position of the European Parliament of 10 April 2024.

Whereas:

- (1) Regulation (EU) No 305/2011 of the European Parliament and of the Council<sup>3</sup> was adopted in the context of the internal market, in order to harmonise conditions for the marketing of construction products and to remove obstacles to trade in construction products between Member States.
- (2) Under Regulation (EU) No 305/2011, in order for a construction product ***covered by a harmonised technical specification*** to be placed on the market, the manufacturer is obliged to draw ***up*** a declaration of performance for such product. The manufacturer assumes the responsibility for the conformity of the product with such declared performance ***and with applicable requirements. Manufacturers are exempted from this obligation for certain products.***

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<sup>3</sup> Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (OJ L 88, 4.4.2011, p. 5).

- (3) Experience with the implementation of Regulation **(EU) No 305/2011**, the evaluation conducted by the Commission in 2019 as well as the report on the European Organisation for Technical Assessment have shown the underperformance of the framework on construction products in various respects, including as regards the development of standards and the market surveillance. In addition, feedback received in the course of the evaluation has pointed to the need of reducing the overlaps, contradictions and repetitive requirements, including in relation to other Union legislation, in order to provide more legal clarity and limit the administrative burden on the economic operators. It is therefore necessary to **update and align** legal obligations for economic operators **with those provided for in other Union legislation**, as well as to **add** new provisions including as regards market surveillance, so that legal certainty is increased and that diverging interpretations are avoided.
- (4) It is necessary to establish well-functioning information flows, including via electronic means **and using a machine-readable format**, to ensure that coherent and transparent information about construction products performances is available along the supply chain. This is expected to increase transparency and to improve efficiency in terms of information transfer. Ensuring digital access to comprehensive information about construction products would contribute to the digitalisation of the construction sector altogether, making the framework fit for the digital age. Moreover, providing access to reliable and durable information would also mean that economic operators and other actors would not contribute to each other's non-compliance with legal obligations.

- (5) The European Parliament resolution of 10 March 2021 on the implementation of Regulation (EU) No 305/2011 laying down harmonised conditions for the marketing of construction products (the Construction Products Regulation) <sup>4</sup> welcomed the Commission's objective to make the construction sector more sustainable by addressing the sustainability performance of construction products in the revision of Regulation (EU) No 305/2011, as announced in Commission's communication of 11 March 2020 entitled 'A new Circular Economy Action Plan. For a cleaner and more competitive Europe'. The Council Conclusions on the Circular Economy in the Construction Sector of 28 November 2019 <sup>4</sup> urged the Commission to facilitate the circularity of construction products when revising Regulation (EU) No 305/2011. In its Communication of 10 March 2020 entitled 'A New Industrial Strategy for Europe' <sup>4</sup> the Commission emphasised the need to address the sustainability of construction products and highlighted a more sustainable built environment as essential for Europe's transition towards climate-neutrality. In its Communication of 5 May 2021 entitled 'Updating the 2020 New Industrial Strategy: Building a stronger Single Market for Europe's recovery' <sup>4</sup> the Commission identified construction as one of the priority ecosystems that face the most important challenges meeting climate and sustainability goals and embracing the digital transformation, and on which the competitiveness of the construction sector depends. It is therefore appropriate to lay down rules for declaring environmental sustainability performance of construction products, including the possibility of establishing relevant thresholds and classes. ***Classes of performance for the environmental performance of products should accurately reflect the diversity of products and their state of the art and should allow for the most environmentally friendly products to be accurately identified. Moreover, when referring to environmental impacts, such classes of performance should be understandable, should not be misleading, nor allow for burden shifting.***

- (6) Similarly, the 2022 EU Strategy on Standardisation set out in the Commission Communication of 2 February 2022, entitled ‘An EU Strategy on Standardisation - Setting global standards in support of a resilient, green and digital EU single market’ identified construction as one of the most pertinent areas where harmonised standards could improve competitiveness and reduce market barriers.
- (7) Pursuing the environmental goals, including the fight against climate change *and the transition towards a circular economy*, makes it necessary to establish, *without increasing disproportionately bureaucracy and costs for economic operators, especially for small and medium-sized enterprises (‘SMEs’)*, new environmental obligations and to lay the ground for the development and the application of an assessment method for the calculation of the environmental sustainability of construction products. *The calculations should cover the life cycle of the product using the methods established through standardisation. For new products the calculated life cycles should include all stages of a product’s life, from raw material acquisition or generation from natural resources, to its final disposal, including potential benefits and loads outside the boundary limits. For used and remanufactured products, the calculated life cycle should start with the de-installation from a construction work and should include all following stages until final disposal. The Commission should make available software to perform the calculation, in particular the characterisation factors applicable in accordance with European standard EN 15804 or future applicable standards. Any update of this software should be communicated and should trigger the update to the relevant calculations within one year.*

- (8) To ensure safety and functionality of construction products and, by extension, of construction works *as well as safety of workers and users, it is necessary to* ensure that certain service providers, such as fulfilment service providers, *online marketplaces and actors providing intermediary services, do* not contribute to the non-compliance of other *actors*. It is therefore necessary to render relevant provisions applicable also to these services and their providers.
- (9) *To create the necessary link between construction products and the construction works, including buildings, into which they might be incorporated, the notion of construction works should be defined only for the purposes of this Regulation and without prejudice to Member States' competences to define and regulate construction works and buildings.*

- (10) *To avoid circumvention of the obligations under this Regulation when the production technology involves several different actors who contribute to the design and manufacture of a construction product, it is necessary to establish a clearly defined manufacturer's role where the natural or legal person who does the actual production of a construction product assumes the responsibilities under this Regulation in respect of the entire product, unless there is another person who either places the product on the market under his or her name or trademark, or assumes responsibility for the product by drawing up a declaration of performance and conformity. This is of particular importance in relation to 3D-printing, whereby a natural or legal person 3D-prints construction products and places them on the market. That person should fulfil the obligations incumbent on manufacturers including as regards the use of appropriate 3D-datasets and of materials which have undergone the procedures applicable to products as well as regards the information to be provided by the manufacturer of the 3D-dataset and the information to be provided by the manufacturer of the printing material.*

(11) *In order to avoid innovative distribution models being used to circumvent the obligations under this Regulation, it should be clarified that any supply of a product in the course of a commercial activity, including when ownership or possession of the products is transferred as part of the provision of a service, would be considered as the product being made available on the market.*

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(12) Ensuring the free movement of kits █ on the internal market would *support industry competitiveness. This approach would expand market reach, streamline production processes for companies, and improve convenience for both consumers and businesses.*

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(13) The compliance of construction products with Union legislation often depends on the compliance of their key parts with that legislation. However, since key parts are often integrated into various construction products, ensuring safety and the protection of the environment, including climate, would be better achieved if those key parts were assessed upstream, that is if their performance and conformity were assessed beforehand and independently from the assessment of the final construction product into which they are integrated. Similarly, market surveillance would be more efficient if non-compliant key parts could be identified and targeted. Therefore, it is necessary to lay down *mandatory* rules applicable to key parts of construction products. *The same approach should be used for parts or materials intended to be used for construction products which would benefit from the voluntary application of the Regulation.*

***(14) Items, such as construction products, their key parts or other parts or materials, can be placed on the market as such or as a set of separate components intended to be used together and should be subject to dedicated harmonised technical specifications. To simplify the application of this Regulation, the items and components falling under its scope should be clearly identified. However, such identification should not preclude the possibility to market the components as construction products when these components are placed on the market separately, as key parts or otherwise.***

(15) *While keeping a broad scope for the possible application of this Regulation, its application to certain products already harmonised by other Union legal acts should be excluded to avoid regulatory overlap. For the same purpose, it is also important to distinguish between those aspects of the same products which are covered by this Regulation and those aspects which are regulated by other sectorial legislation. This would be the case, for example, for lighting products and electrical and electronic products, which are subject to Directives 2014/35/EU<sup>5</sup>, 2014/30/EU<sup>6</sup>, 2014/53/EU<sup>7</sup> and 2001/95/EC<sup>8</sup> of the European Parliament and of the Council. The broad scope of this Regulation should however not be interpreted as an intention to harmonise all products which can be placed on the market for incorporation in construction works. Products which are not suitable for harmonisation, for instance due to their relation to cultural heritage, their usage of specific materials which can only be sourced in certain localities or to heterogeneous conditions between Member States, should not be subject to the harmonising effect of this Regulation. This could be achieved through the active choice of not pursuing their coverage through harmonised technical specifications.*

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<sup>5</sup> *Directive 2014/35/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of electrical equipment designed for use within certain voltage limits (OJ L 96, 29.3.2014, p. 357).*

<sup>6</sup> *Directive 2014/30/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to electromagnetic compatibility (OJ L 96, 29.3.2014, p. 79).*

<sup>7</sup> *Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC (OJ L 153, 22.5.2014, p. 62).*

<sup>8</sup> *Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety (OJ L 11, 15.1.2002, p. 4).*

(16) *Used* products *subject to this Regulation imported from third countries*, should, *in the absence of dedicated rules for used* products, be subject to the same rules as new construction products ■ .

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(17) Construction products placed on the market in the outermost regions of the Union are often imported from neighbouring countries, and are therefore not subject to requirements laid down in Union law. Subjecting those construction products to such requirements would be disproportionately costly. At the same time, construction products manufactured in the outermost regions hardly circulate in other Member States. Therefore, Member States should have the possibility to exempt construction products placed on the market ■ in the outermost regions of the Union from those requirements.

**(18) *To ensure that a strong link between standards and the regulatory needs of the Member States is maintained, an expert group should give advice to the Commission on the preparation of standardisation requests and other harmonised technical specifications. The work of the expert group should follow a working plan established on the basis of inputs from Member States in addition to overall Union priorities such as EU climate and circular economy goals. In establishing the priorities of the working plan, the Commission should pay particular attention to the replacement of harmonised technical specifications adopted under Regulation (EU) No 305/2011. The Commission should inform the Member States and the European Parliament on a yearly basis about progress in implementing the working plan, including information on the standardisation requests issued, the number of standards proposed by the European standardisation organisations, the average time needed for the assessment of standards by the Commission, and the ratio between standards accepted and rejected by the Commission.***

**(19) *In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objective of harmonising the internal market for construction products to address the regulatory needs of Member States by defining only the necessary essential characteristics to assess the product performance. The definition of these essential characteristics and the assessment methods applicable to them should provide the less onerous approach with sufficient reliability and avoid duplications and inconsistencies. This Regulation does not go beyond what is necessary in order to achieve this objective, in accordance with Article 5(4) of the Treaty on European Union (TEU).***

- (20) In order to strive for a maximum of regulatory coherence, this Regulation should to the extent possible build on the horizontal legal framework, in this case namely on Regulation (EU) No 1025/2012 of the European Parliament and of the Council<sup>9</sup>. It follows the recent trend in product legislation to develop a fall-back solution where the European standardisation organisations do not deliver *valid* harmonised standards. ***As a rule, when a European standardisation organisation delivers a harmonised standard in accordance with the standardisation request which includes elements that do not satisfy the regulatory needs of Member States, or are not aligned with the Union safety, environmental, circularity and climate objectives, the Commission should revise the standardisation request or make the harmonised standard mandatory with restrictions. A fall-back solution should be possible to apply to harmonised standards which are not compliant with the standardisation request and address a product family or product category which is either not previously covered by a harmonised standard, or is already covered by a harmonised standard applicable for more than 5 years, or is covered by a harmonised standard applicable with restrictions.***

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<sup>9</sup> ***Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council (OJ L 316, 14.11.2012, p. 12).***

- (21) Where harmonised standards lay down the rules for the assessment of performance with regard to essential characteristics relevant for the construction codes of Member States, *those standards* should be made mandatory for the purposes of application of this Regulation *as performance harmonised standards*, as only such *mandatory* standards reach the goal of permitting the free circulation of products, whilst ensuring the Member States' ability to request *product characteristics related to the basic requirements for construction works* in view of their specific national situation *such as differences in climate, geology and geography and other conditions*. When pursued together, these two goals require that products are assessed by a single assessment method, therefore the method needs to be mandatory. However, voluntary standards can be used to make product requirements, specified for the relevant product family or category by delegated acts, even more concrete, following the path of Decision *No 768/2008/EC* of the European Parliament and of the Council<sup>10</sup>. In line with Decision *No 768/2008/EC*, those voluntary standards should be able to provide a presumption of conformity with the requirements covered by them.
- (22) *The assessment of performance with regard to essential characteristics may require the establishment of thresholds. Voluntary thresholds have to be fulfilled in relation to certain applications. Mandatory thresholds have to be fulfilled as a condition for placing the product on the internal market irrespective of the application.*

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<sup>10</sup> *Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC (OJ L 218, 13.8.2008, p. 82).*

(23) In order to contribute to the objectives of the European Green Deal set out in Commission's communication of 11 December 2019 entitled 'The European Green Deal', ***the Circular Economy Action Plan*** and the ***Zero Pollution*** Action Plan set out in Commission's communication of 12 May 2021 entitled 'Pathway to a Healthy Planet for All. EU Action Plan: »Towards Zero Pollution for Air, Water and Soil«, and to ensure safe construction products, safety being one of the goals to be pursued in the legislation based on Article 114 of the Treaty on the Functioning of the European Union (TFEU), ■ product requirements related to ***functionality, safety***, and protection of environment, including climate, are necessary. When setting these requirements, the Commission should ***address the safety risks and*** take into account ***the product's*** potential contribution to achieving Union climate, environmental and energy efficiency objectives ***over the course of their life cycle. Those*** requirements do not ■ relate to the performance of construction products. Contrary to its predecessor Council Directive 89/106/EEC<sup>11</sup>, Regulation (EU) No 305/2011 does not provide for the possibility to establish such ■ product requirements. However, certain harmonised standards for construction products contain such ■ product requirements ■. ***Those*** standards demonstrate that there is a practical need for such requirements on ***functionality, safety, and protection of environment***. Article 114 TFEU as the legal base of this Regulation also imposes the pursuit of a high level of protection of the environment, health and human safety. Thus, this Regulation should ***reintroduce*** or validate ■ product requirements. ■ Hence, the power to adopt acts in accordance with Article 290 ***TFEU*** should be delegated to the Commission to specify ***those*** requirements for the respective construction product family or category.

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<sup>11</sup> Council Directive 89/106/EEC of 21 December 1988 on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products (OJ L 40, 11.2.1989, p. 12).

- (24) Manufacturing and distribution of construction products becomes ever more complex, leading to the emergence of new specialised operators, such as fulfilment service providers. For reasons of clarity, certain generic obligations, including on cooperation with authorities, should be applicable to all those involved in the supply chain ■ .
- (25) In order to foster harmonised practices amongst Member States even where a consensus about these practices could not be found, the Commission should be empowered to adopt, with regard to a limited range of issues, implementing acts on the implementation of this Regulation. The respective empowerments should concern ■ the obligations and rights of economic operators and the obligations ■ of notified bodies.
- (26) In order to improve the legal certainty and to mitigate the fragmentation of the Union market for construction products ■ it is necessary to clearly define the area regulated at Union level, the so-called ‘harmonised zone’, as opposed to the elements remaining within the *competence* of Member States. ***Member States remain competent to lay down provisions on construction works, including on their design and dimensioning. The establishment of the harmonised zone should not affect the right of Member States to specify national requirements on construction works and should not reduce the level of protection already existing and justified in the Member States. National environmental policies applicable to construction works should not be considered as prohibitions or barriers to the making available of products on the market as long as they respect the harmonised zone.***

- (27) *Member States set the safety level for construction works on the basis of their responsibilities towards their citizens, while the Union determines the framework conditions for the internal market. The competence to adopt provisions on construction works remains with the Member States. The basic requirements for construction works set out in this Regulation should establish the links to construction products that are technically necessary, and serve as a basis for issuing standardisation requests to the European standardisation organisations for the development of harmonised standards for construction products, corresponding delegated acts as well as for the development of European assessment documents.*
- (28) *The harmonised zone should also apply to public contracts, grants or other positive incentives with the exception of fiscal incentives.*

(29) In order to strike a balance between mitigating the fragmentation of the market and the legitimate interests of Member States to regulate construction works, it is necessary to provide for a mechanism to better reflect the needs of the Member States in the development of harmonised technical specifications. For the same reason, ***an additional mechanism of prior authorisation should be established***, allowing Member States to set, based on imperative grounds of health, safety or environmental protection, ***requirements other than those laid down in the harmonised technical specifications*** for construction products ***covered by the harmonised zone***. ***This mechanism should give Member States the possibility to, while awaiting updated harmonised technical specifications addressing their regulatory needs, notify and seek authorisation for national measures affecting the performance of an essential characteristic not addressed by the harmonised technical specification. This mechanism should be complementary to a Member State's possibility to notify the Commission, in accordance with Article 114 TFEU, when it deems it necessary to introduce national provisions based on new scientific evidence relating to the protection of the environment or the working environment on grounds of a problem specific to that Member State in contradiction with harmonised technical specifications. In order to ensure that authorised national measures only remain as temporary deviations from the harmonised zone, it is important to enable swift consultations on the need to update harmonised technical specifications in light of those regulatory needs, including, where appropriate, through standardisation requests with deadlines specifically set to address the urgency at hand.***

- (30) A circular economy, the key element of the Circular Economy Action Plan, can be promoted by mandatory deposit-refund systems and the obligation to take back ***new, surplus or unused non-custom made*** products. Member States should therefore be allowed to take such measures ***and to establish obligations regarding the collection and the treatment of products for waste. The owner of the product should be in charge of the transport back to the distributor, importer or manufacturer.***
- (31) In order to enhance legal clarity and reduce the administrative burden for the economic operators, it is necessary to avoid that construction products are subject to multiple assessments regarding the same aspect of health, safety or protection of the environment, including climate, under different Union legislation. This was confirmed by the REFIT platform, established by Commission Decision C(2015) 3261, recommending that the Commission gives priority to addressing the problems of overlapping and repetitive requirements. ***While not reducing or encroaching on the level of protection already existing and justified in Member States at building level,*** the Commission should thus be able to determine the conditions under which the fulfilment of obligations under other Union law also fulfils certain obligations of this Regulation, where otherwise the same aspect of health, safety or protection of the environment, including climate, would be assessed in parallel under this Regulation and other Union law.

- (32) Moreover, in order to avoid diverging practices of Member States and economic operators, the power to adopt **implementing** acts in accordance with Article 291 TFEU should be **granted** to the Commission to determine whether certain **items** fall within the definition of **product**.
- (33) *As this Regulation is developed in line with the framework of Regulation (EU) .../... [Eco Design Regulation] but with its provisions adapted to the sectorial specificities of construction products, it will be, with limited exceptions, the legal act used for harmonising all relevant aspects of construction products, including sustainability aspects even though these might also be addressed through [Eco Design Regulation]. If a policy need is identified horizontally within the framework of the [Eco-Design Regulation], the Commission should primarily use this Regulation for addressing this need in regard to construction products. Only in exceptional cases where requirements under this Regulation are insufficient and cannot be amended or complemented in a reasonable time, it should be possible to apply [Eco Design Regulation] in a complementary manner on construction products, provided the administrative cost entailed, including as a result of economic actors potentially becoming subject to two conformity assessment procedures, is shown to be reasonable.*

*As an exception*, in the case of energy-related products included in ecodesign working plans which are also construction products and for *intermediate* products *within the meaning of the [Eco Design Regulation]*, with the exception of cement, priority for the setting of sustainability requirements will be given to that Regulation. This *will* be the case for instance for heaters, boilers, heat pumps, water and space heating appliances, fans, cooling and ventilating systems and photovoltaic products, excluding building-integrated photovoltaic panels. This Regulation *would* still *apply* in a complementary manner where needed, mainly in relation to safety aspects also taking account of other Union legislation on products such as on gas appliances, low voltage, and machinery. *In the case of a conflict with [Eco Design Regulation], this Regulation should prevail*. For other products, in order to avoid unnecessary burden for economic operators, the need may arise to determine the conditions under which the fulfilment of obligations under other Union law also fulfils certain obligations under this Regulation. *Therefore* the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to determine such conditions.

- (34) In order to create an incentive for compliance, the manufacturer of construction products should be liable for incorrect declarations of performance and conformity.
- (35) The increased *re-use of construction* products is part of a shift towards a more circular economy and a reduction of the environmental and carbon footprint of construction. The *second-hand market for construction products* is currently not very developed and requirements for *construction products which have previously been used* vary widely amongst Member States. Therefore, *used construction products, including other used items subject to this Regulation*, should *be subject to long-term harmonisation by establishing* the possibility to *develop dedicated harmonised technical specifications under this Regulation. Such harmonised technical specifications should be applicable to used products and as long as the used product is not waste or has ceased to be waste. The adoption of dedicated harmonised technical specifications for used products should not prejudice the scope and definition of waste under Directive 2008/98/EC of the European Parliament and of the Council*<sup>12</sup>. However, *products directly re-used in a construction work should not be considered as placed on the market again and therefore not be subject to any measures under this Regulation.*

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*Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).*

- (36) *In order to provide clarity about the width of the harmonised zone, it is important that all harmonised technical specifications are explicit in whether they cover or exclude used products from their scope. The exclusion of used products from the scope of a harmonised technical specification should however not prevent economic operators from opting for the application of this Regulation as if the used product was new.*
- (37) *According to the definition of used products, harmonised technical specifications explicitly including used products within their scope should also apply to used products which have undergone a transformative process going beyond checking, cleaning or repairing recovery operations defined by the harmonised technical specification as non-essential transformative processes to the product's performance. Remanufactured products should, regardless of the harmonised technical specification, benefit from not having to include events before the products last de-installation when calculating its environmental impact over its life cycle. Remanufactured products should also benefit from requirements or incentives that promote a high recycled content.*

(38) To enhance access to easily available and comprehensive information on construction products, thereby contributing to their safety, functionality and sustainability, it should be ensured that the declaration of performance ***and conformity*** provides all information necessary for users and authorities. In view of its utility for users, manufacturers should be able to include into that declaration additional information, provided that the declarations of performance ***and conformity*** remain uniform and easily readable and that they are not abused as advertisement.

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(39) In order to reduce the burden for economic operators, manufacturers ■ issuing declarations of performance and ■ conformity should be allowed to provide those declarations by electronic means, and be authorised to ***make them available on websites under the conditions that they are unamendable, human and machine readable, available, accessible and unequivocally linked to the product. In order to simplify supply chain communication, declarations of performance and conformity should allow the user via an app to check conformity with the application rules of the Member State where the product is used. An important prerequisite for machine-readable declarations is a standardised IT format, which is required for each harmonised technical specification.***

- (40) In order for the manufacturers to demonstrate that the construction products benefitting from the free movement of goods fulfil relevant Union requirements, it is necessary to require a declaration of conformity complementing the declaration of performance, thus also bringing the regulatory system for construction products closer to Regulation (EC) No 765/2008 *of the European Parliament and of the Council*<sup>13</sup>. However, in order to minimise the potential administrative burden, the declaration of conformity and the declaration of performance should be combined **■**. The administrative burden on SMEs should be further minimised through targeted simplification provisions, including *sharing test results, recognition of certificates, cascading of technical documentation and declaration without assessment*, permitting micro-enterprises to use the more lenient verification system and reducing the requirements for custom-made non-series products. *When such products are installed in an identified single construction work exemptions from the obligation to draw up a declaration of performance and conformity should be possible. In cases where a manufacturer fulfils the criteria for both the application of a simplified procedure and an exemption from the obligation to draw up a declaration of performance and conformity, it should be given the opportunity to choose one of them, or to provide a declaration of performance and conformity without applying the simplified procedure, so as to better adapt its offer to the needs of potential customers.*

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*Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).*

- (41) In order to reach alignment with other product legislation and subject to the general principles of Regulation (EC) No 765/2008, the CE marking should be affixed to construction products for which the manufacturer has drawn up a declaration of performance **and** conformity. The manufacturer thereby takes the responsibility for the conformity of the product with the declared performance and applicable product requirements.
- (42) *The procedural rights of all economic operators and natural or legal persons acting on their behalf in relation to measures, decisions or orders taken by market surveillance authorities and other competent national authorities should be ensured in line with Regulation (EU) 2019/1020 of the European Parliament and of the Council<sup>14</sup>. Member States should ensure that adequate appeal procedures against such measures, decisions or orders are in place.*
- (43) To ensure **functionality, safety** and sustainability of construction products, and by extension of construction works, all economic operators intervening in the supply and distribution chain should take appropriate measures to ensure that they place, **make available, or support making** available on the market only construction products which are in compliance with the binding Union requirements. In order to improve the legal clarity, it is necessary to set explicitly the obligations of economic operators.

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<sup>14</sup> *Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1).*

- (44) It is necessary for manufacturers of construction products to determine the product type in a precise and unequivocal manner in order to ensure a precise basis for assessing the compliance of such product with Union requirements. At the same time, in order to avoid circumvention of the applicable requirements, manufacturers should be prohibited from creating ever new product types where the products in question are, in view of the crucial characteristics, identical.

(45) *On the internal market, the CE marking should be the only marking demonstrating compliance with assessment methods in relation to essential characteristics covered by harmonised technical specifications. In order to avoid market fragmentation and misleading claims resulting from the application of different assessment methods, the CE marking should be the only marking allowed on products covered by harmonised technical specification indicating that the product in question has been assessed in relation to the essential characteristics covered by harmonised technical specifications and is compliant with the applicable product requirements. The market for construction products faces a proliferation of markings which often create confusion and distrust among market players but also mislead consumers. The use of additional markings negatively impacts the probative value of the CE marking when based on assessment methods which are different than those defined in the relevant harmonised technical specifications. In addition, SMEs cannot always benefit from such markings, creating a distortion among market players and potentially hindering market access. Those additional markings should therefore not be affixed to the products in combination with the CE marking. However, this prohibition does not prevent products which carry other markings from being placed on the single market, providing such markings do not mislead the consumer or create confusion with the CE marking. In addition, the markings should not impair the visibility, legibility or meaning of the CE marking. As such, these markings should not display any information, text or claims in relation to the product's performance.*

- (46) To avoid misleading claims, any claims made by manufacturers of construction products should **■** be based on an assessment method contained in harmonised technical specifications *where* available **■** .
- (47) Technical documentation about construction products, drawn by the manufacturer, facilitates the verification of those products by *competent national* authorities and notified bodies against the Union requirements. To enhance access to comprehensive information, that technical documentation should include *the necessary information to validate the calculation substantiating the* assessment of the environmental sustainability of the construction product.
- (48) To create transparency for users of construction products and to avoid inappropriate use of those products, construction products and their intended use should be precisely identified by the manufacturer. For the same reason, the manufacturer should make clear whether the construction products are intended for professional use **■** . To ensure that construction products can be traced back, manufacturers should *indicate manufacturer-specific unique identification code of the product type* on the product or, where this is not possible e.g. due to the product's size or surface, on its packaging or *on an affixed label, or* where that is not possible either, in a document accompanying it.

- (49) To ensure that requirements of this Regulation are fulfilled, manufacturers should actively search, store and evaluate information and take appropriate measures where non-conformity or under-performance has been confirmed or where there is a risk.
- (50) To *achieve* the goals of the European Green Deal and of the Circular Economy Action Plan, the *Commission* should *have the possibility to specify minimum thresholds for the environmental performance of construction products and environmental product requirements preventing and reducing the impact that construction products have on the environment. However, the “safety first” principle, applicable both for the construction product and the construction works, should in all instances be respected, and should encompass the protection of health.*
- (51) With the goals of ensuring sustainability and durability of construction products, manufacturers should ensure that products can be used for *as long as possible*. Such long use requires adequate design, use of reliable parts, reparability of products, availability of information on repair and access to *spare* parts. *In the event that the spare parts are not commonly available in the market, the Commission should be empowered to require from the manufacturer to ensure the availability of these spare parts at a reasonable and non-discriminatory price for a period of 10 years which may be extended if the availability for a longer period of time is expected to increase the life span of the product.*

(52) In view of enhancing the circularity of construction products, in line with the goals of the Circular Economy Action Plan **and the waste hierarchy, product requirements** should **also be able to improve resource efficiency, prevent waste generation, prioritise repair, reuse and remanufacturing, favour the use of secondary materials and address the recyclability of the product and the production of by-products**. Preparing for **re-use, re-use**, remanufacturing and recycling require certain design, namely by facilitating the separation of **products**, components and materials at **de-installation, deconstruction and demolition and at** the later stage of recycling and, **when possible**, avoiding mixed, blended or intricate materials **and substances of concern**. As the usual instructions for use **and safety information** will not necessarily reach the economic operators in charge of preparing for re-use, re-use, remanufacturing and recycling, the necessary information in this regard should be made available in product **passports accessible through data carriers and in** manufacturer's websites ■ .

(53) *The instructions for use and safety information are a vital tool to provide information suffice to make knowledgeable decisions on purchase installation, use, maintenance, dismantling, reuse and recycling of the product to a wide group in potential need of the information. Elements to be covered by the instructions for use and safety information should therefore be specified in this Regulation and guidance on how to typically cover these elements in relation to a certain product should be possible to include in performance harmonised standards. Such guidance should however not expand or restrict the responsibility for the manufacturer to provide information as set out in the Regulation. The Commission should be empowered to adopt delegated acts to ensure adequate and homogeneous implementation of the obligation to provide instructions for use and safety information for specific product families or category when performance harmonised standards are not able to do it.*

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- (54) Some construction products become waste though they were never used. To avoid this waste of resources, *the Regulation* should *not affect the possibility for Member States to oblige manufacturers to* accept to regain, directly or via their importers and distributors, ownership of products that, after delivery onto a construction site or to the user, have not been used and are in a state equivalent to the one in which they were placed on the market.
- (55) In order to be able to make informed choices, users of construction products should be sufficiently well informed about the environmental performances of products, about their conformity with environmental requirements and of the degree of fulfilment of manufacturer's environmental obligations in this regard. Therefore, the Commission is empowered to adopt delegated acts to establish specific labelling requirements ■ .
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- (56) The authorised representatives are often the only reachable persons in the case of imported products whilst manufacturers often attribute to them very limited tasks and do not provide them with all the necessary information to effectively represent the manufacturers. Hence, the role and responsibilities of authorised representatives should be *strengthened and clearly set out in this Regulation, such as the tasks to be included in the mandate of the manufacturer. The mandate of the authorised representative should not include the drawing up of technical documentation. Nevertheless, manufacturers should be allowed to establish a separate contract with its authorised representative for this purpose, outside the scope of the mandate.*

- (57) *There should be always a manufacturer when the Regulation establishes obligations as regards the placing of a product on the market. When there is otherwise no manufacturer in the meaning of this Regulation, the distributor or importer should act as manufacturer and assume its responsibilities.*
- (58) An economic operator who modifies a product *or stores it* in such a way that its performance or safety might be affected should be subject to the obligations of manufacturers, to ensure the verification whether performance or safety of the product are still the same. However, this obligation should not be imposed on an economic operator who repackages products ■ , as otherwise secondary trade and thus free circulation of products would be hampered and repackaging in principle should not affect *the* performance *or* safety of the construction product. Still, and with the aim to preserve the performance and safety of products, the economic operator undertaking the repackaging should be responsible for the correct execution of these operations to ensure that the product is not damaged and that the users are still correctly informed in the language set out by the Member State where the products are made available.

- (59) *Given its environmental effects, the calculation of the environmental sustainability of a construction product should also cover the packaging used or most likely to be used. The packaging of a product can also be vital to preserve its performance through the distribution chain to the user. Even though the packaging in itself is not included in other assessments of a product's performance, all economic operators should, as part of their obligation to take necessary measures to ensure continued compliance of products with this Regulation, be responsible for using packaging suitable for preserving the performance and the compliance with the products' requirements. The packaging could in itself pose a risk for users and the obligation to provide information on risks relating to the use of the product should take this into account.*
- (60) In order to increase compliance of manufacturers with the obligations under this Regulation and to contribute to addressing the identified shortcomings and improve the market surveillance, *fulfilment* service providers, online market places and *other market actors* should actively contribute to ensuring that only compliant products reach the users.

(61) In order to avoid that *the obligations under this Regulation are circumvented in cases where the production technology, for example 3D-printing, could involve several different actors contributing to the design and manufacture of a construction product, for example 3D datasets, it is necessary to clearly define the role of the manufacturer. The natural and legal person producing, for example by 3D-printing, a construction product should take responsibility under this Regulation for the whole product, unless there is another person who places the product on the market under his name or trademark or who takes responsibility for the product by issuing a declaration of performance and conformity.*

(62) *In cases when the product is not intended to be used for construction but its appearance is likely to lead consumers to use the product in construction, the product is accompanied by instructions and safety information pursuant to Regulation (EU) 2023/988 of the European Parliament and of the Council<sup>15</sup> or another applicable regulation indicating that despite its appearance it was not designed as a construction product. Market surveillance authorities are to take the appropriate measures, including the possibility to withdraw the product from the market, if its appearance could lead to confusion for the consumer or to misuse.*

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<sup>15</sup> *Regulation (EU) 2023/988 of the European Parliament and of the Council of 10 May 2023 on general product safety, amending Regulation (EU) No 1025/2012 of the European Parliament and of the Council and Directive (EU) 2020/1828 of the European Parliament and the Council, and repealing Directive 2001/95/EC of the European Parliament and of the Council and Council Directive 87/357/EEC (OJ L 135, 23.5.2023, p. 1).*

- (63) To clarify the applicability of this Regulation to online and other distance sales, it should be defined under which conditions a certain product is deemed to be offered to clients in the Union. As online trade has a higher likelihood of non-compliance, Member States should make a special effort *to* designate a single ■ market surveillance authority for detecting distance sales offers targeting clients on their territory, so that the responsible market surveillance authorities can take appropriate measures. ***Offers using the currency of the Member States, available through an internet domain name which is registered in one of the Member States or which refers to the Union or one of the Member States, and dispatched to any Member State, should be considered targeted at customers in the Union. Other elements such as using an official language of a Member State may also be considered as an indication by market surveillance authorities as to whether the offer targets clients in the Union.***
- (64) Digital technologies, which provide a significant potential for reducing administrative burden and costs for economic operators and ■ authorities, while also fostering innovative and new business opportunities and models, are evolving at rapid pace. The uptake of digital technologies will also contribute significantly towards achieving the objectives of the Renovation Wave, including energy efficiency, life cycle assessments and monitoring and of the building stock. ■

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- (65) In order to ensure a timely *adoption of harmonised standards and European assessment documents, the Commission should have the possibility to make them mandatory with restrictions of their legal effects under this Regulation. It should be possible for such restrictions to cover, for example, outdated references to other standards or documents, provisions which contradict this Regulation or other Union law, provisions which contradict other harmonised standards, or provisions which are not in conformity with the demands to be met in relation to the basic principles and reference points set out in a standardisation request.*
- (66) To ensure the coherence of the system, this Regulation should build on the horizontal legal framework for standardisation. Hence, Regulation (EU) No 1025/2012 should also apply to the extent possible to standards *made* mandatory in accordance with this Regulation. Regulation (EU) No 1025/2012 is thus to provide, among others, for a procedure for objections to harmonised ■ standards where those standards do not entirely *conform with applicable legal requirements or* satisfy the requirements set out in the relevant standardisation request or other requirements of this Regulation.

- (67) *The Commission should support European standardisation organisations in developing guidelines containing a set of clear and stable rules for the whole standardisation process, including roles, responsibilities, competences and the general procedural deadlines for all stakeholders involved, as well as templates to be used. The Commission should also provide support to ensure the coherence and compliance of standards with legal requirements and should participate in the informal and formal discussions of European standardisation organisations developing the requested European standardisation deliverables, in particular on matters concerning the compliance of the standardisation deliverables with this Regulation and with other Union law. Those activities should benefit from the horizontal work developed in the context of the implementation of Regulation (EU) No 1025/2012.*
- (68) *When the Commission endorses proposals of European standardisation organisations related to voluntary or mandatory threshold levels and classes of performance in relation to the essential characteristics and those essential characteristics which always have to be declared by manufacturers by means of delegated acts, they should be accompanied by an impact assessment where required in accordance with the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>16</sup>.*

- (69) As they are not acts of general applicability but the first step of a two steps administrative procedure leading to the CE marking, European assessment documents should not qualify as harmonised technical specifications. However, basic principles of the elaboration of harmonised standards, such as transparency for competitors, can and should also apply to European assessment documents. Moreover, the European assessment documents should be referred to in performance and conformity assessment procedures in the same way as harmonised standards. ■ To create transparency for competitors, European assessment documents should be made publicly available and the references of all European assessment documents should be published in the Official Journal.
- (70) Currently, the increasing number of hardly distinguishable European assessment documents which often have little added value when compared to others or existing harmonised standards, risks to slow down their publication. In order to deal with this risk in a cost-effective way, certain principles for the development and adoption of European assessment documents should be established or be made more concrete. Moreover, the control by the Commission should be enhanced.
- (71) *Where the organisation of technical assessment bodies (TABs) considers the development of a European assessment document to be useful even without any demand from a manufacturer, the organisation of TABs should bring the issue to the attention of the Commission who should decide on requesting the development of the European assessment document taking into consideration the justification provided by the organisation of TABs and the market needs.*

- (72) The requirements applicable to designating authorities of TABs should not fall behind those applicable to notifying authorities given the similarities between their respective roles. For the same reason, TABs should have the same degree of independence and control of decision-making as notified bodies.
- (73) In order to respond to a noteworthy percentage of notifications which were based on incomplete or erroneous assessments, in particular where legal bodies without own in-house technical competence were notified, it is necessary to ■ make requirements for notified bodies more precise, namely with regard to their independence, delegation to other legal entities and own ability to perform; to require *sufficient* adequate qualified staffing of notified bodies and to verify the adequacy of the staffing, for which ■ a qualification matrix *can be an efficient tool*; to ensure and verify that the notified body is effectively in control of staffing, attribution of external experts, procedures, criteria and decision-making, and not a subcontractor, subsidiary or another company belonging to the same family of companies; and to enlarge the documentation to be provided by bodies when applying for designation as notified body so as to provide a deeper and comparatively fairer basis for decision to notifying authorities.

- (74) ***In order to ensure the correct implementation of this Regulation***, it is necessary to ensure that accreditation bodies take as a basis for accreditation this Regulation and not ■ deviating standards. It *is* also important to ensure that the accreditation bodies assess the ability of the applicant body and not of a group of companies, as it is the applicant body itself that must be in control of future certification.
- (75) To reach a level playing field and to avoid legal uncertainty, the obligations of notified bodies should be more clearly defined and rendered explicit, and this both for their assessment and verification activities and the related aspects.
- (76) In order to avoid involvement between notified bodies' staff and the manufacturers, ***it should be possible for the notified bodies to allow*** rotation between the personnel carrying out different conformity assessment tasks.
- (77) Authorities of Member States might have questions that only a certain notified body can answer. Notified bodies should thus respond also to the questions authorities of other Member States may have.

- (78) To enable ■ authorities to more easily identify instances of non-compliance by notified bodies, manufacturers and products, and to ensure a level playing field, notified bodies should be empowered, and where the non-compliance can be clearly demonstrated even obliged to, proactively forward information on instances of non-compliance to relevant **competent national** authorities or notifying authorities. Notified bodies should however not trespass the information obligation by investigating other operators than their own clients or peers.
- (79) **With a view to** creating a level playing field for notified bodies and manufacturers, the coordination amongst notified bodies should be enhanced. As only half of the current notified bodies participate on their own initiative in the activities of the already currently existing notified body coordination group, **direct participation or by means of designated representatives** thereto should thus become mandatory.
- (80) The attempts of establishing simplified procedures for small and medium-sized enterprises in Regulation (EU) No 305/2011 and thus reducing the burden and costs on SMEs and microenterprises have not been entirely effective and have often remained misunderstood or not used due to the lack of awareness or the lack of clarity regarding their application. By addressing the identified shortcomings while building on the previously established rules, it is necessary to clarify and facilitate their application and hence achieve the objective of supporting SMEs while ensuring performance, safety and environmental sustainability of construction products.

- (81) The recognition of test results obtained by another manufacturer, provided for in Article 36(1), point (b), of Regulation (EU) No 305/2011, should be generalised, in order to generally reduce the burden of economic operators and namely manufacturers. Such recognition mechanism is particularly needed to avoid multiple assessment of environmental sustainability of raw materials, interim products and final products.
- (82) To ensure legal certainty in the event of safety or performance problems, such recognition should only be permitted where *the assessed and verified* economic operators *agree to cooperate between themselves and with the notified bodies involved, including the necessary sharing of data.*
- (83) The evaluation of Regulation (EU) No 305/2011 showed that market surveillance activities carried out at national level, widely vary in quality and effectiveness. In addition to measures set out in this Regulation *and under relevant Union law* in favour of better market surveillance, the compliance of economic operators, bodies and products with this Regulation should be facilitated by also involving third parties such as by the possibility of any natural or legal person to submit information on   instances of non-compliance through a complaint portal *established and maintained by the Commission. The handling of complaints adheres to the right to good administration, as outlined in Article 41 of the Charter of Fundamental Rights of the European Union. In handling the complaints the Commission should take into account the relevance and substantiation of the complaint by prioritising those complaints raising issues having particularly far-reaching negative impacts for citizens or the internal market. For a complaint to be considered substantiated the Commission should particularly check if the complaint manages to set out a grievance or if the grievance sets out an issue where the Commission has adopted a clear, public and consistent position which has been communicated to the complainant. The Commission should reply to the complainant without undue delay and efficiently transmit the complaints to the relevant Member States who should handle these complaints promptly and effectively in accordance with their legal frameworks and obligations.*

- (84) To address the identified shortcomings with regards to the market surveillance under Regulation (EU) No 305/2011, this Regulation should contain more *justified* empowerments for *market surveillance* authorities and for the Commission that should enable authorities to act under all potential problematic circumstances.
- (85) Market surveillance practice has proved that when evaluating products, at a certain point in time, there is a risk of non-compliance but no non-compliance incidence whereas, at a later point in time, the opposite is to be stated. Moreover, there are situations where there is a non-compliance other than a formal one that does not trigger a risk. For these reasons, Member States should be empowered to act in all cases of suspected non-compliance or risk, whilst the definition of ‘product presenting a risk’ has to be extended to include risk for the environment. It is necessary to offer Member States enough procedural flexibility to distinguish between high and low priority cases of non-compliance, whilst all Member States should also be informed about less important cases.
- (86) To ensure effective enforcement of the requirements and to strengthen market surveillance in Member States *the Commission should issue guidelines for the application of this Regulation, as well as common practices and methodologies for effective market surveillance, including, for example, elements such as a recommended number and type of checks to be performed by the market surveillance authorities on specific product group or family or in relation to specific requirements. It is appropriate that such recommendations be based on good practices developed in the framework of market surveillance.*

- (87) In addition, to strengthen the on average weak capacities of market surveillance authorities in terms of market surveillance and to further align with the Ecodesign for Sustainable Products Regulation, it is necessary *to* provide more detailed administrative coordination support and to provide them with the right to retrieve costs of inspections and testing from economic operators *in relation to non-compliant products*.
- (88) To create an incentive for increasing the capacities of market surveillance authorities in terms of market surveillance and to reach alignment with the Regulation ... [Ecodesign Regulation], Member States should report on their market surveillance activities regarding products covered by this Regulation, including regarding the penalties imposed.
- (89) To better serve economic operators, product contact points for construction should become more effective and therefore should obtain more resources. In order to facilitate the work of economic operators, the tasks of product contact points for construction should be fine-tuned and extended so as to include information on product related provisions of this Regulation and on acts adopted in accordance with it. *Member States should also raise economic operators' awareness of the product contact points for construction within their territory.*

- (90) It is necessary to establish an appropriate, efficient and cost-effective coordination mechanism to ensure a consistent application of the obligations and requirements set and to strengthen the overall system, also taking into consideration the fact that new interpretative questions may arise in relation to safety and sustainability of products and construction works. As diverging decisions create an uneven playing field, contribute to rendering the legal framework more complex, create barriers to the free movement of the internal market and additional administrative burden and costs on economic operators, such diverging decisions should be prevented by that coordination mechanism.
- (91) In particular, a European information system should therefore be established to collect interpretative questions, to find appropriate common solutions and to improve the sharing of information in this regard. To facilitate information sharing, such a system should rely on national systems. *Those* national systems should also identify cases of uneven application of this Regulation, to ensure that diverging practices do not become a common practice and permanent. *The European information system should also deal with issues raised related to the emergence of new products or business models, unforeseen situations and to situations in which other provisions of Union law also apply.*
- (92) *Digitalisation and availability* of product information increases transparency to the benefit of safety of products and the protection of the environment and human health while also reducing administrative burden and costs for economic operators. Accordingly, the power to adopt acts in accordance with Article 291 TFEU should be delegated to the Commission to establish a ■ Construction *digital product passport* system *aligned to the extent possible to the digital product passport under Regulation... [Ecodesign Regulation]*.

- (93) *To improve machine readability, it is necessary to establish a common data dictionary based on European standards, a tool to govern and publish the data structure and their meaningful definitions and descriptions for all relevant construction products. For each product family or category, the data dictionary should include all the essential characteristics and other properties as set out in the harmonised technical specifications as well as other information required by this Regulation. A data dictionary harmonised at the Union level allows for the classification and use of structured definitions by both competent national authorities and in the further digitalisation of the construction sector, in particular in Building Information Modelling, building logbooks, digital passports and registries.*
- (94) To improve their level of competence, harmonise their decision-making and create a level playing field for economic operators, trainings should be organised for market surveillance authorities, product contact points for **construction**, designating authorities, ■ notifying authorities, and **representatives of notified bodies and TABs**. The same goals should also be pursued by exchanges of staff between the market surveillance authorities, notifying authorities and notified bodies of two or more Member States.
- (95) Member States do not always have the technical competence to fulfil all obligations incumbent on them in accordance with Union legislation cumulatively for all product sectors. They therefore obtain informal support, from other ■ Member States. Since such support is unavoidable in some cases ■, this Regulation should set out the basic rules for such support, namely to clarify responsibilities. ■

- (96) Business on construction products becomes slowly but steadily more and more international. Hence, situations arise where non-compliance by economic operators based outside the Union need to be countered as well. **Provisions on** international cooperation should **therefore** be provided for in this Regulation.
- (97) A certain number of third countries applies Union product legislation or at least recognises certificates issued in accordance with it, be it on the basis of international agreements or unilaterally, both being in the interest of the Union. In order to give these third countries an incentive to continue this practice and other third countries to do the same, certain additional possibilities should be provided, **on a case-by-case basis**, to third countries applying Union product legislation or recognising certificates issued in accordance with it. For this reason, it should be possible, **after consultation with Member States**, to support these particularly cooperative third countries by allowing them to participate in certain trainings and to participate in the ■ Construction **digital product passport** system, to the information system for harmonised decision-making and to the information exchange amongst authorities. Moreover, for the same reason, it should be possible to inform these particularly cooperative third countries about non-compliant or risky products.
- (98) In order to incentivise the use of sustainable construction products whilst avoiding market distortions and to remain in line with Regulation ... [Ecodesign Regulation], incentives for the use of sustainable construction products provided by Member States should target the most sustainable products. **The Commission should furthermore have the possibility to coordinate Member States incentives in order to boost the demand of certain environmentally sustainable products.** Member States **might also provide incentives to promote environmentally friendly and sustainable construction products that are not covered by harmonised technical specifications in line with State aid rules.**

(99) ***Public procurement amounts to 14% of Union's GDP.*** In order to enhance the use of sustainable construction products, ***which would contribute to the objective of reaching climate neutrality, improve energy and resource efficiency and in the transition to a circular economy that protects public health and biodiversity*** and to reach alignment with Regulation ... [Ecodesign Regulation], the public procurement ***practices*** of the Member States should ***comply with mandatory minimum performance requirements on environmental sustainability for construction products*** set out by ***delegated acts***. ***The Commission should decide the essential characteristics to be addressed and its implementation in the form of one or more of the following: technical specifications, selection criteria, contract performance clauses or contract award criteria. The mandatory minimum performance requirements on environmental sustainability deal with essential characteristics only and do not pre-empt the possibility for Member States to be more ambitious in their contracts by requesting better performances for the relevant essential characteristics while respecting the harmonised zone.***

- (100) *Contracting authorities and entities should, where appropriate, be required to align their procurement with specific green public procurement criteria, to be set out in the delegated acts referred to in this Regulation. The criteria for specific product families or categories, should be complied where contracts require mandatory minimum environmental sustainability performance for construction products as regards their essential characteristics covered by harmonised technical specifications. Those minimum requirements should be established in accordance with transparent, objective and non-discriminatory criteria. When developing delegated acts related to green public procurement, the Commission should take due account of the Member States different geographical, social and economic circumstances. When considering the effect on the market situation, the Commission should take into account, among others, the effects of the requirements on competition, SMEs and the best environmental products and solutions available on the market. When considering the economic feasibility for contracting authorities, the Commission should take into account that different contracting authorities in different Member States might have different budgetary capacities. In duly justified cases, contracting authorities should be able to derogate from the requirements such as when there is only one supplier, there are no suitable tenders or its application would lead to a disproportionate cost.*
- (101) *In order to ensure the proper functioning of the internal market in the event of an internal market emergency as referred to in Regulation (EU) .../... of the European Parliament and of the Council<sup>17+</sup>, for the reasons set out in that Regulation, it is necessary to provide for rules on construction products designated as crisis-relevant goods, prioritisation of the assessment and verification of those products, assessment and declaration of performance based on standards and common specifications as well as on prioritisation of market surveillance activities and mutual assistance among authorities, in the case of an active internal market emergency mode under that Regulation.*

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<sup>17</sup> *Regulation (EU) 2024/... of the European Parliament and of the Council of ...amending Regulations (EU) No 305/2011, (EU) 2016/424, (EU) 2016/425, (EU) 2016/426, (EU) 2023/988 and (EU) 2023/1230 as regards emergency procedures for the conformity assessment, presumption of conformity, adoption of common specifications and market surveillance due to an internal market emergency (OJ, ..., ELI:...).*

<sup>+</sup> *OJ: Please insert in the text the serial number of Regulation contained in document PE CONS .../... [2022/0279 (COD)] and insert in the corresponding footnote the serial number, date and publication reference for that Regulation.*

(102) In order to take into account technical progress and knowledge of new scientific evidence, ensure proper functioning of the internal market, facilitate access to the information and ensure homogeneous implementation of rules, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of ***amending of Annexes II, III, IV, V, VI, VII, IX and X and amending this Regulation to further specify, add and remove certain functionalities and revise certain provision with a view to ensuring compatibility and interoperability with Regulation ... [Ecodesign regulation] as well as of supplementing this Regulation by: determining voluntary or mandatory threshold levels in relation to the essential characteristics, classes of performance in relation to the essential characteristics, the essential characteristics which always have to be declared by manufacturers; determining elements of standardisation requests and conditions under which a product is to be deemed to satisfy a certain level, threshold level or to qualify for a class of performance without testing, or without further testing; establishing product requirements in accordance with Annex III; establishing rules on the provision of instructions for use and safety information for the respective product family or category; determining, for each product family or category, the applicable assessment and verification system among those set out in Annex IX; laying down conditions under which obligations relating to the assessment of a product's performance or the fulfilment of certain product requirements can be satisfied by the fulfilment of obligations under other Union law; imposing in respect of certain product families and categories an obligation on manufacturers to make available on the market specific spare parts not commonly available for the products they place on the market; establishing specific environmental sustainability labelling requirements for particular product families and categories; setting up a construction digital product passport system; and by specifying mandatory minimum environmental sustainability requirements for construction products.*** It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. ***When developing those acts, the Commission should aim at reducing the administrative burden for companies and take into account the needs of SMEs.***

- (103) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>18</sup>.
- (104) The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to human health or safety or the protection of the environment, imperative grounds of urgency so require.
- (105) Regulation (EU) 2019/1020 lays down rules on a horizontal framework for market surveillance and control of products entering the Union market. In order to ensure that products under this Regulation, which are benefiting from the free movement of goods within the Union, fulfil requirements providing a high level of protection of public interests, such as the protection of human health and safety and the protection of the environment, that Regulation should apply also to products covered by this Regulation, in so far as there are no specific provisions with the same objective, nature or effect in this Regulation. ■

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<sup>18</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (106) To render the implementation of this Regulation more efficient and to reduce the burden for economic operators, it should be possible to make applications and decisions on paper or in a commonly used electronic format. To obtain legal certainty, applications and decisions should only be valid where the electronic signature fulfils the requirements of Regulation (EU) No 910/2014 of the European Parliament and of the Council<sup>19</sup> and where the signing person is entrusted to represent the body or economic operator, in accordance with the law of the Member States or Union law respectively.
- (107) To further reduce the burden on economic operators, it should be possible to provide documentation in a commonly used electronic format, and to fulfil information requirements electronically by default.
- (108) In order to ensure a high level of compliance with this Regulation, Member States should lay down rules on penalties applicable to instances of non-compliance and ensure that those rules are enforced. The penalties provided for should be effective, proportionate and dissuasive. ■

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<sup>19</sup> Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

- (109) In order to create legal certainty, it should be specified whether and for how long designations of product contact points for construction, TABs, or notified bodies and harmonised standards, European assessment documents, European technical assessments and notified bodies certificates or test reports adopted or issued under Regulation (EU) *No* 305/2011 maintain legal effects under this Regulation. The respective transition periods should be long enough to avoid bottlenecks in respect of notified bodies and TABs designation and of the adoption or issuing of European assessment documents, European technical assessments, and notified body certificates or test reports.
- (110) To create legal certainty, it should be clarified for how long products placed on the market on the basis of European *technical assessments issued in accordance with European* assessment documents adopted under Regulation (EU) No 305/2011 may *be* placed on the market. ■
- (111) Both the essential characteristics of construction products and their assessment methods can only be determined by harmonised technical specifications to be developed for the various product *families and categories, or by European assessment documents*. Accordingly, requirements and obligations incumbent on economic operators with regard to a certain product *family or category* should only apply mandatorily as *of twelve* months after the entry into force of harmonised technical specification covering the respective product *family or category unless a later application date has been specified in the publication in the Official Journal of the European Union*.

- (112) To facilitate a smooth phasing-in of future harmonised technical specifications and taking into consideration the time needed for drawing up the declaration of performance *and* conformity, economic operators should be permitted to opt for the voluntary application of this Regulation as from the entry into force of these harmonised technical specifications.
- (113) It is necessary to avoid that economic operators can permanently circumvent the application of this Regulation by applying the harmonised technical specifications adopted under Regulation (EU) No 305/2011. For this reason, the Commission should withdraw from the Official Journal the references to harmonised standards and *European assessment documents* published in support of Regulation (EU) No 305/2011 and covering a certain product *family or category by* the entry into *application* of harmonised technical specification adopted under this Regulation covering that respective product *family or category*.
- (114) *While the concept of basic requirements for construction works is kept as the technically necessary link between construction works and construction products, it should be made explicit that they do not constitute obligations incumbent upon economic operators or Member States seeing as the right to regulate construction works is a competence of Member States.* In order to ■ cover the environmental assessment of construction products *as well as* product requirements which exist even in current harmonised technical specifications, a more comprehensive Annex I should be developed, including also a detailed list of *predetermined environmental* essential characteristics related to *life cycle* assessment and a ■ framework for the product requirements. On that occasion, overlaps between basic requirements for construction works should be eliminated and clarifications should be brought forward.

- (115) In order to reach a minimum control intensity of the assessment and verification of manufacturers by notified bodies and to create a level playing field both for manufacturers and notified bodies, Annex IX on assessment and verification systems should more precisely and comprehensively determine the tasks of manufacturers and notified bodies under different possible assessment and verification systems. Moreover, that Annex should determine the assessments and verifications to be undertaken to verify the environmental sustainability of products, in terms of product performance and product requirements.
- When the Commission defines the applicable assessment and verification system for a product family or category, continuity with Regulation (EU) No 305/2011 and coherence across product families should be the guiding principles.***
- (116) The objectives of this Regulation, namely the free circulation of construction products on the internal market, the protection of human health and safety, and the protection of the environment, cannot be sufficiently achieved by the Member States, as Member States tend to establish very diverging requirements for construction products, with an uneven level of protection of human health and safety and of the environment. These objectives can rather be better achieved at Union level by establishing a harmonised assessment framework for the performance of construction products and certain product requirements for the protection of human health and safety and of the environment. Accordingly, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 ***TEU***. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

CHAPTER I  
GENERAL PROVISIONS

Article 1

Subject matter *and objectives*

1. This Regulation establishes harmonised rules for the *placing and* making available on the market ■ of construction products, regardless of whether undertaken in the framework of a service or not, by establishing:
  - (a) *harmonised* rules on how to express the environmental, ■ and safety performance of construction products in relation to their essential characteristics, *including life cycle assessment*;
  - (b) environmental, ■ functional and safety product requirements for construction products.
  
2. This Regulation also establishes:
  - (a) *rights and* obligations *for* economic operators dealing with construction products or their components; *and*
  - (b) *obligations for other actors providing services linked to the manufacturing and commercialisation of products covered by this Regulation.*

3. ***This Regulation aims to contribute to the efficient functioning of the internal market by ensuring the free movement of safe and sustainable construction products in the Union. It also aims to contribute to the objectives of a green and digital transition by preventing and reducing the impact that construction products have on the environment and on the health and safety of people.***

## Article 2

### Scope

1. This Regulation applies to construction products, ***including used products***, and to the following items:

■

(a) key parts of products ■ ; and

(b) parts or materials intended to be used for products covered by this Regulation, if the manufacturer of those parts or materials so requests.

■

2. This Regulation shall not apply to:

(a) lifts subject to Directive 2014/33/EU of the European Parliament and of the Council<sup>20</sup>, escalators or their components;

(b) *performance assessment and requirements subject to Directive (EU) 2020/2184 of the European Parliament and of the Council<sup>21</sup> and covered by the delegated acts of the Commission referred to in Article 11(8) of that Directive.*

3. Member States may exempt from the application of this Regulation products otherwise covered by this Regulation that are placed on the market in the outermost regions of the Union within the meaning of Article 349 TFUE. Member States shall notify to the Commission and to the other Member States the national laws, regulations and administrative provisions providing such exemptions. They shall ensure that exempted products do not bear the CE marking referred to in Article 17. Products placed on the market on the basis of that exemption shall not be deemed to have been placed on the market in the Union within the meaning of this Regulation.

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<sup>20</sup> Directive 2014/33/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to lifts and safety components for lifts (OJ L 96, 29.3.2014, p. 251).

<sup>21</sup> *Directive (EU) 2020/2184 of the European Parliament and of the Council of 16 December 2020 on the quality of water intended for human consumption (OJ L 435, 23.12.2020, p. 1).*

Article 3  
Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (1) ‘construction product’ means any formed or formless physical item, including **3D-printed products**, or a kit **that is placed on the market, including by means of supply to the construction site**, for incorporation in a permanent manner into construction works or parts thereof ■ with the exception of items ■ that need first to be integrated into **a kit or another** construction product prior to being incorporated in a permanent manner into construction works;
- (2) ‘product’ means a construction product or other item **falling within the scope of** this Regulation **as set out in** Article 2;
- (3) ‘permanent’ means **intended to remain in the construction work, or in parts thereof, after the completion of the construction or renovation process**;
- (4) ‘making available on the market’ means any supply of a product for distribution or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge, regardless whether in the framework of providing a service or not;
- (5) ‘placing on the market’ means the first making available of a product on the Union market, or the first making available on the market of a used product after a de-installation of such a product;

■

- (6) ‘performance’ means the degree to which a product has certain scalable essential characteristics;
- (7) ‘essential characteristics’ means those characteristics of the product which relate to the basic requirements for construction works set out in Annex I, ***and those which are listed as predetermined environmental essential characteristics*** in Annex II;
- (8) ‘product ***requirement***’ means a ■ characteristic, ***as set out in Annex III***, which a product must have before it can be placed on the market;
- (9) ‘economic operator’ means the manufacturer, the authorised representative, the importer, the distributor, the fulfilment service provider ■ or any other natural or legal person ■ who is subject to this Regulation in relation to the manufacturing ***or remanufacturing of products, including reused*** products, or to making those products available on the market, in accordance with this Regulation ■ ;

■

- (10) ‘manufacturer’ means a ‘manufacturer’ as defined in Article 3, point (8), of Regulation (EU) 2019/1020;
- (11) ‘3D-dataset’ means a set of numerical data describing the shape of an object by its outer dimensions and its cavities ■ ;
- (12) ‘construction works’ means buildings and civil engineering works whether over or in the ground or water, including ***but not limited to roads***, bridges, tunnels, pylons and other facilities for transport of electricity, communication cables, pipelines, aqueducts, dams, airports, ports, waterways, and installations which are the bases for the rails of railways ■ ;

■

- (13) ‘level’ means the result of the assessment of the performance of a product in relation to its essential characteristics, expressed as a numerical value;
- (14) ‘class’ means a range of levels, delimited by a minimum and a maximum value, of performance of a product;

- (15) ‘threshold level’ means a ■ minimum or maximum performance level of a product with regard to a certain essential characteristic;
- (16) ‘key part’ means a part which is ■ used as *a* component or spare part for a product and *which* has been specified by *a* harmonised technical *specification* as essential for the characterisation, safety or performance of a product;
- (17) ‘kit’ means a product placed on the market by a single economic operator as a set of at least two separate items, none of which needs to be a product itself, intended to be incorporated together in construction works;
- 
- (18) ‘European assessment document’ or ‘EAD’ means a document adopted by the organisation of technical assessment bodies for the purposes of issuing European technical assessments;
- (19) ‘European technical assessment’ or ‘ETA’ means the documented assessment of the performance of a product, in relation to its essential characteristics, in accordance with the respective European assessment document;
- (20) ‘used product’ means a product that is not waste *or has ceased to be waste in accordance with* Directive 2008/98/EC ■ , and which has been installed at least once into a construction work, and that:

■

- (a) has not undergone a process going beyond *checking*, cleaning *or repairing recovery operations by which the product or components of products are prepared so that they can be used for construction purposes without any other pre-processing; or*
  - (b) *has been subject to a transformative process going beyond checking, cleaning and repairing recovery operations which, according to the applicable harmonised technical specification, is qualified as non-essential to the product's performance;*
- (21) *'intended use' means the purpose of a product as set out in the applicable harmonised technical specifications or European assessment documents;*
- (22) *'declared use' means the use intended by the manufacturer, including the conditions for usage, as laid out in technical documentation, on labels, in instructions for use, in safety information, or in publicity material;*

- (23) ‘repair’ means the process of ***fixing*** a faulty product ***or replacing its defective components, in order to return the product*** to a condition where it can fulfil its ***declared*** use;
- (24) ‘maintenance’ means an action carried out to retain a product in a condition where it is able to function as ***specified***;
- (25) ‘remanufactured product’ means a product that is not waste, ***or has ceased to be waste in accordance with Directive 2008/98/EC, which*** has been installed at least once into a construction work, and that has been subject to a transformative process going beyond ***checking***, cleaning and ***repairing recovery operations which, according to the applicable harmonised technical specification, are qualified as essential to the product’s performance***;
- (26) ‘risk’ means ‘risk’ as defined in Article 3, point (18), of Regulation (EU) 2019/1020;
- 
- (27) ‘product type’ means the abstract model of individual products, determined by the intended use and a set of characteristics which exclude any variation with regard to performance or to the fulfilment of product requirements set out in or in accordance with this Regulation, ■ although identical ***products*** of different manufacturers belong to different product types;

- (28) ‘state of the art’ means a way of achieving a certain goal which is either the most effective and advanced or close to it, ***or a way which is currently possible applying common technologies, whether or not it is the most technologically advanced solution;***
- (29) ‘recycling’ means ‘recycling’ as defined in Article 3, point (17), of Directive 2008/98/EC;
- (30) ‘fulfilment service provider’ means a ‘fulfilment service provider’ as defined in Article 3, point (11), of Regulation (EU) 2019/1020;
- (31) ‘product family’ means all product types belonging to ***one of the families*** listed in Annex VII **■** ;
- (32) ‘product category’ means a subset of the product types of a certain product family encompassing those product types which have in common a certain intended use as specified in harmonised technical specifications or European assessment documents;
- (33) ‘factory production control’ means the ***continuous*** documented, internal production control in a factory with regard to certain parameters or quality aspects, reflecting the specificities of a respective product family or ***category*** and manufacturing processes, and which aims at the constancy of performance or of continuous fulfilment of product requirements, executed in accordance with Annex IX;

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- (34) ‘importer’ means an ‘importer’ as defined in Article 3, point (9), of Regulation (EU) 2019/1020;
- (35) ‘distributor’ means *any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes a product available on the market, including by offering products for sale, hire or hire purchase, or displaying products to customers or installers in the course of a commercial activity, and including through distance selling, whether or not in return for payment;*
- (36) ‘authorised representative’ means *any natural or legal person established in the Union who has received a written mandate from a manufacturer to act on that manufacturer’s behalf in relation to specified tasks with regard to the manufacturer’s obligations under this Regulation;*
- (37) ‘individually manufactured’ means that, due to the specifications of the client, there is a *need for readjustment of the production process for manufacture* when compared with all other products produced for other clients by the economic operator in question;
- (38) ‘micro-enterprise’ means a ‘micro-enterprise’ as defined in Article 2(3) of the Annex to Commission Recommendation 2003/361/EC<sup>22</sup> ■ ;

- (39) ‘custom-made’ means that, due to the specifications of the client, there is a variation in terms of size or material when compared with all other products produced for other clients by the economic operator in question;
- (40) ‘permalink’ means an internet link to a website which is stable both for its content and the address (“URL”);
- (41) ‘data carrier’ means a linear bar code symbol, a two-dimensional symbol, or other automatic identification data capture medium that can be read by a device;**
- (42) ‘harmonised technical specifications’ means the *performance harmonised standards* which **■** *have been* made mandatory for *the* purposes of *the* application of this Regulation *in accordance with Article 5(8), the implementing acts referred to in Article 6(1) and the delegated acts referred to in Article 7(1), Article 9(3) and Article 10(2)*;
- 
- (43) ‘European standardisation organisation’ means a ‘European standardisation organisation’ as defined in Article 2, point (8) of Regulation (EU) *No* 1025/2012;
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- (44) ‘non-series process’ means a process that is neither predominantly automated or predominantly carried out using assembly-line techniques, nor repeated ***very often in relation to the volume of production*** by the economic operator in question or the economic operators belonging to the same group of companies, determined by a common controlling natural or legal person, or the same organisational structure;
- (45) ‘withdrawal’ means ‘withdrawal’ as defined in Article 3, point (23), of Regulation (EU) ■ 2019/1020;
- (46) ‘recall’ means ‘***recall***’ as defined in Article 3, point (22), of Regulation (EU) ■ 2019/1020;
- (47) ‘online marketplace’ means a provider of an intermediary service using ***an online interface which*** enables customers to conclude distance contracts with economic operators for the sale of products;
- (48) ‘online interface’ means an ‘online interface’ as defined in Article 3, point (15), of Regulation (EU) 2019/1020;
- 
- (49) ‘supplier’ means any natural or legal person providing raw materials, ***interim products, or used*** products to manufacturers or to other persons providing raw materials, ***interim products, or used*** products to manufacturers;

- (50) ‘service provider’ means any natural or legal person providing a service to a manufacturer or to a supplier of a key part, provided that the service is relevant for the manufacturing of products, including to their design, ***or to their deinstallation in the case of reused products***;
- (51) ‘accreditation’ means ‘accreditation’ as defined in Article 2, point (10), of Regulation (EC) No 765/2008;
- (52) ‘market surveillance authority’ means a ‘market surveillance authority’ as defined in Article 3, point (4), of Regulation (EU) 2019/1020;
- (53) ‘life cycle’ means the consecutive and interlinked stages of a product’s life, from raw material acquisition or generation from natural resources, ***or in the case of products which have previously been incorporated in a construction work, from the latest de-installation from the construction work***, to final disposal;

■

- (54) ‘***single liaison point***’ means the ■ authority designated ***as the focal point for contacts with the Commission and other Member States on construction product related issues***;
- (55) ‘***notified body***’ means a ***conformity assessment body authorised to carry out third-party assessment and verification tasks under this Regulation that has been duly notified***;

(56) ‘notifying authority’ means the single public administration **body**, designated in accordance with this Regulation, ***in charge of the notification and supervision of notified bodies***;

(57) ‘***technical assessment body***’ or ‘***TAB***’ means a **body**, designated in accordance with this Regulation, ***that issues European technical assessments on the basis of European assessment documents***;

(58) ‘designating authority’ means the single public administration **body**, designated in accordance with this Regulation, ***in charge of the designation and supervision of TABs in a Member State***;

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(59) ‘product presenting a risk’ means a product that, whenever during its entire life cycle ■, has an inherent potential to affect adversely the health and safety of persons, the environment or the fulfilment of basic requirements for construction works when incorporated in those works, to a degree which, taking account of the state-of-the-art, goes beyond what is considered reasonable and acceptable in relation to its intended use and under normal or reasonably foreseeable conditions of use;

- (60-) 'product presenting a serious risk' means a 'product presenting a serious risk' as defined in Article 3, point (20), of Regulation (EU) 2019/1020.
- (61) *'by-product' means a 'by-product' within the meaning of Article 5 of Directive 2008/98/EC;*
- (62) *'recyclability' means the susceptibility of a material or product to be effectively and efficiently separated, collected, sorted and aggregated in specific waste streams for the purpose of being recycled into secondary raw materials while minimising the loss of quality or functionality compared to the relevant primary raw material.*
- (63) *'crisis-relevant goods' means 'crisis-relevant goods' within the meaning of Article 3, point (6) of Regulation (EU) .../.... IMERA Regulation;*
- (64) *'internal market emergency' means 'internal market emergency' within the meaning of Article 3, point (3) of Regulation (EU) .../... [SMEI/IMERA Regulation].*

#### *Article 4*

##### *Working plan and preparatory phase for the development of harmonised technical specifications*

- 1. The Commission shall be supported by an expert group ('the CPR Acquis Expert Group'). The CPR Acquis Expert Group shall be composed at least of experts designated by the Member States, representatives of European standardisation organisations and of relevant European stakeholder organisations receiving Union financing under Regulation (EU) No 1025/2012. The CPR Acquis Expert Group shall support the Commission in processing Member States' requests for Union harmonisation through harmonised technical specifications. In particular, the CPR Acquis Expert Group shall assist the Commission in establishing and updating a working plan for the development of harmonised technical specifications, in preparing the technical content related to harmonised technical specifications, in deciding on the need to launch the procedures in relation to harmonised technical specifications that present deficiencies, are unavailable, or not able to cover immediate regulatory needs, and in determining the inclusion of used products in harmonised technical specifications.*

2. *After consulting the CPR Acquis Expert Group, the Commission shall establish a working plan for the development of harmonised technical specifications for product families listed in Annex VII, including product requirements and instructions for use and safety information, covering at least the following three-year period. The Commission shall set the priorities of the working plan using a transparent and balanced methodology, which shall be published together with the working plan. That methodology shall at least take into account the regulatory needs of the Member States, the safety issues related to construction works and products and the climate and circular economy goals of the Union.*

*The Commission shall publish the first working plan no later than ... [12 months after entry into force of this Regulation].*

*The Commission shall renew and update the working plan at least every three years. It shall publish the working plan for the following three-year period one year before the expiration of the working plan in force.*

*The Commission shall inform the European Parliament and the Council annually about progress in implementing the working plan.*

*If the Commission considers that it cannot achieve the goals set out in the working plan, it shall amend it accordingly without undue delay, and shall inform the European Parliament and the Council about the reasons thereof.*

3. *Following the working plan established under paragraph 2, Member States shall communicate to the Commission and the CPR Acquis Expert Group the essential characteristics they require for a product family or category, and the assessment methods, threshold levels or performance classes, as well as the product requirements, that they deem necessary.*

*When Member States communicate their regulatory needs to the Commission pursuant to the first subparagraph, the Commission shall integrate them or shall provide a statement of reasons why it is not possible to do so.*

4. *On the basis of the basic requirements for construction works set out in Annex I and taking into account the regulatory needs communicated by Member States in accordance with paragraph 3 of this Article, as well as the safety, environmental, circularity and climate objectives of the Union, the Commission, with the support of the CPR Acquis Expert Group, shall identify the technical aspects needed to prepare standardisation requests, including the relevant essential characteristics. Those essential characteristics and the list of predetermined environmental essential characteristics set out in Annex II shall constitute the basis for the preparation of the standardisation requests referred to in Article 5(2) and of the implementing acts referred to in Article 6(1).*

5. *The Commission shall ensure that essential characteristics are covered by harmonised technical specifications to the extent that the development of such specifications is technically and economically proportionate.*
6. *The Commission, with the support of the CPR Acquis Expert Group, shall identify the product requirements referred to in Article 7, as well as other harmonised technical specifications, and shall determine whether used products are to be covered by or excluded from a standardisation request or a harmonised technical specification. The CPR Acquis Expert Group shall, as a matter of urgency, be consulted on notifications from Member States in accordance with Article 11(5).*
7. *The Commission is empowered to adopt delegated acts in accordance with Article 89 to amend:*
  - (a) *the list of predetermined environmental essential characteristics set out in Annex II in order to adapt it to technical progress and new environmental risks and to comply with the priorities established pursuant to paragraph 2 of this Article based on the regulatory needs of the Member States;*
  - (b) *the product families listed in Annex VII, to adapt them to technical progress and to the regulatory needs of the Member States.*

## Article 5

### ***Harmonised standards laying down essential characteristics dealing with performance***

1. The ***methods and the criteria for assessing the performance of a product in relation to its essential characteristics*** shall be laid down in ***harmonised standards*** made mandatory ***by means of the implementing acts referred to in paragraph 8 ('performance harmonised standards')***. ***Performance harmonised standards*** shall, ***where appropriate and without endangering the accuracy, reliability or stability of the results, provide methods for assessing the performance of the products in relation to their essential characteristics that are less onerous than testing.***
2. The Commission ***shall***, in accordance with Article 10 of Regulation (EU) No 1025/2012, ***request one or more European standardisation organisations to draft harmonised standards*** laying down ***essential characteristics and their assessment methods for one or more product families, or for one or more product categories within a family.*** ***The standardisation request shall set out*** the basic principles and ***reference points*** for the establishment of those essential characteristics and their assessment methods. ***The standardisation request shall explicitly state whether it covers or excludes used products from the scope of the request.***

3. *As part of the standardisation requests referred to in paragraph 2 of this Article, the Commission may also request the European standardisation organisations to provide the technical details necessary for the implementation of the assessment and verification system that is to be applied in accordance with the delegated acts referred to in Article 10(2).*
4. *The standardisation requests referred to in paragraph 2 may include a request to propose one or more of the following elements:*
  - (a) *voluntary or mandatory threshold levels in relation to the essential characteristics;*
  - (b) *classes of performance in relation to the essential characteristics;*
  - (c) *those essential characteristics which always have to be declared by manufacturers.*



*Such standardisation requests shall set out the basic principles and reference points necessary for the establishment of the elements requested.*

5. *Where it has included with its standardisation request a request for a proposal in accordance with paragraph 4 of this Article, the Commission is empowered to adopt delegated acts in accordance with Article 89 to supplement this Regulation by determining, for the product families or product categories and for the elements covered by that request, the elements referred to in paragraph 4, (a), (b) and (c) of this Article.*

*After consulting the CPR Acquis Expert Group, the Commission may deviate from the proposals of the European standardisation organisation.*

*The Commission is also empowered to adopt delegated acts, irrespective of any prior standardisation request but on the advice of the CPR Acquis Expert Group, in accordance with Article 89 to supplement this Regulation by determining the elements set out in paragraph 4 (a), (b) and (c) of this Article in relation to any of the groupings of essential characteristics of a horizontal nature listed in Annex X.*

- 6. In cases where, on the basis of the nature or technical characteristics of a product, it is apparent that testing would be unnecessary or redundant, the Commission is empowered to adopt delegated acts in accordance with Article 89 to supplement this Regulation by laying down conditions under which a product is to be deemed to satisfy a certain level, threshold level or to qualify for a class of performance without testing, or without further testing.*

7. The Commission shall *assess the compliance of harmonised standards with the relevant standardisation requests, with this Regulation and with other Union law, including general principles of law. The Commission may assess whether harmonised standards comply with other harmonised standards under this Regulation or with other harmonised standards the references of which have been published in the Official Journal of the European Union.*

*The Commission shall carry out the assessment referred to in the first subparagraph of this paragraph and present its reasons in writing to the relevant European standardisation organisation and to the CPR Acquis Expert Group within six months after the relevant harmonised standard has been transmitted to it. Where the Commission considers that a standard, or a part thereof, is unsatisfactory, it shall specify the deficiencies. In order for the Commission to fulfil that obligation within that timeframe, the European standardisation organisations shall regularly inform the Commission of the progress and content of the European standardisation deliverable in accordance with Article 10(5) of Regulation (EU) No 1025/2012.*

█

8. *Where a harmonised standard is in conformity with applicable legal requirements and satisfies the requirements to be met in relation to the basic principles and reference points set out in the standardisation request, as well as in relation to the essential characteristics to be covered in view of the basic requirements for construction works, the Commission shall without delay adopt an implementing act making that standard mandatory. One year after such adoption the performance harmonised standard shall become mandatory for the purposes of this Regulation unless a later application date has been specified in the implementing act. A later application date shall be specified only in exceptional cases and its use shall be duly supported by reasons. A performance harmonised standard may be voluntarily applied from the date of the adoption of the implementing act.*

*Where the Commission considers a harmonised standard or a part thereof to be unsatisfactory, it may adopt an implementing act making that harmonised standard mandatory with restrictions.*

*The implementing acts referred to in the first and second subparagraph shall be adopted in accordance with the advisory procedure referred to in Article 90(2).*

*Where it is not possible to adopt an implementing act with restrictions, the Commission may adopt an implementing act in accordance with Article 6.*

9. *When a Member State, the European Parliament or the Commission, the last with the support of the CPR Acquis Expert Group established under Article 4 of this Regulation, considers that a performance harmonised standard does not entirely fulfil the applicable legal requirements or satisfy the demands to be met in relation to the essential characteristics to be covered in view of the basic requirements for construction works, the procedure for formal objections to harmonised standards as set out in Article 11 of Regulation (EU) No 1025/2012 shall apply.*
10. *The Commission is empowered to adopt delegated acts in accordance with Article 89 to amend Annex X by adding additional groupings of essential characteristics of a horizontal nature.*

#### *Article 6*

##### *Other harmonised technical specifications laying down essential characteristics*

1. *While priority shall be given to the elaboration of standards, by way of derogation from Article 5(1) to (4) of this Regulation, in order to cover the regulatory needs of Member States and to pursue the goals of Article 114 TFUE, the Commission may **adopt implementing acts laying down essential characteristics, their assessment methods and technical details pursuant to Article 5 of this Regulation for one or more product families or for one or more product categories within a family.***

*Those implementing acts shall be adopted only if the following conditions are fulfilled:*

- (a) the Commission has requested, pursuant to Article 5(2), one or more European standardisation organisations to draft a harmonised standard and
  - (i) the request has not been accepted; or*
  - (ii) the harmonised standard addressing that request is not delivered by the deadline set in accordance with Article 10(1) of Regulation (EU) No 1025/2012 or is not delivered within three years after the acceptance of the standardisation request; or*
  - (iii) the harmonised standard does not comply with the request; and**
- (b) no implementing act, as referred to in Article 5(8), first subparagraph, making mandatory a harmonised standard covering the essential characteristics, their assessment methods and technical details pursuant to Article 5 was adopted in the last 5 years, or such an implementing act was adopted within the last five years, but with restrictions, as referred to in Article 5(8), second subparagraph.*

**█** *Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 90(2).*

2. *Before preparing a draft implementing act referred to in paragraph 1 of this Article, the Commission shall inform the committee referred to in Article 22 of Regulation (EU) No 1025/2012 that it considers that the conditions in paragraph 1 of this Article are fulfilled.*
3. *When preparing the draft implementing act, the Commission shall take into account the views of relevant bodies and the CPR Acquis Expert Group and shall duly consult all relevant stakeholder organisations receiving Union financing under Regulation (EU) No 1025/2012.*
4. *Where an implementing act referred to in paragraph 1 of this Article covers the same essential characteristics or assessment methods in relation to a specific product family or product category as a harmonised standard to which a reference has been published in the Official Journal of the European Union or in respect of which an implementing act referred to in Article 5(8) has been adopted, the Commission shall withdraw from the Official Journal of the European Union the reference to that harmonised standard or repeal that implementing act. Where the implementing act referred to in paragraph 1 of this Article only partially covers the harmonised standard, the Commission shall retain the implementing act laying down a harmonised standard that is subject to restrictions.*

5. *When a Member State or the European Parliament considers that an implementing act adopted in accordance with paragraph 1 does not entirely satisfy the requirements to be met in relation to the essential characteristics to be covered in view of the basic requirements for construction works, it shall inform the Commission thereof, submitting a detailed explanation. The Commission shall assess that detailed explanation and may, if appropriate, amend the implementing act in question.*
6. *The Commission shall follow the procedure in Article 5 to request any revision or update of the essential characteristics or assessment methods in relation to the same product families or product categories as those covered by the implementing act referred to in paragraph 1 of this Article. Where the harmonised standard delivered by the European standardisation organisation satisfies the requirements provided for in Article 5(8), the Commission shall repeal the implementing act adopted in accordance with paragraph 1 of this Article, or the parts thereof which cover the same essential characteristics or assessment methods in relation to the same product families or categories as those covered by the harmonised standard.*

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## Article 7

### Product requirements *and harmonised standards conferring a presumption of conformity*

1. *Where a product family, or one or more product categories within a product family, is covered either by a performance harmonised standard ) or by an implementing act referred to in Article 6(1), the Commission is empowered to adopt delegated acts in accordance with Article 89 to supplement this Regulation, by establishing product requirements in accordance with Annex III for that product family or category, or for parts thereof.*
2. *Prior to their placing on the market, products covered by this Regulation shall satisfy the applicable product requirements.*
3. *The Commission may, in accordance with Article 10(1) of Regulation (EU) No 1025/2012, request one or more European standardisation organisations to draft voluntary harmonised standards for the product requirements established by delegated acts referred to in paragraph 1 of this Article.*
4. *Where a harmonised standard requested in accordance with paragraph 3 is adopted by a European standardisation organisation and proposed to the Commission for the purpose of publishing its reference in the Official Journal of the European Union, the Commission shall assess the harmonised standard in accordance with Regulation (EU) No 1025/2012.*

5. *Where a harmonised standard is in conformity with applicable legal requirements and satisfies the requirements to be met in relation to the product requirements set out in the standardisation request, the Commission shall without delay publish a reference of that standard in the Official Journal of the European Union.*
6. *Where a reference to a harmonised standard cannot be published in the Official Journal of the European Union, the Commission may publish such a reference with restrictions. Where a reference to a harmonised standard cannot be published in the Official Journal of the European Union and cannot be published as a reference with restrictions, the Commission shall bring the issue to the attention of the committee referred to in Article 22 of Regulation (EU) No 1025/2012 and of the CPR Acquis Expert Group.*
7. *A product subject to product requirements which is in conformity with harmonised standards or parts thereof, the references of which have been published in the Official Journal of the European Union, shall be presumed to be in conformity with the product requirements covered by those standards or parts thereof.*

8. *The Commission is empowered to adopt* delegated acts in accordance with Article 89 *amending Annex III* to adapt it **■** to technical progress and to cover new risks and environmental aspects *and to comply with the priorities established in Article 4, based on the regulatory needs of the Member States.*

*Article 8*

*Common specifications conferring apresumption of conformity*

1. *The Commission may adopt implementing acts establishing common specifications that provide an alternative means to comply with the product requirements established in accordance with Article 7(1).*

*Those implementing acts shall be adopted only where the following conditions are fulfilled:*

- (a) *the Commission has requested, pursuant to Article 7(3), one or more European standardisation organisations to draft a harmonised standard for the product requirements and:*
- (i) *the request has not been accepted;*
  - (ii) *the harmonised standards addressing that request are not delivered within the deadline set in accordance with Article 10(1) of Regulation (EU) No 1025/2012; or*
  - (iii) *the harmonised standards do not comply with the request; and*

- (b) *no reference to harmonised standards covering the product requirements has been published in the Official Journal of the European Union in accordance with Regulation (EU) No 1025/2012 and no such reference is expected to be published within a reasonable period.*

*Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 90(3).*

2. *Before preparing a draft implementing act referred to in paragraph 1 of this Article, the Commission shall inform the committee referred to in Article 22 of Regulation (EU) No 1025/2012 that it considers that the conditions in paragraph 1 of this Article are fulfilled.*
3. *When preparing the draft implementing act referred to in paragraph 1 of this Article, the Commission shall take into account the views of the relevant bodies and the CPR Acquis Expert Group and shall duly consult all relevant stakeholder organisations receiving Union financing under Regulation (EU) No 1025/2012.*
4. *A product which is in conformity with the common specifications established by implementing acts referred to in paragraph 1 of this Article, or parts thereof, shall be presumed to be in conformity with the product requirements established by delegated acts referred to in Article 7(1) covered by those common specifications or parts thereof.*

5. *The Commission shall repeal the implementing acts referred to in paragraph 1 of this Article, or parts thereof which cover the same product requirements as those covered by a harmonised standard the reference of which is published in the Official Journal of the European Union in accordance with Article 7(5) or (6).*
6. *When a Member State or the European Parliament considers that a common specification does not entirely satisfy the product requirements established by delegated acts referred to in Article 7(1), it shall inform the Commission thereof, submitting a detailed explanation. The Commission shall assess that detailed explanation and may, if appropriate, amend the implementing act establishing the common specification in question.*

#### *Article 9*

##### *General product information, instructions for use and safety information*

1. *General product information, instructions for use and safety information shall be provided in relation to construction products covered by a harmonised technical specification or a European technical assessment. The content of the general product information, instructions for use and safety information is set out in Annex IV.*
2. *As part of the standardisation request referred to in Article 5(2), the Commission may also request the European standardisation organisation to issue guidelines, including technical details, necessary for drawing up general product information, instructions and safety information in accordance with Annex IV.*

3. *If the Commission considers that the guidelines issued by the European standardisation organisation pursuant to paragraph 2 of this Article for a specific product family or category do not ensure adequate and homogeneous implementation of paragraph 1 of this Article, the Commission is empowered to adopt delegated acts in accordance with Article 89 to supplement this Regulation by establishing rules on the provision of general product information, instructions for use and safety information for the respective product family or category.*
4. *The Commission is empowered to adopt delegated acts in accordance with Article 89 to amend Annex IV in order to adapt it to technical progress and new information needs.*

#### Article 10

##### Assessment and verification systems ■

1. *The assessment and verification of a product's performance in relation to its essential characteristics, as set out in harmonised technical specifications adopted in accordance with Articles 5 and 6 or in European assessment documents referred to in Article 31, or of its conformity with product requirements adopted in accordance with Article 7, shall be carried out in accordance with one or more of the systems referred to in Annex IX.*

2. **■** The Commission is empowered to *adopt delegated acts in accordance with Article 89* to supplement this Regulation, by determining, for each product family or category, the applicable assessment and verification system among those referred to in Annex IX. Those delegated acts may **■** determine different assessment and verification systems *within* the same product family or category, differentiating by essential characteristic or product requirement. *The assessment and verification systems shall be determined before the harmonised technical specifications or European assessment documents become applicable.*
3. *The delegated acts adopted in accordance with paragraph 2 shall take into account the intended uses, the potential damage resulting from product deficiencies, the product's sensitivity to performance variations under production conditions, the likelihood of errors during its manufacturing and the possibility of easily detecting manufacturing errors. Those delegated acts shall be tailored to the respective product families or categories and shall minimise the burden on manufacturers, whilst ensuring a high level of protection of health, safety and the environment.*

**■**

4. ***The Commission is empowered to adopt delegated acts in accordance with Article 89 in order to amend Annex IX to:***

- (a) introduce additional assessment and verification systems when necessary to adapt to technical progress; or***
- (b) amend the existing assessment and verification systems to counter systematic non-compliance by notified bodies or manufacturers and to harmonise the application of the requirements or obligations contained in them, without such amendments adding or removing any task defined in a system.***

When adopting delegated acts under point (a), the Commission may not introduce ***additional systems that set more demanding obligations for economic operators than those provided for in System 1+. In addition, the Commission may introduce such additional systems only when it is evident that guidance on the application of existing systems has proved to be insufficient.***

#### Article 11

##### Harmonised zone and national measures

1. ***This Regulation, and the harmonised technical specifications adopted in accordance with it, together, establish a ‘harmonised zone’.***

***The harmonised zone covers all products subject to harmonised technical specifications.***

***Harmonised technical specifications shall be presumed to be comprehensive, in the following respects:***

- (a) laying down all essential characteristics and their assessment methods;*
- (b) specifying all inherent product requirements other than those covered by other Union law; and*
- (c) determining the applicable assessment and verification systems.*

*Harmonised technical specifications for new products shall apply to used products from third countries unless the harmonised technical specification explicitly provides rules for used products.*

- 2. Member States shall respect the harmonised zone in their national laws, regulations and administrative measures, and shall neither prohibit nor impede the making available on the market of products covered by it when those products are in compliance with this Regulation. Member States shall not lay down essential characteristics and their assessment methods or inherent product requirements other than those set out in the harmonised technical specifications.*

*The harmonised zone does not affect the right of Member States to specify national requirements for the use of products that are subject to harmonised technical specifications. Any assessment methods and systems for assessment and verification of such national requirements shall be in accordance with applicable harmonised technical specifications.*

*Member States shall ensure that the making available on the market of products within the harmonised zone which are in compliance with this Regulation shall not be impeded by rules or conditions imposed by public bodies or private bodies acting as a public undertaking, or acting as a public body on the basis of a monopoly position or under a public mandate.*

3. *When complying with the obligations provided for in paragraph 2, Member States shall in particular apply the following rules:*
- (a) *no requirements for information or registration related to the placing on the market of the product other than those laid down in the harmonised zone shall be established;*
  - (b) *no assessments of the product other than those set out in the harmonised zone shall be made mandatory;*
  - 
  - (c) *no markings attesting to conformity with requirements or declared performances in relation to essential characteristics covered by the harmonised zone shall be required other than the CE marking, and any existing provisions in national measures requiring such markings shall be withdrawn;*
  - (d) *national laws, regulations and administrative measures shall respect the threshold levels established in accordance with Article 5(4);*

- (e) national *laws, regulations* and administrative *measures* shall not be based on classes, sub-classes or additional classes other than those established in accordance with Article 6;
- (f) ■ national *laws, regulations* and administrative *measures* shall *not require more assessments and verifications than those established in accordance with Article 10(1)*.

■

- 4. Member States shall *register in the Single Digital Gateway established by Regulation (EU) 2018/1724 all their national laws, regulations and administrative measures related to construction products on their territory* covered by *the harmonised zone*.
- 5. Where a Member State deems it necessary ■ on imperative grounds of health, safety or protection of the environment *and in order to address immediate regulatory needs, to take measures applicable to products within the harmonised zone in relation to characteristics not laid down in harmonised technical specifications*, it shall notify the Commission thereof, justifying the need for the ■ measures taken and explaining the regulatory need it aims to address.

*To that end, Member States shall use the procedure set up by Directive (EU) 2015/1535 of the European Parliament and of the Council<sup>23</sup>. When doing so, Member States shall make reference to this paragraph and specify which elements are part of the measure.*

*The Commission shall reply to the notification within the time limits established in the procedure set up by Directive (EU) 2015/1535. The Commission shall within six months of the notification either put forward a proposal for authorisation in accordance with paragraph 6 of this Article or communicate its grounds for rejecting the national measure.*

*Upon receipt of a notification as referred to in the first subparagraph, the Commission shall, irrespective of whether it intends to authorise the measure, without delay submit the matter to the CPR Acquis Expert Group for consultations on whether updates to existing construction product performance standards need to be requested as a priority.*

6. The Commission shall adopt an implementing act, authorising the national measure notified under paragraph 5 where:
  - (a) *the notified* measure appears duly justified in the light of imperative grounds of health, safety or protection of the environment, *including the climate*;

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<sup>23</sup> *Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).*

- (b) the regulatory need is not covered by ■ harmonised *technical specifications* or by other Union law;
- (c) the notified ■ measure does not discriminate against economic operators of other Member States;
- (d) the notified ■ measure is able to cover the respective regulatory need;
- (e) the notified measure does not constitute a *serious* obstacle to the functioning of the internal market; ■ and
- (f) the *notified measure is not expected to be covered by a harmonised standard which is to be delivered within* one year from the date of notification referred to in paragraph 4, *following a standardisation request issued pursuant to Article 5(2), or, at the moment of that notification, no implementing act referred to in Article 6(1) has been presented to the committee referred to in Article 90(1).*

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 90(3). *They shall be withdrawn once the regulatory need is covered by harmonised technical specifications or by other Union law.*

On duly justified imperative grounds of urgency relating to human health and safety or the protection of the environment, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 90(4).

■

7. This Regulation does not *affect the possibilities for* Member States to introduce mandatory deposit-refund systems *or* to oblige manufacturers to *accept to regain*, directly or via their importers and distributors *ownership of their new, surplus or unsold non-custom-made products that are in a state equivalent to that in which they were placed on the market*, provided that *the measure does not directly or indirectly discriminate against economic operators in other Member States*.

■

8. *This Regulation does not affect the possibility for Member States to ban the destruction of surplus or unsold products, or to* make their destruction conditional upon their previously having been made available on a national brokering platform for non-commercial use of products.

## Article 12

### Relationship with other Union law

1. To avoid double assessment of ***the same aspects of health, safety or protection of the environment in respect of*** products, the Commission is empowered to adopt delegated acts in accordance with Article 89 to supplement this Regulation by laying down the conditions under which ***obligations relating to the assessment of a product's performance or the fulfilment of certain product requirements, including the equivalence of assessment and verification systems required*** under this Regulation ***and obligations as regards product instructions for use and safety information requirements***, can be satisfied by the ***fulfilment of obligations under*** other Union law.  
  
***The conditions referred to in the first subparagraph shall not allow for product safety levels which are less strict than those established in accordance with this Regulation.***
2. ***Where conflicts arise between this Regulation and Regulation [Ecodesign for Sustainable Products Regulation] as well as Regulation (EU) No 1025/2012, the relevant provisions of this Regulation shall prevail.***

CHAPTER II  
PROCEDURE, DECLARATIONS AND MARKINGS

Article 13

Declaration of performance *and conformity*

1. Where a product is covered by a harmonised technical specification adopted in accordance with *Articles 5 or 6*, the manufacturer shall undergo the applicable assessment and verification system set out in Annex IX and draw up a declaration of performance *and conformity* before such a product is placed on the market. *Where a product is covered by a harmonised technical specification adopted in accordance with Article 7, the manufacturer shall also verify the product's compliance with applicable product requirements that have been specified by delegated acts. The* manufacturer of a product which is not covered by any harmonised technical specification may issue a declaration of performance *and conformity* in accordance with the relevant European assessment document and European technical assessment.
  
2. By drawing up a declaration of performance *and conformity*, the manufacturer assumes responsibility for the conformity of the product with *its* declared performance and *any applicable product requirements, and* becomes liable in accordance with Union and national laws on contractual and extra-contractual liability **■**. In the absence of objective indications to the contrary, Member States shall presume declarations of performance *and conformity* drawn up by manufacturers to be accurate and reliable.

***In the event of non-compliance, or in the absence of a declaration of performance and conformity when such a declaration is required, the product may not be made available on the market.***

#### Article 14

Exemptions from drawing up a declaration of performance ***and conformity***

By way of derogation from Article 13(1), a manufacturer may decide not to ***undergo the applicable assessment and verification of the product's compliance with applicable product requirements and the drawing up of a declaration of performance and conformity*** when any of the following applies:

- (a) the product is ***individually manufactured or custom-made and fulfils all of the following conditions:***
  - (i) ***it is manufactured using*** a non-series process;
  - (ii) ***it is produced*** in response to a specific order;
  - (iii) ***it is*** installed in a single identified construction work ■ by a manufacturer who is also responsible for the safe incorporation of the product into the construction work; ***and***
  - (iv) ***it is*** in compliance with the applicable national rules, and under the supervision of those responsible for the safe execution of the construction works designated under the applicable national rules;

- 
- (b) the product is manufactured in a manner exclusively appropriate to heritage conservation and in a non-series process for adequately renovating construction works officially protected as part of a designated environment or because of their special architectural or historic merit, ***in compliance with the applicable national rules.***

■

## Article 15

### Content of the declaration of performance ***and conformity***

1. The declaration of performance ***and conformity shall be drawn up using the model set out in Annex V. The declaration of performance and conformity*** shall express the performance of products in relation to the essential characteristics of those products in accordance with the relevant harmonised technical specifications or European assessment document.

***Where product requirements specified in accordance with Article 7 are applicable, the declaration of performance and conformity shall state that the fulfilment of those requirements has been demonstrated.***

2. The declaration of performance *and conformity* shall *include the product's environmental sustainability performance over its life cycle in respect of the predetermined environmental characteristics listed in Annex II for those characteristics that are declared. The performance shall include the packaging used or most likely to be used and shall be calculated using the latest version of software made available free of charge on the website of the Commission.*

*Software updates shall become mandatory for the purposes of this Regulation one year after their publication. Software updates may be voluntarily applied from their date of publication.*

3. *The declaration of performance and conformity shall cover at least a product's performance over its life cycle with regard to the following essential characteristics:*

*(a) essential characteristics listed in point (a) to (d) of Annex II, from ... [the date of application of this Regulation];*

*(b) essential characteristics listed in Section 2, points (e) to (m), of Annex II, from ... [4 years after the date of application of this Regulation];*

*(c) essential characteristics listed in points (n) to (s), of Annex II, from ... [6 years after the date of application of this Regulation].*

*The declaration of performance and conformity shall also cover those essential characteristics which always have to be declared, as determined in delegated acts adopted in accordance with Article 5(5).*

4. *No marking other than the CE marking may be placed on the declaration of performance and conformity.*
5. The Commission is empowered to adopt delegated acts in accordance with Article 89 to amend the model set out in Annex V to *adapt it to reflect technical progress as regards new information needs, to facilitate the fulfilment of product passport requirements set out in Articles 76 and 77, and to ensure interoperability and correct integration with the construction product digital passport system in accordance with Article 75.*
6. The information referred to in Article 31 or, as the case may be, in Article 33 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council<sup>9</sup> shall be provided together with the declaration of performance *and conformity*.

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<sup>9</sup> Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

■  
Article 16

Supply of the declaration of performance and ■ conformity

1. The manufacturer shall supply by electronic means a copy of the declaration of performance and ■ conformity of each product which is made available on the market, ***unless the declaration is included in a product passport that fulfils the conditions set out in Article 76 and is available through the construction digital product passport system established in accordance with Article 75.***

However, where a batch of the same product is supplied to a single user, it may be accompanied by a single copy of the *declaration*.

2. ***By way of derogation from paragraph 1 of this Article, a manufacturer may make the declaration of performance and conformity referred to in Article 13(1) available on a website, provided that it complies with all of the following conditions:***
  - (a) ***it shall ensure that the content of the declaration of performance and conformity is made available in an unamendable electronic format on the website;***
  - (b) ***it shall provide the declaration of performance and conformity in a human and machine-readable format and offer the possibility to download a copy in a commonly readable format;***

- (c) it shall ensure that the website where the declaration of performance and conformity has been made available is monitored and maintained so that the website and the declarations of performance and conformity are continuously available to recipients of the construction product;*
- (d) it shall ensure that the recipients of construction products are able to access the declaration of performance and conformity free of charge;*
- (e) it shall provide instructions to the recipients of construction products on how to access the website and the declarations of performance and conformity drawn up for such products available on that website;*
- (f) it shall provide a link between the product and the declaration of performance and conformity related to it through the unique identification code of the product type; manufacturers may use a data carrier, including a permalink, to provide the link, provided that point (a) is fulfilled.*

*3. As part of the standardisation request referred to in Article 5(2), the Commission may also request the European standardisation organisation to issue guidelines to ensure interoperability of the human and machine readable formats referred to in paragraph 2, point (b) of this Article.*

4. The manufacturer shall supply *or make available in a product passport in accordance with paragraph 1, or on a website in accordance with paragraph 2*, the declaration of *performance and* conformity in the language or languages required by each of the Member States in which the manufacturer intends to make the product available. Another economic operator who makes that manufacturer's product available in any additional Member State shall make a translation or translations of the declaration of performance and conformity available in the languages required by the additional Member State, together with the respective original version .

#### Article 17

##### General principles and use of CE marking

1. The CE marking shall be subject to the general principles set out in Article 30 of Regulation (EC) No 765/2008.
2. The CE marking shall be affixed *only* to those products for which the manufacturer has drawn up a declaration of performance *and* conformity in accordance with Articles 13 and 15 . The CE marking shall be affixed to key parts.

3. By affixing the CE marking to the product, or having it affixed, the economic operator indicates that it ***has assumed*** responsibility for the conformity of the product with the declared performance and applicable product requirements laid down in accordance with this Regulation. By affixing the CE marking, the economic operator becomes liable for the declared performance and the fulfilment of those requirements in accordance with national law on contractual and extra-contractual liability.
4. The CE marking shall be the only marking attesting to the performance of the product with regard to assessed essential characteristics ***in accordance with this Regulation, as well as*** to the conformity of the product with this Regulation.

## Article 18

### Rules and conditions for the affixing of CE marking

1. The CE marking shall be affixed visibly, legibly and indelibly to the product. Where this is not possible or not warranted on account of the nature of the product, ***the CE marking*** shall be affixed to ***a label attached to the product or to*** the packaging or, ***where that is also not possible,*** to the accompanying documents.
2. The CE marking shall be followed by:

- (a) the two last digits of the year in which *the CE marking* was first affixed; *or, in the case of used products, the two last digits of the year when the product was de-installed followed by the last two digits of the year in which the CE marking was affixed to the used product;*
- (b) the name and the registered address ■, or the identifying mark allowing *easy and unambiguous* identification of the name and address, of the manufacturer ■ ;
- (c) the name and the registered address of the authorised representative, or the identifying mark allowing identification of the name and address of the authorised representative easily and without any ambiguity where the manufacturer does not have a place of business in the Union or where the manufacturer chooses to have an authorised representative;
- (d) the unique identification code of the product-type ■ ;

■

- (e) the reference *code* of the declaration of performance ■ and *conformity*;
- (f) the identification number of the notified body *or bodies verifying the product type and assessing the factory production control*, if applicable; and
- (g) *a data carrier connected to the product passport referred to in Article 76 if such a product passport is available through the construction digital product passport system established pursuant to Article 75.*

The *information* listed in points (d) and (e) of the first subparagraph of this paragraph may be replaced by a *data carrier, including* permalink *connected* to the ■ declaration of performance and *conformity pursuant to Article 16(2), point (e), if the declaration of performance and conformity is available on a website. The information listed in points (d) and (e) of the first subparagraph of this paragraph may be removed if a data carrier referred to in point (g) of the first subparagraph of this paragraph is provided.*

3. The CE marking shall be affixed before the product is placed on the market ■ . Pictograms or any other marks indicating a special risk or use may be affixed later.

## Article 19

### Other markings *and performance claims*

1. Markings other than the CE marking, including private ones, may be affixed to a product only if they do not ***indicate that the product's performance in relation to essential characteristics covered by applicable*** harmonised technical specifications ***had to be assessed in a way that was different from that laid down by this Regulation.***

***Officially recognised type I-ecolabels (ISO 14024) may be affixed to a product if they fulfil the requirements in the first subparagraph.***

2. ***Markings allowed in accordance with paragraph 1 and other markings*** set out by Union legislation may be affixed to a product ***provided that they do not impair the visibility, legibility and meaning of the CE marking***  .

3. *Where a product is covered by a harmonised technical specification, a claim made by an economic operator about product performance, which concerns an essential characteristic covered by the specification, shall comply with the assessment method for that particular essential characteristic as laid down in the harmonised technical specifications.*
4. *Where a product is covered by harmonised technical specifications, claims about its performance in relation to the essential characteristics laid down in those harmonised technical specification may be provided in a place other than in the declaration of performance and conformity only if they are also provided in that declaration of performance and conformity. This obligation shall not apply to situations where, in accordance with Article 14, no declaration of performance and conformity has been drawn up.*

### CHAPTER III

#### OBLIGATIONS AND RIGHTS OF ECONOMIC OPERATORS

##### Article 20

##### Obligations of all economic operators

1. *The obligations of economic operators under this Chapter are applicable only in relation to products covered by a harmonised technical specification, or to products that have been CE-marked on the basis of a European technical assessment.*

2. An economic operator shall take all necessary measures to ensure continued compliance with this Regulation. Where non-compliance of the economic operator or of a product has been stated and corrective action has been requested by a market surveillance authority in accordance with Article 65(1), the economic operator shall submit progress reports to that authority until that authority decides that the corrective action can be closed.

3. An economic operator shall, on request of *a competent national authority, identify to that authority* any economic operator or other actor:

- (a) who has supplied that economic operator with a product, including components or *spare* parts of products, *and the quantity of that supply, or who has supplied it with a service covered by this Regulation;*
- (b) to *whom* that economic operator has supplied a product, including components or *spare* parts of products, *and the quantity of that supply, or to whom it has supplied a service covered by this Regulation.*

When identifying the economic operators or other actors referred to in the first subparagraph, an economic operator shall inform the competent national authority *of, at least, the following:*

■

(a) the contact details, *including addresses and email addresses* of those economic operators or actors;

■

(b) the tax and company registration numbers of those economic operators or actors.

■

4. An economic operator shall *keep all documents and all* information referred to in this Chapter *at the disposal of competent national* authorities for a period of ten years after *the economic operator supplied or was supplied* with the product *or service* in question, unless *the documents or the information have been made available through the product passport referred to in Article 76. An economic operator* shall present the documentation and information within 10 days of receipt of a request by a competent national authority.

■

5. An economic operator *may* register itself in its respective national system established in accordance with Article 71(5).

An economic operator shall make available to consumers and users communication channels, including telephone numbers, e-mail or dedicated sections of its website **■**, allowing them to communicate any accident, other incident or safety issue they have experienced with the product.

6. **■** Where *an* economic operator considers that non-conforming products present a risk to human safety or to the environment, it shall immediately inform the competent *national* authorities of the Member States in which it made the product available thereof, giving details, in particular, of the non-compliance and of any corrective measures taken. *An economic operator may inform competent national authorities of any other likely infringement of this Regulation of which it becomes aware, of the non-compliance and of any corrective measures taken.*
7. *An economic operator shall be liable for infringements of this Article or of the Articles in this Chapter related to its activities, in accordance with national law on contractual and extra-contractual liability.*

**■**

**■**

## *Article 21*

### *Rights of manufacturers*

- 1. A manufacturer shall have the right to request from its suppliers and service providers the information necessary in relation to their products to fulfil its obligations under this Regulation.*
- 2. If the manufacturer is subject to third party tasks carried out by a notified body, the manufacturer shall have the right to request from its suppliers or service providers that they permit that notified body to have access to their documentation and to their premises to the extent that the notified body requires such access in order to carry out its tasks.*
- 3. The rights established in paragraph 1 also apply to a manufacturer placing a used or remanufactured product on the market in relation to the supplier of the used product, including the de-installer where applicable. The information required may include, but is not limited to, information about the previous use of the product and about the process of deinstalling it.*
- 4. A manufacturer shall have the right to request from its suppliers and service providers the data and calculations required under Article 15(2) in relation to the supplies or services provided, including the necessary validation reports issued by a notified body.*

## *Article 22*

### *Obligations of manufacturers*

- When placing a product on the market*, the manufacturer shall determine the product type, respecting the boundaries set up therefor by the definition provided in Article 3, point (27). The *manufacturer shall ensure that the product's performance is assessed in relation to both mandatory essential characteristics and those essential characteristics intended to be declared. If the product is covered by product requirements established by delegated acts referred to in Article 7(1), the manufacturer shall ensure that the product has also been designed and constructed in accordance with those requirements.*

*A natural or legal person that manufactures a product using 3-D printing shall satisfy the obligations incumbent on manufacturers when placing it on the market. The obligations shall include, but are not limited to, the use of appropriate 3-D datasets, the use of materials compliant with the applicable procedures under this Regulation, and to verify the compatibility of 3-D datasets, printing material and the printing technology used.*
- Where a product's compliance with applicable requirements and its performance in relation to essential characteristics referred to in paragraph 1 of this Article have been demonstrated in accordance with the applicable assessment and verification system or systems set out in Annex IX, the manufacturer shall draw up a declaration of performance and conformity in accordance with Articles 13 to 15, affix the CE marking in accordance with Articles 17 and 18 and, when applicable, ensure the availability of spare parts not commonly available in the market, as referred to in paragraph 8 of this Article, and affix the labelling pursuant to paragraph 9 of this Article.*

■

3. The manufacturer shall, as the basis for the *declaration of performance and conformity* draw up a technical documentation including:

- (a) *the declared use, which shall fall within the scope of the applicable intended use;*
- (b) all the *relevant* elements necessary to demonstrate performance and conformity;
- (c) *information on procedures in place referred to in paragraph 4 of this Article;*
- (d) *information on the application of the system or systems applicable in Annex IX;*
- (e) *where relevant, information on the application of simplified procedures applied in accordance with Articles 59 to 61; and*
- (f) *the calculation of environmental essential characteristics as referred to in Article 15(2).*

■

4. The manufacturer shall ensure that procedures are in place to ensure that *products fulfil their* declared performance and *remain in* conformity *with this Regulation*. *Product design, including 3-D datasets, production processes and material used shall be appropriate. Where the product is manufactured in series production, the manufacturer shall ensure that procedures are in place to ensure that it maintains its declared performance and remains in* conformity *with this Regulation*. *Changes in the product design, including 3-D datasets, production process and material used shall be appropriate. Changes in the applicable harmonised technical specifications* shall be adequately taken into account and, where the performance or conformity of the product is affected, shall trigger a re-assessment in accordance with the relevant assessment procedure.

The manufacturer shall, where deemed appropriate with regard to ensuring the accuracy, reliability and stability of the declared performance and of the conformity of a product, carry out sample testing of products placed or made available on the market, *investigate*, and, if necessary, keep a register of complaints, of non-conforming products and product recalls, and shall keep importers and distributors informed thereof.

■

5. The manufacturer shall ensure that its products *bear* a manufacturer-specific *unique identification code of the product type and, where available*, a batch or serial number *which is easily visible and legible for users. Where that is not possible on account of the nature of the product*, the required information shall be provided on the packaging, on an affixed *label or, where that is also not possible*, in a document accompanying the product.

The manufacturer shall, in the same way as set out in the first subparagraph, label a product as “Only for professional use” if *expertise is needed in order to use it and shall display the label to customers before* it is *bound by a sales contract, including in the case of distance selling*. Products not labelled “Only for professional use” shall be deemed to also be intended for non-professional users and consumers within the meaning of this Regulation and of Regulation (EU) 2023/988.

The manufacturer shall, in a visible manner, display to customers before it is bound by a sales contract, including in the case of distance selling, the information which must be provided pursuant to this Regulation ■ .

6. When making a product available on the market ■ , the manufacturer shall ensure that it is accompanied by *general information, instructions for use and safety information, as set out* in Annex IV in a language to be determined by the Member State concerned or, in absence of such determination, in a language which can be easily understood by users.

■

7. *By the date 18 months after the entry into force of the delegated act referred to in Article 75(1) the manufacturer shall make available a product passport referred to in Article 76, through the construction digital product passport system referred to in Article 75, connected to a data carrier referred to in Article 18(2), point (g).*
8. *In order to ensure the availability of spare parts not commonly available in the market, the Commission is empowered to adopt delegated acts in accordance with Article 89 to supplement this Regulation, by imposing in respect of certain product families and categories an obligation on manufacturers to make available on the market specific spare parts not commonly available for the products they place on the market.*

*The obligation established by the delegated acts referred to in subparagraph 1 of this Article shall apply for a period of 10 years after the last product of the respective type has been placed on the market, unless the delegated act sets a different period.*

*Manufacturers subject to the obligation laid down in the first paragraph shall offer the spare parts within a reasonably short delivery period, at a reasonable and non-discriminatory price, and shall inform the public thereof.*

9. *In order to ensure transparency for users and to promote sustainable products, the Commission is empowered to adopt delegated acts in accordance with Article 89 to supplement this Regulation, by establishing specific environmental sustainability labelling requirements for particular product families and categories when the following conditions are fulfilled:*
- (a) the product is typically chosen or purchased by consumers; and*
  - (b) the product does not have a significantly different overall environmental performance over its life cycle depending on its installation.*
- . The labelling shall be based on the performance of the product, as assessed in accordance with Article 5(1) or Article 6(1), and shall provide consumer-friendly information understandable by non-experts.*
10. *The delegated acts referred to in paragraph 9 shall determine the way in which the manufacturer is to affix the label, by specifying the following:*
- (a) the content of the label;*
  - (b) the layout of the label, taking into account its visibility and legibility;*
  - (c) the manner in which the label is to be displayed to customers, including in the case of distance selling;*
  - (d) where appropriate, the electronic means to be used for generating labels.*
11. A manufacturer who *considers or* has reason to believe that a product which it has placed on the market does not conform to *its declared performance or does not comply* with this Regulation ■ shall immediately take the necessary corrective measures to bring that product into conformity or compliance, or, if appropriate, to withdraw or recall it. If the issue is linked to a supplied component or an externally provided service, the manufacturer shall inform the supplier or service provider and the manufacturer's ■ competent ■ national ■ authority ■ .
12. Where the product presents a risk, *the manufacturer shall, without undue delay and at the latest* within three working days, ■ inform *all* the authorised *representatives*, importers, distributors, fulfilment service providers, and online market places involved in its distribution, as well as the competent national authorities of the Member States in which the manufacturer or, to its knowledge, other economic operators made the product available. The manufacturer shall, to that effect, provide all useful details and, in particular, specify the type of the non-compliance, the frequency of accidents or incidents, and the

corrective measures taken or recommended. In the case of risks caused by products which have already reached **a** final user or consumer ***who cannot be identified or contacted directly***, the manufacturer shall, ***through the media and other appropriate channels, ensuring the widest possible reach, disseminate information*** about appropriate measures to eliminate or, if not possible, to reduce the risks. Where there is a serious risk the manufacturer shall withdraw and recall the product at its own cost.

**Article 23**

***Obligations of authorised representatives***

1. A manufacturer ***established in the Union*** may appoint, by a written mandate, any natural or legal person established within the Union as a single authorised representative. A manufacturer not established in the Union shall appoint a single authorised representative.

***The drawing up of technical documentation shall not form part of the authorised representative's mandate.***

2. The authorised representative shall perform the tasks specified in the mandate ***received from the manufacturer***. The mandate shall allow the authorised representative to ***do*** at least the following **■** :

- (a) keep the declaration of performance and the technical documentation at the disposal of ***competent national*** authorities;

- (b) *further to a reasoned request from a competent national authority, provide that authority* with all the information and documentation necessary to demonstrate the conformity of *a* product with *its declared* performance and its compliance with other applicable requirements in this Regulation ■ ;
- (c) terminate the contract *if* the manufacturer *has acted contrary to its obligations under* this Regulation and inform the *manufacturer, the* competent national authorities of the Member States where the product is placed on the market and the *competent national* authority of his own place of business thereof;
- (d) when there is reason to believe that a product is non-compliant or presents a risk, inform the *manufacturer and the* competent *national* authorities of the Member States where the product is placed on the market and the *competent national* authority of the authorised representative thereof; and
- (e) cooperate with the *competent national* authorities, at their request, in any action taken *to eliminate risks posed by, and to remedy non-conformities of, products covered by the mandate of the authorised representative.*

■

3. The authorised representative shall verify *at documentary level that*:
  - (a) the product *bears the CE marking, and the labelling in accordance with Article 22(9)*;
  - (b) *the product is accompanied by a declaration of performance and conformity, or that declaration is available in accordance with Article 16(1) or (2); and*
  - (c) *the manufacturer has complied with the requirements set out in Article 22(5), (6) and(7)*.
4. Where an authorised representative *identifies* a case of non-compliance mentioned in █ paragraph 3 of this Article, it shall ask the manufacturer to *act in accordance with Article 22(11) and (12)*.

#### Article 24

##### Obligations of importers

1. Importers shall place on the market only products which are compliant with this Regulation. █
2. *Before placing a product on the market, the importer shall ensure that the product's compliance with applicable requirements and its performance in relation to relevant essential characteristics have been demonstrated by the manufacturer in accordance with Article 22(1) and (2)*.

*The importer shall ensure that:*

  - (a) *the manufacturer has drawn up the technical documentation referred to in Article 22(3)*;
  - (b) *the product bears the CE marking, and the labelling in accordance with Article 22(9)*;
  - (c) *the product is accompanied by the declaration of performance and conformity or that the declaration is available in accordance with Article 16(1) or (2); and*
  - (d) *the manufacturer has complied with the requirements set out in Article 22(5). (6) and (7)*.

3. The importer shall verify that the use for the product has *been declared* by the manufacturer, and shall ensure that the product is accompanied by *general information, instructions for use, and safety information as set out in Annex IV* in a language determined by the Member State concerned or, in absence of such determination, in a language which can be easily understood by users. The importer shall, in a visible manner, display to customers before they are bound by a sales contract, including in the case of distance selling, the information which shall be provided pursuant to this Regulation or harmonised technical specifications.
  4. The importer shall ensure that, while a product is under its responsibility, the conditions of its storage or transport do not jeopardise its conformity with the declaration of performance and *conformity, or its* compliance with other applicable requirements in this Regulation.
- 
5. Where an importer considers, or has reason to believe, that a product is not in conformity with the declaration of performance *and conformity*, or not in compliance with other applicable requirements in this Regulation, the importer shall not place the product on the market until it conforms to the accompanying declaration of performance and *conformity and* it complies with the other applicable requirements of this Regulation, or until the declaration of performance *and conformity* is corrected. Furthermore, where the product presents a risk, the importer shall inform the manufacturer and the responsible *competent national* ■ authority thereof.

6. The importer shall indicate its name, registered trade name or registered trade mark, its place of business, its contact address and, where available, electronic means of communication, either on the product or, where that is not possible, on its packaging, or in a document accompanying the product.
7. The importer shall investigate complaints, and, if necessary, keep a register of complaints, of non-conforming products and of product withdrawals or recalls, and shall keep manufacturers and distributors informed of any such monitoring.
8. ***Importers who consider or have reason to believe that a product, which they have placed on the market, is not in conformity with its declared performance or not in compliance with other applicable requirements in this Regulation, shall immediately take the necessary corrective measures to bring that product into conformity, or, if appropriate, to withdraw or recall it. Furthermore, where the product poses a risk, importers shall immediately inform the competent national authorities of the Member States in which they made the product available on the market to that effect, giving details, in particular, of the non-conformity and of any corrective measures taken.***

9. Importers selling to final users shall also fulfil the obligations incumbent on distributors.

#### Article 25

#### Obligations of distributors

1. When making products available on the market, distributors shall act with due care in relation to the obligations of this Regulation. ■
2. ***Before*** making a product available on the market, the distributor shall ***verify that:***
  - (a) ***the product bears the CE marking, and the labelling in accordance with Article 22(9), where required;***
  - (b) ***the product is accompanied, where required, by a declaration of performance and conformity, or the declaration is available in accordance with Article 16(2);***
  - (c) ***the product is accompanied by general information, instructions for use and safety information in accordance with Article 22(6), in a language which can be easily understood by end-users in the Member State in which the product is to be made available on the market;***
  - (d) ***the manufacturer and the importer have complied with the requirements set out in Article 22(5) and (7) and Article 24(6) respectively.***

3. *The distributor shall display to customers, in a visible manner, before they are bound by a sales contract, including in the case of distance selling, the information which shall be provided pursuant to this Regulation.*

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4. *Where a distributor considers or has reason to believe that a product is not in conformity with its declared performance or not in compliance with other applicable requirements in this Regulation, the distributor shall not make the product available on the market until it conforms to its accompanying declaration of performance and conformity and it complies with the other applicable requirements in this Regulation. Furthermore, where the product presents a risk, the distributor shall inform the manufacturer and the responsible competent national authorities thereof.*

5. *The distributor shall ensure that, while a product is under its responsibility, storage or transport conditions do not jeopardise the product's conformity with its declared performance or its compliance with other applicable requirements in this Regulation.*

6. *A distributor who considers or has reason to believe that a product, which it has made available on the market, is not in conformity with its declared performance or not in compliance with other applicable requirements in this Regulation shall make sure that the necessary corrective measures to bring that product into conformity or, if appropriate, to withdraw or to recall it, are taken. Furthermore, where the product poses a risk, the distributor shall immediately inform the competent national authorities of the Member States in which it has made the product available on the market to that effect, giving details, in particular, of the non-conformity and of any corrective measures taken.*

#### Article 26

Cases in which obligations of manufacturers apply to importers and distributors

1. An importer or distributor shall be considered a manufacturer for the purposes of this Regulation and shall be subject to the obligations of a manufacturer pursuant to Article 22 █, where:
- █
- (a) it places a product on the market █ under its own name or trademark;
  - (b) it modifies a product *intentionally or the product is unintentionally modified* in such a way that compliance with the declaration of performance and █ conformity, or with the requirements set out in or adopted in accordance with this Regulation may be affected █;

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- (c) it makes a product available on the market with ***a declared*** use that is different from the ***declared*** use attributed by the manufacturer in the performance and conformity assessment procedure; or
- (d) it claims for the product characteristics deviating from the characteristics ***declared*** by the manufacturer; or
- (e) ***it opts to assume the role of the manufacturer.***

2. ***Paragraph 1 shall also apply to an economic operator who places on the market:***

- (a) ***a used product covered by a harmonised technical specification with provisions for used products;***
- (b) ***a used product not covered by a harmonised technical specification with provision for used products and not placed on the Union market before;***
- (c) ***a remanufactured product.***

3. Paragraph 1 shall not apply where the economic operator only:

- (a) adds translations of information supplied by the manufacturer;

(b) replaces the outer packaging of a product already placed on the market, including when changing the pack size, if the repackaging is carried out in such a way that the original condition of the product cannot be affected by it, and that any information required by this Regulation is still correctly provided.

4. An economic operator providing the activities listed in paragraph 3 shall inform thereof the manufacturer or its authorised representative, regardless of whether that economic operator owns the products or provides services. It shall carry out the repackaging in such a way that neither the original condition of the product *nor its compliance with this Regulation is* affected by the repackaging, and such that any information required by this Regulation is still correctly provided. The economic operator shall act with due care in relation to the obligations of this Regulation. ■

#### Article 27

##### Obligations of fulfilment service providers ■

1. When contributing to the making available on the market ■ of a product, fulfilment service providers ■ shall act with due care in relation to the obligations of this Regulation. ■

2. A fulfilment service provider *shall make sure that the labelling and documents provided by the manufacturer or importer are available or accompany the product, and in particular:*

*(a) the CE marking and the labelling referred to in Article 22(9);*

*(b) the declaration of performance and conformity;*

*(c) the general information and the instructions for use and safety information referred to in Article 22(6).*

■

3. *A fulfilment service provider shall ensure that the conditions during warehousing, packaging, addressing or dispatching do not jeopardise a product's conformity with its declared performance or its compliance with other applicable requirements in this Regulation. Manufacturers or importers of construction products shall provide their fulfilment service providers with the detailed information necessary for ensuring the safe storage, packaging, addressing or dispatch, and the further functioning of the product.*

4. *Fulfilment service providers shall support product withdrawals or recalls, regardless of whether initiated by market surveillance authorities, manufacturers, authorised representatives or importers.*
5. *Where a fulfilment service provider considers or has reason to believe that a product is not in conformity with the declaration of performance and conformity or not in compliance with other applicable requirements in this Regulation, it shall not support the making available of the product on the market until the product conforms to the relevant declaration of performance and conformity, and it complies with the other applicable requirements in this Regulation, or until the declaration of performance and conformity is corrected. Furthermore, where the product presents a risk, the fulfilment service provider shall inform the manufacturer and the responsible competent national authority thereof.*

#### *Article 28*

##### *Obligations of online marketplaces*

1. An online marketplace shall:
  - (a) *for the purpose of complying with Article 31(1) of Regulation (EU) 2022/2065 of the European Parliament and of the Council<sup>24</sup>, design and organise its online interface in such a way that allows economic operators to fulfil their obligations under Article 29(2) of this Regulation;*

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<sup>24</sup> *Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022, p. 1).*

- (b) establish a single contact point for direct communication with Member States' **competent national** authorities in relation to **compliance with this Regulation, which** can be the same as the contact point referred to in Article 22(1) of Regulation (EU) **2023/988** or **Article 11(1)** of Regulation (EU) **2022/2065**;
- (c) give an appropriate answer **to** notices related to the notification of accidents and other incidents involving products received in accordance with Article 16 of Regulation (EU) 2022/2065;
- (d) cooperate to ensure effective market surveillance measures, including by abstaining from putting in place obstacles to such measures;
- (e) inform the **competent national** authorities of any action taken **with regard to the non-compliance or suspected non-compliance of products covered by this Regulation**;
- (f) establish a regular and structured exchange of information regarding **content that has been removed by online marketplaces at the request of competent national authorities**;

**■**

2. As far as powers conferred by Member States in accordance to Article 14 of Regulation (EU) 2019/1020 are concerned, Member States shall confer on their market surveillance authorities the power, in respect of all products covered by this Regulation, to order an online marketplace to remove from its online interface specific illegal content referring to a non-compliant product, to disable access to it, or to display an explicit warning to end users when they access it. Such orders shall comply with Article 9 of Regulation (EU) 2022/2065.
3. An online marketplace shall take the necessary measures to receive and process in accordance with Article 9 of Regulation (EU) 2022/2065 the orders referred to in paragraph 4 of this Article.
4. ***This Article*** shall also apply to manufacturers, importers, ***or distributors*** offering products online without the involvement of an online marketplace .

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Article 29

Online and other distance sales

1. Products offered for sale online or through other means of distance sales shall be deemed to be made available on the market if the offer is targeted at customers in the Union. An offer for sale shall be considered to be targeted at customers in the Union if the relevant economic operator directs, by any means, its activities to a Member State. An offer shall, inter alia, be considered to be targeted at customers in the Union where:

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- (a) the economic operator uses the currency of *a* Member *State*;
  - (b) the economic operator has used an internet domain name registered in one of the Member States, or uses an internet domain that refers to the Union or to one of the Member States; or
  - (c) the geographical areas to which dispatch is available include a Member State.

***The conditions listed in the first subparagraph shall not apply if the economic operator explicitly and effectively excludes the Union market.***

2. *Where an economic operator makes a product available on the market online or through other means of distance selling, the offer of that product shall, where required, clearly and visibly indicate the CE-marking, the information listed in Article 18(2), the label pursuant to Article 22(9) and a data carrier connected to a product passport in accordance with Article 22(7).*
3. *Any natural or legal person providing an intermediation service for the placing on the market of products shall fulfil the obligations of an economic operator pursuant to paragraph 2 in relation to the services provided.*

## Article 30

Implementing acts regarding the obligations and rights of economic operators

Where it is necessary, to ensure the harmonised application of this Regulation, and only to the extent necessary to prevent diverging practices *fragmenting the internal market* for economic operators, the Commission may adopt implementing acts providing details on how economic operators are to fulfil the obligations and exercise the rights set out in this Chapter.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 90(3).

## CHAPTER IV

### ■ EUROPEAN ASSESSMENT DOCUMENTS ■

#### ■ Article 31

#### European assessment *documents*

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1. ***The methods and criteria for assessing the performance of products, including used products, in relation to their essential characteristics may be laid down in European assessment documents provided that the products are not covered by:***
- (a) ***a harmonised standard made mandatory by an implementing act referred to in Article 5(8);***
  - (b) ***an implementing act referred to in Article 6(1); or***
  - (c) ***a harmonised standard to be delivered in a period shorter than one year, in accordance with a standardisation request referred to in Article 5(2).***

2. *A product shall not be considered to be covered by ■ harmonised standards or implementing acts referred to in paragraph 1 where:*
- (a) *the declared use of the product falls outside of the scope of the intended use set out in the harmonised standard or implementing act;*
  - (b) *the materials used are not identical to the materials to be used in accordance with the harmonised standard or implementing act; or*
  - (c) *the assessment method set out in the harmonised standard or implementing act is not appropriate for that product.*
3. *Following a request for a European technical assessment by a manufacturer, a group of manufacturers or a manufacturers' association, or on the initiative of the Commission, the organisation of TABs may, in agreement with the Commission, draw up and adopt a European assessment document.*

*The basic requirements for construction works set out in Annex I and the list of predetermined environmental essential characteristics set out in Annex II shall constitute the basis for the preparation of European assessment documents. The development and adoption of a European assessment document shall follow the principles and the procedure set out in Article 32.*

4. *European assessment documents shall not be drawn up in relation to an essential characteristic of, or assessment method for, a product when there is another European assessment document covering the same essential characteristic or assessment method in relation to that specific product, the reference of which has either already been published in the Official Journal of the European Union, or which has been submitted to the Commission for assessment in accordance with Article 34(1).*
5. The organisation of TABs and the Commission may *merge* or reject requests for the development of a European assessment document *in accordance with point 5 of Annex VI*.
6. *Upon the entry into application of a harmonised technical specification made mandatory in accordance with Article 5(8) or Article 6(1), covering the same product and the same intended use as a European assessment document, the European assessment document shall no longer be used for the purposes of this Regulation. In that case the Commission shall withdraw the reference from the Official Journal of the European Union.*
7. *European assessment documents shall constitute the basis for European technical assessments set out in Article 37.*

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## Article 32

Principles *and procedure* for the development and adoption of European assessment documents

1. ***When*** developing and adopting European assessment documents, ***individual TABs and the organisation of TABs*** shall ***follow the procedure set out in Annex VI***.
2. ***When developing and adopting European assessment documents, individual TABs and the organisation of TABs shall:***
  - (a) be transparent with regard to Member States, the manufacturer concerned and to other manufacturers or stakeholders that request to be informed;
  - (b) disclose ***confidential information to the Commission only when necessary to assess the compliance of a European assessment document with regulatory provisions*** and protect commercial secrecy and confidentiality;
  - (c) specify appropriate mandatory time limits in order to avoid unjustified delay;
  - (d) allow ■ for adequate participation by the Member States and the Commission;
  - (e) be cost-effective for the manufacturer; and
  - (f) ensure sufficient collegiality and coordination amongst TABs designated for the product in question.

The balancing of **requirements** laid down in points (a) and (b) of the first subparagraph shall allow at least for the disclosure of the name of the product at the stage of the approval and the communication of the work programme, as set out in point 3 of Annex VI **■**, and **for the disclosure of** the detailed contents of the draft European assessment document set out in point 7 of Annex VI.

3. The TABs shall, together with the organisation of TABs, bear the full costs of the development and adoption of European assessment documents, unless **such development is initiated by** the Commission.
4. TABs and the organisation of TABs shall avoid the proliferation of European assessment documents where there is no technical justification for differentiating between products. They **shall**, in particular, give preference to extending the scope of existing European assessment documents over creating new European assessment documents.

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5. ***The Commission is empowered to adopt, after consultations with the organisation of TABs, delegated acts in accordance with Article 89 to amend Annex VI in order to add additional procedural rules for the development and adoption of European assessment documents, where it is necessary to ensure the good functioning of the system of European assessment documents.***

## Article 33

### Obligations of the TAB receiving a request for a European technical assessment

1. **When** receiving a request for a European technical assessment from a manufacturer, a group of manufacturers or **a** manufacturers' association, **the TAB** shall comply with the following requirements:
  - (a) where the product is **■** covered by a harmonised technical specification **or a European assessment document cannot be drawn up in accordance with Article 31, the TAB shall inform the applicant that** a European technical assessment cannot be issued;
  - (b) where the product is fully covered by a European assessment document the reference of which has been **published** in the Official Journal of the European Union, the TAB shall inform the **applicant that the referenced European assessment** document will be used as the basis for the European technical assessment to be issued;
  - (c) where the product is **eligible for a** European assessment document **referred to in Article 31, and** no such **■** document is **■** in the process of **being developed**, the TAB shall **inform the applicant that** the procedures set out in Annex VI **will be initiated**.

***In the cases referred to in point (c) of the first subparagraph of this Article, but where a harmonised standard covering the same product is expected to be delivered in a period longer than one year as established in a standardisation request referred to in Article 5(2), the TAB shall inform the applicant about the possibility of a European assessment document no longer being used pursuant to Article 31(6).***

2. In the cases referred to in paragraph 1, points (b) and (c) of this Article, the TAB shall inform the organisation of TABs and the Commission of the content of the request and of the reference to a relevant delegated act determining the assessment and verification system ***referred to in Article 10(2)***, which the TAB intends to apply for that product, or of the lack of such delegated act.
3. If the Commission considers that an appropriate delegated act determining the assessment and verification system does not exist for the product, it may adopt a delegated act in accordance with Article 10(2).

## Article 34

### Publication of references

1. The Commission shall, ***in accordance with point 9 of Annex VI***, assess the ***compliance*** of European assessment documents with harmonised technical specifications, with this Regulation and with other Union law. ***Where a European assessment document is in conformity with applicable legal requirements***, the Commission shall ***without delay*** publish ***a reference of that document*** in the *Official Journal of the European Union*. ***Where a reference to a European assessment documents cannot be published in the Official Journal of the European Union***, the Commission ***may*** publish ***such a reference with restrictions***.
2. ***Following publication in accordance with paragraph 1 of this Article, a European assessment document may, in accordance with Article 37, be used as a basis for a European technical assessment for a period of 10 years, unless the reference has been withdrawn from the Official Journal of the European Union or that European assessment document is no longer used pursuant to Article 31(6). The organisation of TABs may in the last year of that period decide to submit the European assessment document for renewal. The Commission shall in that case reassess the European assessment document in accordance with paragraph 1 of this Article.***

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Article 35

Content of the European assessment document

1. A European assessment document shall contain the following elements:
  - (a) a description of the product *or product category* covered *and its intended use*; and
  - (b) the list of essential characteristics, relevant for the intended use of the product *or product category as* agreed between the manufacturer and the organisation of TABs *as well as predetermined environmental characteristics as set out in Annex II*, and the methods and criteria for assessing the performance of the product in relation to *the essential characteristics listed*.
  
2. *The European assessment document shall set out:*
  - (a) *the technical details necessary for the implementation of the assessment and verification systems that are to be applied in accordance with the delegated acts adopted under Article 10(2);*
  - (b) *the guidelines, including technical details necessary for drawing up instructions and safety information as referred to in Annex IV;*

(c) *the guidelines to ensure interoperability of the human and machine readable formats for the declaration of performance and conformity in accordance with paragraph 16(2), point (b).*

3. Where the performance of **■** the product can appropriately be assessed *by reference to its essential characteristics, including assessment* methods and criteria, *already* established *for them* in harmonised technical specifications or *other* European assessment documents, those existing *essential characteristics and their* methods and criteria shall be incorporated as parts of the European assessment document, unless it is *technically necessary* to deviate from that rule.

*Where applicable, these principles shall also apply for thresholds levels and classes of performance adopted in accordance with Article 5(5).*

#### Article 36

##### Formal objections against European assessment documents

1. A Member State shall inform the Commission of all of the following:
- (a) where it considers that a European assessment document does not entirely *conform with* applicable legal requirements or *satisfy* the demands to be met in relation to *the essential characteristics to be covered in view of* the basic requirements for construction works *set out in Annex I and the predetermined environmental essential characteristics* set out in Annex II;

- (b) where it considers that a European assessment document raises a major concern for human health and safety, the protection of the environment or consumer protection;
- (c) where it considers that a European assessment document does not fulfil the requirements set out in Article **31(1)**.

The Member State concerned shall substantiate its viewpoints. The Commission shall consult the other Member States on the issues raised by the Member State concerned.

2. In the light of the views of all the Member States, the Commission shall decide to publish, not to publish, to publish with restriction, to maintain, to maintain with restriction or to withdraw the references to the European assessment documents concerned in the *Official Journal of the European Union*.
3. The Commission shall inform the **Member States and the** organisation of TABs of its decision referred to in paragraph 2 and, where necessary, request the revision of the European assessment document concerned.

## Article 37

### European technical assessment

1. A European technical assessment shall be issued by a TAB, at the request of a manufacturer on the basis of a European assessment document ■ the reference of which has been **published** in the *Official Journal of the European Union* in accordance with Article 34.

Provided that there is a European assessment document the reference of which has been published in the *Official Journal of the European Union* in accordance with Article 34, a European technical assessment may be issued even in the case where a standardisation request has been issued. Such issuing shall be possible until the ***European assessment document is no longer used pursuant to Article 31(6)***.

2. ***When a request for a European technical assessment is made, the procedure laid down in Annex VI shall apply.***
3. The European technical assessment shall include the performance to be declared, by levels or classes, or in a description, of those essential characteristics that are agreed by the manufacturer and the TAB receiving the request for the European technical assessment for the declared ■ use, and the technical details necessary for the implementation of the assessment and verification system.

***The European technical assessment shall also include the assessment of the performance for the predetermined environmental essential characteristics listed in Article 15(3).***

4. The Commission may adopt implementing acts to establish the format of the European technical assessment.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 90(3).

5. European technical assessments issued on the basis of a European assessment document remain valid for ***either*** five years after the end of the period set out in Article 34(2) ***or five years after the reference to the European assessment document is withdrawn from the Official Journal of the European Union.***

***When the relevant European assessment document for a product is no longer used pursuant to Article 31(6), that product may no longer be placed on the market on the basis of a European technical assessment.***

6. Products covered by a European assessment document for which a European technical assessment has been issued may be CE marked and thereby obtain the same status as products CE marked on the basis of harmonised technical specifications, where the manufacturer satisfies the obligations set out in this Regulation. Where these obligations refer to harmonised technical specifications, the manufacturer shall refer to the European assessment document instead or, where the harmonised technical specifications are also relevant, in addition.

## CHAPTER V

### TABS

#### Article 38

##### Designating authorities

1. Member States wishing to designate *TABS* shall designate a single ***designating*** authority ***that shall be responsible for setting up and carrying out the necessary procedures for the assessment and designation of TABs***. Designating authorities shall satisfy the requirements for notifying authorities set out in Articles 43(1) and Article 44. ***Member States may designate the notifying authority referred to in Article 43, as the designating authority***. The designating authority shall not be eligible for designation in accordance with Article 39(1).
2. Unless otherwise specified in this Chapter, the provisions applicable to notifying authorities and to notification procedures apply also to designating authorities and to the designation procedures. ■

## Article 39

### Designation, monitoring and evaluation of TABs

1. Member States may, ***through their designating authorities, designate TABs*** within their territories for one or several product ***families*** listed in Annex VII. ***Member States may also designate TABs within their territories as competent for emerging or innovative products that do not fall into already existing product families listed in Annex VII.***

Member States shall communicate the name of the ***TAB***, its address and the product ***family or families it is competent for*** to the Commission.

2. The Commission shall ***assign an identification number to each TAB.***

***The Commission shall make publicly available the list of TABs designated under this Regulation*** by electronic means and indicate ***their identifications numbers***, the product ***families*** for which they are designated and any limitations in the most precise possible way.

The Commission shall ***ensure that that list is kept up-to-date.***

3. The designating authority ■ shall monitor the activities and competence of the TABs designated in their respective Member State, and where necessary their subsidiaries and subcontractors, and evaluate them in relation to the respective requirements set out in this Chapter. The designating authority shall ***impose corrective measures on*** TABs wherever there is an infringement of ***this Regulation.***

Member States shall inform the Commission of their national procedures for the designation of TABs, of the monitoring of their activity and competence, and of any changes to that information.

4. TABs shall, without delay, and at the latest within 15 days, inform the *designating* authority of any changes which may affect their compliance with the requirements set out in this Chapter or their ability to satisfy their obligations under this Regulation.

5. TABs shall, at the request of the relevant designating authority, supply all relevant information and documents, required to enable the authority, the Commission and the Member States to verify *their* compliance *with requirements under this Regulation*.

6. Where a TAB no longer complies with the requirements of this Regulation, the *designating authority shall restrict, suspend or* withdraw the designation of that TAB for the relevant product *family as appropriate, depending on the seriousness of the failure to meet those requirements. Where a TAB has repeatedly not complied with corrective measures imposed in accordance with paragraph 3 of this Article, the designating authority may restrict, suspend or withdraw the designation of that TAB. The designating authority shall* inform the Commission and the other Member States *of any restriction, suspension or withdrawal of a designation*. Articles 53(2) and 54 *shall* apply.

## Article 40

### Requirements for TABs

1. A TAB shall be competent, and equipped, to carry out the assessment in *relation to* the product *families* for which it has been designated. The decision-making staff and at least half of the technical competent staff *shall be employed by* the TAB *under the national law of* the designating Member State.
2. The TAB shall satisfy the requirements set out in Annex *VIII*, within the scope of its designation. Article *46(2)* to (5), Article 46(6), points (a) and (b), Article 46(7), (8), (9) and (11) and Article 47 shall apply.
3. A TAB shall have made publicly available its organigram and the names of the members of its internal decision-making bodies.
4. A TAB *shall participate in the activities of the organisation of TABs or ensure that their assessment personnel is informed about those activities.*

## Article 41

### Coordination of TABs

1. The TABs shall establish an organisation for technical assessment (“organisation of TABs”) under this Regulation.

2. The organisation of TABs shall at least carry out the following tasks:
- (a) ***supply the Commission with relevant technical content relating to European assessment documents when the development of harmonised technical specifications based on the same product families is due to take place in accordance with the work plan referred to in Article 4(2). That information shall be based on close collaboration with the relevant European standardisation organisations;***
  - (b) organise the coordination of the TABs and, if necessary, ensure cooperation and consultation with other stakeholders;
  - (c) ensure that examples of best practice are shared between TABs to promote greater efficiency and provide a better service to industry;
  - (d) develop and adopt European assessment documents;
  - (e) coordinate the application of the procedures set out in Article 60(2) and in Article **61(2)**, as well as provide the support needed to that end;
  - (f) inform the Commission of any question related to the preparation of European assessment documents and of any aspects related to the interpretation of the procedures set out in Article 60(2) and in Article **61(2)** and suggest improvements to the Commission based on experience gained;

- (g) communicate any observations concerning a TAB not satisfying its tasks in accordance with the procedures set out in Article 60(2) and in Article **61(2)** to the Commission and the Member State which designated the TAB;
- (h) report annually to the Commission on: **■**
  - (i) the fulfilment of the tasks referred to above;*
  - (ii) the allocation of European assessment document development tasks to the TABs;*
  - (iii) the even geographic distribution of tasks between TABs;*
  - (iv) the European technical assessments issued for each European assessment document including the geographical distribution of TABs involved and of the manufacturers receiving the documents; and*
  - (v) the performance and the independence of TABs; and;*
- (i) ensure that adopted European assessment documents and references to European technical assessments are kept publicly available **■ . ■**

The organisation of TABs shall set up a secretariat in order to carry out these tasks.

3. Member States shall ensure that the TABs contribute *adequately* with financial and human resources to the organisation of TABs. ***Organisation of TABs shall establish*** the contribution of each TAB ***which shall be proportionate taking into account the*** annual budget ***or turnover of each TAB related to its activities as TAB***.
4. The weight in the decision-making process of the organisation of TABs shall not depend on the TABs' financial contribution, the number of European assessment documents developed or the number of European technical assessments issued by them.
5. The Commission shall be invited to participate in all meetings of the organisation of TABs.
6. ***Union financing may be granted to the organisation of TABs for the implementation of the tasks referred to in paragraph 2***. The Commission may make the financing of the organisation of TABs, regardless of via grants or public tenders, subject to the fulfilment of certain organisational and performance requirements ***set out in those tasks***.

## CHAPTER VI

### NOTIFYING AUTHORITIES AND NOTIFIED BODIES

#### Article 42

#### Notification

1. Member States shall notify the Commission and the other Member States of bodies authorised to carry out third-party tasks in the assessment and verification of performance, assessment of conformity and of the verification of environmental sustainability calculations for the purposes of this Regulation **■** .

2. Member States shall inform the Commission of their procedures for the assessment and notification of bodies to be authorised to carry out these tasks **and the monitoring of notified bodies, and of any changes thereto**. The Commission shall make that information publicly available.

#### Article 43

##### Notifying authorities

1. Member States shall designate a notifying authority responsible for setting up and carrying out the necessary procedures for the assessment and notification of the bodies to be authorised to carry out third-party tasks in the assessment and verification process for the purposes of this Regulation, and the monitoring of notified bodies, including their compliance with requirements laid out in Article 46 **and 48**.
2. Member States may decide that the assessment and monitoring referred to in paragraph 1 is to be carried out by their national accreditation **body within the meaning of and in accordance with** Regulation (EC) No 765/2008.
3. Where the notifying authority delegates **or otherwise entrusts** the assessment, notification or monitoring referred to in paragraph 1 of this Article to a body which is not a governmental entity that body shall be a legal person and shall comply **mutatis mutandis** with the requirements laid down in Article 44. In addition, it shall have arrangements to cover liabilities arising from its activities.

4. The notifying authority shall take full responsibility for the tasks performed by the body referred to in paragraphs 2 and 3.

#### Article 44

##### Requirements relating to notifying authorities

1. The notifying authority shall be established in such a way that no conflicts of interest with notified bodies occur.
2. The notifying authority shall be organised and operated so as to safeguard the objectivity and impartiality of its activities.
3. The notifying authority shall be organised in such a way that each decision relating to notification of a body to be authorised to carry out third party tasks in the assessment and verification process is taken by competent persons different from those who carried out the assessment.
4. The notifying authority shall not offer or provide any activities that notified bodies perform, or consultancy services on a commercial or competitive basis.
5. The notifying authority shall safeguard the confidentiality of the information obtained. However, it shall, upon request, exchange information on notified bodies with the Commission, with notifying authorities of other Member States and with other **competent** national authorities ***which shall safeguard the confidentiality of the information received.***

6. *The notifying authority, including the cases in which the notifying authority is the national accreditation body, shall assess only the specific body applying for notification and not take account of the capacities or personnel of parent or sister companies. The notifying authority shall assess that body in relation to all relevant requirements and third-party assessment tasks.*
7. The notifying authority shall have a sufficient number of competent personnel and sufficient funding at its disposal for the proper performance of its tasks. ■

■

#### *Article 45*

##### *Coordination of notifying and designating authorities*

1. *The Commission shall ensure that appropriate coordination and cooperation between the Member States' national authorities responsible for notification policy and the notifying and designating authorities is put in place and operated in the form of a coordination group of notifying and designating authorities in the field of construction products. That group shall meet on a regular basis and at least annually.*  
*Member States' national authorities responsible for notification policy and the notifying and designating authorities under this Regulation shall participate in the activities of that group.*
2. *The Commission may establish the specific arrangements for the functioning of the coordination group of the notifying and designating authorities.*

3. ***The Commission shall provide for the organisation of regular exchanges of experience between the Member States' national authorities responsible for notification policy and the notifying and designating authorities.***

#### Article 46

##### Requirements *relating to* notified bodies

1. For the purposes of notification, a conformity assessment body shall meet the requirements laid down in paragraphs 2 to 12.
2. A conformity assessment body shall be established under ***the*** national law ***of a Member State*** and have legal personality.
3. A conformity assessment body shall be ***a third-party body*** independent of the organisation or the product it assesses.

It shall ***not have any*** business ties with organisations ***that have*** an interest in the products it assesses, ***in particular with*** manufacturers, their trade partners ***and*** their shareholding investors ■ .

***However***, a body belonging to a business association or professional federation representing undertakings involved in the design, manufacturing, provision, assembly, use or maintenance of products which it assesses, may, on condition that its independence and the absence of any conflict of interest are demonstrated, be considered such ***a body***. ***This shall not preclude the body from carrying out assessment and verification activities for competing manufacturers.***

4. A **conformity assessment** body, its top-level management and the personnel responsible for carrying out the third party tasks in the assessment and verification process shall not be the designer, manufacturer, supplier, importer, distributor, installer, purchaser, owner, user or maintainer of the products which it assesses, or the representative of any of those parties. This shall not preclude the use of assessed products that are necessary for the operations of the **conformity assessment** body or the use of products for personal purposes.

A **conformity assessment** body, its top-level management and the personnel responsible for carrying out the third party tasks in the assessment and verification process shall not **be** directly involved in the design, manufacture or construction, or marketing, installation, use or maintenance of those products, nor represent the parties engaged in those activities. They shall not engage in any activity that may conflict with their independence of judgement and integrity related to the activities for which they have been notified. **This shall apply in particular to** consultancy services **in relation to product families for which they have been notified.**

**Conformity assessment** bodies shall ensure that activities of their parent or sister companies, their subsidiaries or subcontractors do not affect the confidentiality, objectivity and impartiality of their assessment or verification activities.

*A conformity assessment body shall not delegate to a subcontractor or a subsidiary* the establishment and the supervision of internal procedures, general policies, codes of conduct or other internal rules, the assignment of *its* personnel to specific tasks and the conformity assessment decisions ■ .

5. *Conformity assessment* bodies and their personnel shall carry out the third party tasks in the assessment and verification process with the highest degree of professional integrity and requisite technical competence in the specific field. *They* shall be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their assessment or verification activities, especially from persons or groups of persons with an interest in the results of those activities.
6. A *conformity assessment* body shall be capable of carrying out all the third party tasks in the assessment and verification process assigned to it in accordance with Annex IX in relation to which it has been notified, irrespective of whether those tasks are carried out by the *conformity assessment* body itself or on its behalf and under its responsibility.

At all times and for each assessment and verification system and for each kind or category of products, essential characteristics and tasks in relation to which it has been notified, the *conformity assessment* body shall have the following at its disposal:

- (a) the necessary *competent* personnel with technical knowledge and sufficient and appropriate experience to perform the third party tasks in the assessment and verification process ■ ;

- (b) the necessary description of the procedures *in accordance with* which the assessment process is carried out, ensuring the transparency and the ability of reproduction of *those* procedures, *including a description of how* relevant personnel, their status and tasks *correspond to* the conformity assessment tasks in relation to which the body intends to be notified;
- (c) appropriate policies and procedures *to* distinguish between the tasks it carries out as a *conformity assessment body and its* other activities;
- (d) ■ procedures *for the performance of* activities, which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process. ■

*The conformity assessment body* shall have the means necessary to perform the technical and administrative tasks connected with the activities for which it intends to be notified in an appropriate manner and shall have access to all necessary equipment or facilities.

7. The personnel responsible for carrying out the activities in relation to which the body intends to be notified, shall have the following:

- (a) sound technical and vocational training covering all the third party tasks in the assessment and verification process within the relevant scope for which the body has been notified;

- (b) satisfactory knowledge of the requirements of the assessments and verifications it carries out and adequate authority to carry out such operations, **including** appropriate knowledge and understanding of the applicable harmonised technical specifications, **European assessment documents** and of the relevant provisions of the Regulation;
- (c) the ability required to draw up the certificates, records and reports to demonstrate that the assessments and the verifications have been carried out.

8. **Personnel responsible for taking assessment decisions shall:**

- (a) **be employed by the conformity assessment body under the national law of the notifying Member State;**
- (b) **not have any potential conflict of interest,**
- (c) **be competent to verify the assessments made by other staff, external experts or subcontractors;**
- (d) **be sufficient in number to ensure business continuity and a consistent approach to conformity assessments.**

9. The impartiality of the body **and** its top-level management and **of the** assessment personnel shall be guaranteed.

The remuneration of the top-level management and assessment personnel **of a body** shall not depend on the number of assessments carried out or **their** results ■ .

10. A **conformity assessment** body shall take out liability insurance, unless liability is assumed by the Member State in accordance with national law, or the Member State itself is directly responsible for the assessment **or** the verification performed.

11. The personnel of the **conformity assessment** body shall observe professional secrecy **regarding** all information **obtained** in carrying out its tasks under Annex IX, except in relation to the **notifying authorities and other** competent **national** authorities of the Member State in which its activities are carried out. Proprietary rights shall be protected.
12. **Conformity assessment** bodies shall **participate in, or** ensure that their assessment personnel are informed **about** the relevant standardisation activities and **the** activities of the notified body coordination group established under this Regulation and shall apply as general guidance the administrative decisions and documents produced as a work result of that group.

#### Article 47

##### Presumption of conformity **of notified bodies**

**Where** a conformity assessment body to be authorised to carry out third party tasks in the assessment and verification process demonstrates its conformity with the criteria laid down in the relevant harmonised **technical specifications referred to in Article 5, European assessment documents, voluntary harmonised standards for product requirements referred to in Article 7(4) or the common specifications referred to in Article 8(1) or parts thereof**, it shall be presumed to comply with the requirements set out in Article 46 in so far as the applicable **documents** cover those requirements.

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Article 48

Subsidiaries and subcontractors of notified bodies

1. Where a notified body subcontracts specific tasks connected with the third party tasks in the assessment and verification process or has recourse to a subsidiary, it shall ensure that the subcontractor or the subsidiary meets the requirements set out in Article 46, and shall inform the notifying authority accordingly.
2. The notified body shall take full responsibility for the tasks performed by subcontractors or subsidiaries wherever these are established **and monitor their** competence **in relation to its own as described in** Article 46(6) point (b).
3. Activities may be subcontracted or carried out by a subsidiary only with the agreement of the client.
4. The notified body shall keep at the disposal of the notifying authority the relevant documents concerning the assessment and monitoring of the qualifications of **the** subcontractor or the subsidiary and the **work** carried out by **them** under Annex IX.

## Article 49

### Use of facilities outside the testing laboratory of the notified body

1. *At the* request of the manufacturer and where justified by technical, economic or logistic reasons *related to the nature of the product or the test equipment*, notified bodies may decide to carry out the tests referred to in Annex IX, for the assessment and verification systems 1+, 1 and 3 or have such tests carried out under their supervision, either in the manufacturing plants using the test equipment of the internal laboratory of the manufacturer or, with the prior consent of the manufacturer, in an external laboratory, using the test equipment of that laboratory.

Notified bodies carrying out such tests shall be specifically designated as competent to work away from their own test facilities and shall *also* in that regard comply with the requirements laid down in Article 46.

2. Before carrying out the tests referred to in paragraph 1, notified bodies shall verify whether the requirements of the test method are satisfied and shall evaluate whether:
  - (a) test equipment has an appropriate calibration system and the traceability of the measurements is guaranteed; and
  - (b) the quality of the test results is ensured.

Notified bodies shall assume full responsibility for the tests in their entirety, including the accuracy and traceability of calibration and measurements, and for the reliability of the test results.

## Article 50

### Application for notification

1. A body to be authorised to carry out third party tasks in the assessment and verification **systems** shall submit an application for notification to the notifying authority of the Member State in which it is established.
2. The application shall be accompanied by a description of the activities to be performed, the assessment **and** verification processes for which the body claims to be competent, the **description of competence** referred to in Article 46(6), point (b), **as well as** an accreditation certificate, where one exists, issued by the national accreditation body **■**, attesting that the body **fulfils** the requirements laid down in Article 46. The accreditation certificate shall relate only to the **precise legal** body applying for notification and shall be based, in addition to relevant harmonised standards, on the specific requirements and **tasks provided for in this Regulation**.
3. Where the body concerned cannot provide an accreditation certificate, it shall provide the notifying authority with all documentary evidence necessary for the verification, recognition and regular monitoring of its compliance with the requirements laid down in Article 46.

## Article 51

### Notification procedure

1. Notifying authorities may notify only bodies which have satisfied the requirements laid down in Article 46.
2. Notifying authorities shall notify the Commission and the other Member States ■ using the electronic notification tool developed and managed by the Commission.

Exceptionally, for cases *regarding groupings of essential characteristics* set out in Annex X, for which the appropriate electronic tool is not available, a *notification in other electronic form* shall be accepted.

3. The notification shall include full details of the functions to be performed, reference to the relevant harmonised technical specification and, for the purposes of the system set out in Annex IX, the essential characteristics for which the body is competent *and the relevant attestation of that competence*.

However, reference to the relevant harmonised technical specification is not required in the cases *regarding groupings of essential characteristics* set out in Annex X.

4. Where a notification is not based on an accreditation certificate as referred to in Article 50(2), the notifying authority shall provide the Commission and the other Member States with all documentary evidence which attests to the body's competence and the arrangements in place to ensure that that body will be monitored regularly and will continue to satisfy the requirements laid down in Article 46.

5. *The body concerned may perform the activities of a notified body if* the Commission or the other Member States *do not raise any objections* within two weeks of *a* notification, where an accreditation certificate is used, or within two months of notification, where an accreditation certificate is not used.

*Only such a body shall be considered a notified body for the purpose of this Regulation.*

6. *Valid notifications* shall *be* included by the Commission in the list of notified bodies referred to in Article 52(2). ■

■

7. The Commission and the other Member States shall be notified of any subsequent relevant changes to the notification.

## Article 52

### Identification numbers and lists of notified bodies

1. The Commission shall assign an identification number to a notified body.

It shall assign a single such number even where the body is notified under several Union acts.

2. The Commission shall make publicly available the list of bodies notified under this Regulation, including the identification numbers that have been assigned to them and the activities for which they have been notified ■ .

The Commission shall ensure that that list is kept up-to-date.

#### Article 53

##### Changes to the notification

1. Where a notifying authority has ascertained or has been informed that a notified body no longer meets the requirements laid down in Article 46, or that it is failing to fulfil its obligations, the notifying authority shall restrict, suspend or withdraw the notification as appropriate, depending on the seriousness of the failure to meet those requirements or to fulfil those obligations. ***It shall immediately inform the Commission and the other Member States accordingly.***
2. In the event of ***a restriction, suspension or withdrawal*** of a notification, or where the notified body has ceased its activity, the notifying Member State ■ shall take appropriate steps to ensure that ***that body's files*** are either processed by another notified body or kept available for the responsible notifying and ***competent national*** authorities at their request.

## Article 54

### Challenge of the competence of notified bodies

1. The Commission shall investigate all cases where it doubts, or doubt is brought to its attention regarding, the competence of a notified body or the continued fulfilment by a notified body of the requirements and responsibilities to which it is subject.
2. The notifying Member State shall provide the Commission, on request, with all information related to the basis for notification or the maintenance of the competence of the body concerned.
3. The Commission shall ensure that all sensitive information obtained in the course of its investigations is treated confidentially.
4. ***Where the Commission ascertains that a notified body does not meet, or no longer meets, the requirements for its notification, it shall inform the notifying Member State accordingly and request it to take the necessary corrective measures, including withdrawal of notification if necessary.***

## Article 55

### Operational obligations of notified bodies

1. Notified bodies shall, in accordance with Annex IX carry out the following assessment and verifications:
  - (a) assess the performance and the conformity of products;

(b) verify the conformity of products ■ ;

■

(c) verify the constancy of performance of products;

(d) verify the calculation of environmental sustainability calculations undertaken by the manufacturer;

**(e) *verify the compliance of the manufacturer with the obligations of this Regulation.***

Those tasks are *hereinafter* referred to as “assessments and verifications”.

2. Assessments and verifications shall be carried out with transparency as regards the manufacturer, and in a proportionate manner, avoiding an unnecessary burden for economic operators. The notified bodies shall perform their activities taking due account of the size of the undertaking, the sector in which the undertaking operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

In so doing, the notified bodies shall nevertheless respect the degree of rigour required for the product by this Regulation and the part played by the product for the fulfilment of all basic requirements for construction works.

3. Where, in the course of the initial inspection of the manufacturing plant and of factory production control, a notified body finds that the manufacturer has not ensured the constancy of performance and conformity of the manufactured product, it shall require the manufacturer to take appropriate corrective measures and shall not issue a certificate *or a validation report*.
4. Where, in the course of the monitoring activity aiming at the verification of conformity and of the constancy of performance of the manufactured product, a notified body finds that a product no longer has the same performance to that of the product-type, it shall require the manufacturer to take appropriate corrective measures and shall suspend or withdraw *the certificate or the validation report* if necessary.
5. Where corrective measures are not taken or do not have the required effect, the notified body shall restrict, suspend or withdraw any certificates *or validation reports*, as appropriate.
6. When taking assessment decisions, including when deciding on the need to suspend or withdraw a certificate or approval decisions in light of possible instances of non-compliances, notified bodies shall apply clear and pre-determined criteria.

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7. ***When requested by a manufacturer or provider to do so, notified bodies shall cooperate and share all relevant information with notified bodies that have recognised its assessments and verifications in accordance with Article 62. Notified bodies shall establish an agreement for that purpose.***

Article 56

Information obligations of notified bodies

1. Notified bodies shall inform the notifying authority of the following:
  - (a) any refusal, restriction, suspension or withdrawal of certificates;
  - (b) any circumstances affecting the scope of, and conditions for, notification;
  - (c) any request for information on assessment or verification activities carried out which they have received from ***competent national*** authorities; and
  - (d) on request, third party tasks in accordance with the systems of assessment and verification carried out within the scope of their notification and any other activity performed, including cross-border activities and subcontracting.
2. Notified ***bodies*** shall provide the other bodies notified under this Regulation which carry out similar third party tasks in accordance with the assessment and verification systems and for products covered by the same harmonised technical specification with relevant information on issues relating to negative ■ results from these assessments ***and*** verifications, ■ in particular, any refusal, restriction, suspension, or withdrawal of certificates, ***validation reports*** or of test reports, ***and, upon request, positive results from those assessments.***

*A notified body shall, upon request from another notified body, a competent national authority or the Commission inform the requesting party whether certificates, validation reports or test reports issued by it are valid, restricted, suspended or withdrawn.*

3. Where the Commission or *a competent national* authority of a Member State submits a request to a notified body established on the territory of another Member State relating to an assessment carried out by that notified body, it shall send a copy of that request to the notifying *authority* of that other Member State. The notified body concerned shall respond without delay and within 15 days at the latest to the request. The notifying authority shall ensure that such requests are resolved by the notified body unless there is a legitimate reason for not doing so.

4. *Where* notified bodies *have or receive* evidence *that*:

- (a) another notified body does not comply with the requirements laid down in Article 46 or its obligations;
- (b) a product placed on the market does not comply with this Regulation;
- (c) a product placed on the market, due to its physical condition, is likely to cause a serious risk,

*they shall alert and share such evidence with the relevant market surveillance authority or notifying authority, as appropriate.*

## Article 57

### Implementing acts on notified bodies' obligations

Where this is necessary to ensure a harmonised application of this Regulation and where ***the group of notifying and designating authorities have not been able to resolve a dispute concerning their diverging practices, in accordance with Article 45, and only to the extent necessary to prevent diverging practices fragmenting the internal market*** for economic operators, the Commission may adopt implementing acts providing details on how to execute the obligations of notified bodies contained in Articles 55 and 56.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 90(3).

## Article 58

### Coordination of notified bodies

1. The Commission shall ensure that appropriate coordination and cooperation between bodies notified ***under this Regulation*** are put into place and properly operate in the form of a group of notified bodies.

Notified bodies shall participate in the work of that group, directly or by means of designated representatives. ***Notifying authorities shall ensure that notified bodies participate in the work of that group.***

2. Notified bodies shall apply as general guidance ***any relevant*** documents produced ***as a result of the work of the group referred to in paragraph 1.***

3. ***Coordination and cooperation in the group referred to in paragraph 1 shall aim to ensure the harmonised application of this Regulation.***

CHAPTER VII  
SIMPLIFIED PROCEDURES

Article 59

***Replacement of type-testing and type-calculation***

1. A manufacturer may replace type-testing *or type-calculation with a specific section in the technical documentation referred to in Article 22(3)* demonstrating that:
  - (a) for one or several essential characteristics of the product, which the manufacturer places on the market, that product is deemed to achieve a certain level or class of performance without testing or calculation, or without further testing or calculation, in accordance with the conditions set out **■** in the *delegated acts referred to in Article 5(6)*; or
  - (b) the product, covered by a harmonised technical specification *or a European assessment document*, which the manufacturer places on the market is a system made of *components*, which the manufacturer duly assembles following precise instructions, including compatibility criteria in the case of individual *components*, given by the provider of such a system or of a component thereof, who has already tested that system or that *component* for one or several of its essential characteristics in accordance with the relevant harmonised technical specification *or European assessment document*. When these conditions are satisfied and when the manufacturer has notably verified that the precise compatibility criteria of the provider are met, the manufacturer is entitled to declare performance corresponding to all or part of the test results provided to *it* for the system or the *component*;

***(c) the product, covered by a harmonised technical specification or by a European technical assessment, which the manufacturer places on the market, corresponds to a product-type of a product manufactured by another manufacturer and is already subject to type-testing or type-calculation.***

***When the conditions in point (c) are satisfied, the manufacturer may declare the performance corresponding to all or part of the results of this other product. The manufacturer shall only apply this simplification after having obtained an authorisation of the other manufacturer, who remains responsible for the accuracy, reliability and stability of those test results.***

2. If the ***assessment and verification system applicable includes a performance assessment by a notified body*** as set out in Annex IX, a notified body or TAB shall, in ***place of the assessment of the performance of the product*** set out in Annex IX, assess and certify the correct fulfilment of the obligations referred to in paragraph 1 of this Article.

#### Article 60

##### Use of simplified procedures by micro-enterprises

1. ***A micro-enterprise may replace type-testing or type-calculation for an essential characteristic under assessment and verification system 3 set out in point 5 of Annex IX with a specific section in the technical documentation referred to in Article 22(3) providing data equivalent to the assessment required for this essential characteristic in accordance with the applicable harmonised technical specifications or European assessment document.***

2. ***A notified body or TAB shall, instead of the assessment of the performance of the product set out in Annex IX, assess and certify the correct fulfilment of the obligations referred to in paragraph 1 of this Article.***

#### Article 61

##### Custom-made non-series products

1. ***As an alternative to the exemption in Article 14, point (a), a manufacturer of a product that fulfils the conditions in Article 14, point (a), may replace the performance assessment ■ of the product with a specific section in the technical documentation referred to in Article 22(3) demonstrating the compliance of that product with the applicable requirements and providing data equivalent to the data required by this Regulation and the applicable harmonised technical specifications or European assessment document.***
2. ***If the assessment and verification system applicable includes a performance assessment by a notified body as set out in Annex IX, a notified body or TAB shall, in place of the assessment of the performance of the product set out in Annex IX, assess and certify the correct fulfilment of the obligations referred to in paragraph 1 of this Article.***

## Article 62

### Recognition of assessment and verification by another notified body

1. ***When*** a notified body ***is to assess and verify*** a certain ***product in accordance with Annex IX, it may refrain from the assessment and verification*** and recognise the assessment and verification undertaken by another notified body for the same economic operator where ***all of the following conditions apply***:
  - (a) the ***product*** has been correctly assessed and verified by the other notified body **█** ;  
**█**
  - (b) the assessed or verified economic operator agrees to share all relevant data and documents with the recognising notified body; and
  - (c) the validity of the certificate is limited to the validity of the certificate issued by the other notified body.

This paragraph shall also apply to ***validation*** reports **█** and to assessments of calculation of the environmental sustainability undertaken under Regulation (EU) .../... [Regulation on ecodesign for sustainable products].

2. ***When a notified body is to assess and verify a certain product in accordance with Annex IX, it may refrain from the assessment and verification of its parts or materials and recognise the results of the assessment and verification by another notified body, if the provider of those parts or materials applied the required assessment and verification system to them and there is an agreement between the manufacturer of the product and the provider that ensures the free flow of all information between them and the notified bodies in view of ensuring compliance with this Regulation.***

This paragraph shall also apply to assessments of the calculation of the environmental sustainability undertaken under Regulation (EU) .../... [Regulation on ecodesign for sustainable products].

## CHAPTER VIII

### MARKET SURVEILLANCE AND SAFEGUARD PROCEDURES

#### Article 63

#### Complaint Portal

1. ***Without prejudice to the obligations of economic operators under this Regulation and the activities of market surveillance authorities under Regulation 2019/1020, the Commission shall set up a system allowing any natural or legal person to share complaints or reports related to possible non-compliance with this Regulation.***

2. Where the Commission *considers* a complaint or report relevant and substantiated *based on clearly defined criteria*, it shall *without undue delay transmit* that complaint or report to *the single liaison point of the Member State concerned* for that single liaison point to follow-up with the relevant natural or legal person in accordance with Article 11(7), point (a) of Regulation (EU) 2019/1020.

#### Article 64

##### *Market surveillance authorities and single liaison point*

1. Member States shall designate, amongst their market surveillance authorities, one or more **■** authorities that dispose of the particular knowledge needed to assess products both technically and legally.
2. Member States shall designate *a single liaison point to act as* the focal point for contacts with *the Commission and single liaison points of* other Member States *which are competent under this Regulation, including for requests pursuant to Articles 22, 23 and 24 of Regulation (EU) 2019/1020*.
3. *Market surveillance authorities designated in accordance with paragraph 1 of this Article shall have all the powers listed in Article 14 of Regulation (EU) 2019/1020. Those powers shall also apply for the purposes of this Regulation to all economic operators covered by this Regulation.*

4. ***For the purpose of market surveillance, investigation and enforcement, market surveillance authorities shall have the power to request from other authorities or bodies relevant information in their possession.***

#### Article 65

##### Procedure to deal with ***non-compliance***

1. Where a market surveillance authority of one Member State has sufficient reason to believe that certain products covered by a ***harmonised technical specification*** or for which a European technical assessment has been issued, or its manufacturer, is non-compliant, it shall carry out an evaluation in relation to the products and the manufacturer concerned covering the respective requirements laid down by this Regulation. The relevant economic operators shall, as necessary, cooperate with the market surveillance authorities.

Where, in the course of that evaluation, the market surveillance authority finds that the products or ***their*** manufacturer ***do*** not comply with the requirements and obligations laid down in this Regulation, it shall without delay require the relevant economic ***operator*** to take ■ appropriate and proportionate corrective actions, ***as provided for in Article 16(3) of Regulation (EU) 2019/1020, to bring the non-compliance to an end or, if that is not possible, to withdraw the products from the market, or to recall them, all within a reasonable period which is commensurate with the nature ■ of the non-compliance. ■***

The market surveillance authority shall inform the notified bodies accordingly, if notified bodies are involved.

2. Where the market surveillance authority considers that the non-compliance is not limited to its national territory, it shall, via the *single liaison point*, inform the Commission and the other Member States of the results of the evaluation and of the actions which it has required the economic *operator* to take.
3. The economic *operator* shall *ensure that* all appropriate corrective action *is taken* in respect of all the products *concerned that it* has made available on the market throughout the Union.
4. Where the relevant economic *operator*, within the period referred to in the second subparagraph of paragraph 1, *does not take the* corrective action *referred to in paragraph 1, second subparagraph*, or where the non-compliance persists, the market surveillance authority shall *ensure that the product concerned is withdrawn or recalled, or that making it* available on the market *is prohibited or restricted*.

The market surveillance authority shall inform the public, and via the *single liaison point* the Commission and the other Member States, without delay, of those measures.

5. The information referred to in the last sentence of paragraph 4 shall include all available details, in particular the data necessary for the identification of the non-compliant products, the origin of *those* products, the nature of the non-compliance alleged and the risk involved, the nature and duration of national measures taken as well as the arguments put forward by the relevant economic operator. In particular, the market surveillance authorities shall indicate whether the non-compliance is due to either of the following:

- (a) failure of the products to achieve the declared performance **■** ;
- (b) *failure of the products to meet product requirements established by delegated acts referred to in Article 7(1);*
- (c) failure of the manufacturer to meet obligations;
- (d) shortcomings in the harmonised technical specifications, *in* a European assessment document, *in the voluntary harmonised standards for product requirements referred to in Article 7(3) or in the common specifications established by implementing acts referred to in Article 8(1).*

6. Member States other than the Member State initiating the procedure shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the products concerned, and, in the event of disagreement with the notified national measure, of their objections.

7. Where, within two months of receipt of the information referred to in paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State in relation to the product concerned, that measure shall be deemed justified.

8. ■ Member States shall ensure that appropriate restrictive measures are taken without delay in respect of the product or manufacturer concerned, such as withdrawal of the products from their market.

#### Article 66

##### Union safeguard procedure

1. Where, on completion of the procedure set out in Article 65(4), **(6) and (7)**, objections are raised against a measure taken by a Member State or where the Commission considers a national measure to be contrary to Union legislation, the Commission shall without delay enter into consultation with the Member States and the relevant economic *operator* and shall evaluate the national measure. ***The consultation period shall not exceed two months.*** On the basis of the results of that evaluation, the Commission shall ***endeavour to adopt implementing acts, within two additional months, after the end of consultation period, setting out its decision*** as to whether the measure is justified or not.

Those implementing acts shall be adopted in accordance with advisory procedure referred in Article 90(2).

The Commission shall address its decision to all Member States and shall immediately communicate it to them and to the relevant economic *operator*.

2. If the national measure is considered *to be* justified, all Member States shall, *without delay, ensure that appropriate restrictive measures, such as withdrawal, are taken in respect of the non-compliant product* and shall inform the Commission accordingly. If the national measure is considered *to be* unjustified, the Member State concerned shall withdraw the measure.
3. Where the national measure is considered to be justified and the non-compliance of the product or its manufacturer is attributed to shortcomings in the *harmonised technical specifications, European assessment documents, voluntary harmonised standards or common specifications established by implementing acts* as referred to in Article 65(5), point (d), the Commission shall apply the procedure provided for in Article 5(9), Article 6(5), Article 7(6) or Article 36 of this Regulation or in Article 11 of Regulation (EU) No 1025/2012, *as appropriate*.

#### Article 67

##### Complying products which nevertheless present a risk

1. Where, having performed an evaluation pursuant to Article 65(1), a market surveillance authority ■ finds that, although *a* products *is* in compliance with this Regulation, *it presents* a risk ■ to the health or safety of persons *or, where applicable*, to the environment or to other aspects of public interest protection, it shall require the relevant economic *operator* to take all appropriate measures to ensure that the products concerned, when placed on the market, no longer present that risk, to withdraw the products from the market or to recall them within a reasonable period, commensurate with the nature of the risk, which it may prescribe.

2. The economic operator shall ensure that any corrective action is taken in respect of all the products concerned which that economic operator has made available on the market throughout the Union.
3. The market surveillance authority shall, via the ***single liaison point***, immediately inform the Commission and the other Member States. That information shall include all available details, in particular the data necessary for the identification of the product concerned, the origin and the supply chain of the product, the nature of the risk involved and the nature and duration of the national measures taken.
4. The Commission shall without delay consult the Member States and the relevant economic operators and shall evaluate the national measures taken. On the basis of the results of that evaluation, the Commission shall adopt an implementing act setting out its decision whether the measure is justified or not and, where necessary, ***ordering*** appropriate measures.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 90(2).

5. The Commission shall address its decision to all Member States and shall immediately communicate it to them and to the relevant economic ***operator***.

## Article 68

### Market surveillance coordination and support

1. For the purposes of this Regulation, the administrative cooperation group set up pursuant to Article 30(2) of Regulation (EU) 2019/1020 ('ADCO') shall meet at regular intervals and, where necessary, at the reasoned request of the Commission or of two or more participating market surveillance authorities.

In the context of performing its tasks set out in Article 32 of Regulation (EU) 2019/1020, the ADCO shall support the implementation of this Regulation, namely by identifying common priorities for market surveillance.

2. Based on priorities identified in consultation with the ADCO, the Commission shall:
  - (a) organise joint market surveillance and testing projects in areas of common interest;
  - (b) organise joint investment in market surveillance capacities, including equipment and IT tools;
  - (c) organise common trainings for the staff of market surveillance authorities, notifying authorities and notified bodies, including on the correct interpretation and application of this Regulation and on methods and techniques relevant for applying or verifying compliance with it;

- (d) draw up guidelines for the application and enforcement of *this Regulation, including* requirements and obligations set out in *harmonised technical specifications adopted pursuant to this Regulation, as well as* common practices and methodologies for effective market surveillance. ■

The Union shall, where appropriate, finance the actions referred to in points (a), (b) and (c).

3. The Commission shall provide technical and logistic support to ensure that the ADCO fulfils its tasks set out in this Article and in Article 32 of Regulation (EU) 2019/1020.

#### Article 69

##### Recovery of costs

*Where a product has been found to be non-compliant*, market surveillance authorities shall have the right to recover from the economic operators *who placed or made the product available on the market* the costs of document inspection and physical product testing, *provided that those costs are accompanied by a justification*.

#### Article 70

##### Reporting and benchmarking

1. Market surveillance authorities shall enter into the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020 information on the nature and severity of any penalty imposed in relation to non-compliance with this Regulation.

2. Every **four** years, by 30 June, the Commission shall, draw up a report based on the information entered by market surveillance authorities into the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020. The first of those reports shall be published by ... [**four years after date of application of this Regulation**].

The report shall include:

- (a) information on the nature and number of checks performed by market surveillance authorities during the **four** previous calendar years pursuant to Article 34(4) and (5) of Regulation (EU) 2019/1020;
  - (b) information on the levels of non-compliance identified and on the nature and severity of penalties imposed for the **four** previous calendar years in relation to products covered by **harmonised technical specifications or CE-marked based on a European technical assessment**;
  - (c) indicative benchmarks for market surveillance authorities in relation to the frequency of checks and the nature and severity of penalties imposed.
3. The Commission shall publish the report referred to in paragraph 2 of this Article in the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020 and shall make public a summary of the report.

CHAPTER IX  
INFORMATION AND ADMINISTRATIVE COOPERATION

Article 71

Information systems for harmonised decision-making

1. The Commission shall establish and maintain an information and communication system for the collection, processing and storage of information, in a structured form, on issues relating to the interpretation or application of the rules laid down in or pursuant to this Regulation, with the aim of ensuring the harmonised application of those rules.

In addition to the Commission and Member States, market surveillance authorities, the single liaison offices appointed under Article 10(3) of Regulation (EU) 2019/1020, the authorities designated under Article 25(1) of Regulation (EU) 2019/1020, notifying authorities, *representatives of the group of* notified bodies *and the organisation of TABs*, and product contact points for Construction shall be able to access the information and communication system. ■

■

2. The bodies listed in paragraph 1 may use the information and communication system to raise any question or issue related to the interpretation or application of the rules laid down in or pursuant to this Regulation, including their relationship to other provisions of Union law. ■

3. For purposes of paragraph 2, ***bodies may raise questions or issues related to the following topics:***
  - (a) the application or interpretation of the rules laid down in, or pursuant to, this Regulation by any other body in a way that diverges from their own practise;
  - (b) questions or issues raised through the information and communication system related to the situation they are confronted with or to their own practice;
  - (c) situations not foreseen by the rules laid down in or pursuant to this Regulation when first published or referred to in the *Official Journal of the European Union*, especially but not limited to situations brought about by the emergence of new products or business models;
  - (d) whether the rules laid down in or pursuant to this Regulation apply to a situation to which other provisions of Union law also apply and the resulting question of which rules are to prevail.
  
4. When raising a question or issue, the relevant body shall enter into the information and communication system information concerning:
  - (a) any decision taken in relation to the question or issue raised;
  - (b) the presumable reasoning/rationale behind the approach taken;
  - (c) any alternative approach it has identified and its respective reasoning/rationale.

5. Member States shall establish a national information system or email distribution service to inform their **competent national** authorities, the economic operators active on their territory, TABs and notified bodies with place of business on their territory and, on request, also other TABs and notified bodies, on all matters relevant for the correct interpretation or application of the rules laid down in or pursuant to this Regulation. In doing so, they shall take into account the information available in the information and communications system referred to in paragraph 1 ■ .
6. **Competent national authorities**, TABs and notified bodies with **a** place of business in the respective Member State shall register themselves in **the** system or for the email distribution service and take account of all information transmitted via them. **Economic operators may register themselves in the system or for the email distribution service. Member States shall take appropriate measures to bring the system or email distribution service to the attention of economic operators.**
7. The national information system or email distribution service shall be able to receive complaints ■ from any natural or legal person, including TABs and notified bodies, on the uneven application of the rules laid down in or pursuant to this Regulation. If deemed appropriate, the **single liaison point** shall forward such complaints to their peers in other Member States and to the Commission.

■

## Article 72

### Product contact points for construction

1. Member States shall support economic operators by product contact points for construction. Member States shall designate and maintain at least one product contact point for construction on their territory and shall ensure that their product contact points for construction have sufficient powers and adequate resources for the proper performance of their tasks **■**. They shall ensure that product contact points for construction deliver their services in accordance with Regulation (EU) 2018/1724 *of the European Parliament and of the Council* <sup>25</sup> and that they coordinate with the contact points for mutual recognition established by Article 9(1) of Regulation (EU) No 2019/515 *of the European Parliament and of the Council* <sup>26</sup>.
2. Product contact points for construction shall provide, at the request of an economic operator or a *competent national* authority of another Member State, any useful product related information, such as:
  - (a) electronic copies of, or online access to, the national technical rules and national administrative procedures applicable to products in the territory in which the product contact points for construction is established;

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<sup>25</sup> Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 (OJ L 295, 21.11.2018, p. 1).

<sup>26</sup> Regulation (EU) 2019/515 of the European Parliament and of the Council of 19 March 2019 on the mutual recognition of goods lawfully marketed in another Member State and repealing Regulation (EC) No 764/2008 (OJ L 91, 29.3.2019, p. 1).

- (b) information on whether those products are subject to prior authorisation under national law;
- (c) rules applicable to the incorporation, assembling or installation of products.

Product contact points for construction shall also provide information on product related provisions of this Regulation and of acts adopted in accordance with it.

3. Product contact points for construction shall *provide information free of charge* within 15 working days of receiving any request under paragraph 2.

■

4. Product contact points for construction shall be able to carry out their functions in a manner that avoids conflicts of interest, particularly in respect of the procedures for obtaining the CE marking.
5. Paragraphs 1 to 4 apply also to products which have not yet been covered by harmonised technical specifications.
6. The Commission shall publish and keep up-to-date a list of the national product contact points for construction.

## Article 73

### Trainings and exchange of staff

1. Market surveillance authorities, product contact points for construction, designating authorities TABs, notifying authorities, and notified bodies shall ensure that their staff:
  - (a) keep up-to-date in their area of competence and receive periodic additional training to that end; and
  - (b) receive periodically training on the harmonised interpretation and application of the rules laid down in or pursuant to this Regulation.
2. The Commission shall, periodically and at least once a year, organise training events jointly for the staff of market surveillance authorities, ***product contact points for construction, designating authorities***, notifying authorities, and notified bodies. The Commission shall organise these training events in cooperation with the Member States.  
  
The training events shall be open to the participation of the staff of the authorities designated under Article 25(1) of Regulation (EU) 2019/1020, the single liaison offices appointed under Article 10(3) of Regulation (EU) 2019/1020 and, where appropriate, of other authorities of the Member States involved in the implementation or enforcement of this Regulation. ■

■

3. The Commission may organise, in cooperation with the Member States, programmes for the exchange of staff between the market surveillance authorities, notifying authorities, and notified bodies of two or more Member States.

#### Article 74

##### Shared roles and joint decision-making

1. In order to fulfil their obligations under this Regulation with regard to market surveillance, designation and supervision of TABs, notified bodies, and product contact points for construction, Member States may designate:
  - (a) a body or authority set up in cooperation with another Member State or other Member States for the purpose of joint designation;
  - (b) a body or authority already designated by another Member State for the same purpose, in cooperation with that Member State.

The Member States concerned shall jointly ensure that the shared bodies or authorities meet all relevant requirements. They shall be jointly responsible for them, whilst decisions taken towards natural or legal persons on a certain Member State shall be legally attributable only to that Member State.

2. The authorities of different Member States may, without prejudice to their individual obligations under this Regulation or other legislative acts, share resources and responsibilities in order to ensure the harmonised application or effective enforcement of this Regulation.

To that end, they may also:

- (a) take joint decisions, especially in relation to joint cross-border activities or in relation to economic operators active on the territory of the relevant Member States;
- (b) establish common projects, such as joint market surveillance or testing projects;
- (c) pool resources for specific purposes, such as building up testing capacity or for internet surveillance;
- (d) delegate the execution of tasks to a peer authority of another Member State, whilst staying formally responsible for the decisions taken by that authority;
- (e) transfer a task from one Member State to the other, provided that such transfer is clearly communicated to all concerned.

The relevant Member States shall be jointly responsible for the actions taken in accordance with this paragraph.

**CHAPTER X**  
**PRODUCT PASSPORT**

*Article 75*

*Construction digital product passport system*

- 1. The Commission shall adopt delegated acts in accordance with Article 89 to supplement this Regulation by setting up a construction digital product passport system, in accordance with the conditions set out in this Chapter.*
- 2. The construction digital product passport system shall:*
  - (a) be compatible with, interoperable with and based upon the product passport established by Regulation (EU) .../... [Regulation on eco design for sustainable products], without compromising interoperability with Building Information Modelling (BIM), and taking into account the specific characteristics and requirements related to construction products;*
  - (b) have the functionalities required to implement and manage product passports referred to in Article 76;*
  - (c) determine the actors, including economic operators, clients, deinstallers, users and competent national authorities, which are to have access to information in the product passport and to other information to which they need to have access, taking into account the need to protect intellectual property rights, and sensitive commercial information, and to ensure the safety of construction works;*

- (d) determine the actors, including manufacturers, authorised representatives, importers, distributors and digital product passport service providers, which are allowed to introduce or update the information in the product passport, including where necessary the creation of a new product passport, and what information they may introduce or update;*
- (e) lay down detailed arrangements for updating the information in the product passport of an existing product;*
- (f) establish procedures to ensure the availability of product passports after an insolvency, a liquidation or a cessation of activity in the Union of the economic operator that created the product passport or, if necessary, after the obligations of manufacturers to ensure its availability have expired, including the establishment of a back-up system by product passport service providers;*
- (g) establish requirements for digital product passport service providers, including, if required, a certification scheme to verify such requirements, to be based upon developments under Regulation (EU).../... [Regulation on eco design for sustainable products] for the same purpose, as far as possible;*
- (h) when required, lay down more detailed or alternative rules and procedures related to the life cycle of identifiers, data carriers, digital credentials and the product passport registry to those established by Regulation (EU) .../... [Regulation on eco design for sustainable products] for the same purpose;*

- (i) ensure that the system is accessible for period of 25 years after the last product corresponding to its product type has been placed on the market and that the economic operator makes available the digital product passport for at least 10 years, without,, in the case of a longer period, creating a disproportionate cost and burden for the economic operators;*
- (j) take into account the need to ensure the availability of information for the reuse and remanufacturing of products.*

#### *Article 76*

##### *Product passport*

- 1. The information in the product passport shall be accurate, complete, and up-to-date.*
- 2. A product passport for a product under this Regulation shall:*
  - (a) include the following information:*
    - (i) the declaration of performance and conformity referred to in Article 15, including the information referred to in Article 15(6) which can be included through a connection to other Union databases where it is available and the documentation provided together in accordance with Annex V;*
    - (ii) the general information, instructions for use and safety information referred to in Article 22(6); and*
    - (iii) the technical documentation referred to in Article 22(3) including the specific sections required pursuant to Articles 59 to 61;*

- (iv) the label in accordance with Article 22(9);*
- (v) unique identifiers issued in accordance with Article 79(1);*
- (vi) documentation required under other Union law applicable to the product;*
- (vii) data carriers of key parts for which a product passport is available;*
- (b) be connected to one or more data carriers;*
- (c) be accessible by electronic means through the data carrier displayed, in accordance with Article 18(2), point (g);*
- (d) correspond to the product type and its unique identification code referred to in Article 22(5);*
- (e) be accessible free of charge to all economic operators, clients, users and authorities through the data carrier;*
- (f) give different levels of access to the construction digital product passport system;*

- (g) allow actors specified in the construction digital product passport system to introduce or to update the information in the product passport;*
  - (h) be accessible for an established period after the last product corresponding to its product type has been placed on the market.*
- 3. The requirements referred to in paragraph 2 shall:**
- (a) ensure that actors along the value chain can easily access and understand product information relevant to them;*
  - (b) facilitate the verification of product compliance by competent national authorities;  
and*
  - (c) improve traceability of products along the value chain.*
- 4. Products in respect of which the exemption established in Article 14 is applied are also exempt from the obligation to provide a product passport.**

#### *Article 77*

##### *General requirements for the product passport*

- 1. A product passport shall meet the following conditions:**
- (a) it shall be connected through one or more data carriers to a persistent unique identification code of the product type;*
  - (b) the data carrier shall be affixed in accordance with Article 18(2), point (g);*
  - (c) the data carrier shall comply with Article 79(1);*

- (d) all information included in the product passport shall be based on open standards, developed with an interoperable format and shall, as appropriate, be machine-readable, structured, searchable and transferable through an open interoperable data exchange network, without ‘vendor lock-in’, in accordance with the essential requirements set out in Article 78; documents provided together with the declaration of performance and conformity referred to in Article 76(2)(a)(i) and technical documentation referred to in Article 76(2)(a)(iii) shall be exempted from this obligation when justified for technical reasons;***
- (e) personal data related to the end-user of the product shall not be stored in the product passport without the explicit consent of the end-user in compliance with Article 6 of Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>27</sup>;***
- (f) the information in the product passport shall include a reference to the product type referred to in Article 76(2), point (d);***

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***Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).***

- (g) the access to information included in the product passport shall be regulated in accordance with the essential requirements set out in Article 78 and the specific access rights shall be identified in accordance with construction digital product passport system levels of access;*
- (h) the declaration of performance and conformity referred to in Article 76(2), point (a)(i), shall follow the guidelines issued in accordance with Article 16(3).*
- 2. Where other Union legislation requires or allows the inclusion of specific information in the product passport, that information may be included in the product passport in accordance with the delegated act referred to in Article 75(1).*
- 3. The manufacturer placing the product on the market shall provide actors making the products available on the market online or through other means of distance sales with a digital copy of the data carrier and the product identifier to allow them to make it accessible to customers where they cannot physically access the product. The economic operator shall provide that digital copy or a webpage link free of charge and within 5 working days of receiving the request.*

#### *Article 78*

##### *Technical design and operation of the product passport*

*The technical design and operation of the product passport shall comply with the following essential requirements:*

- (a) product passports shall be fully interoperable with other product passports as regards the technical, semantic and organisational aspects of end-to-end communication and data transfer;*

- (b) a recipient of the product passport shall have easy access, free of charge, to it based on the recipient's respective access right in the construction digital product passport system;**
- (c) the data included in the product passport shall be stored as specified in the construction digital product passport system referred to in Article 75;**
- (d) if the data included in the product passport is stored or otherwise processed by authorised operators or digital product passport providers, they shall not be allowed to sell, reuse or process such data, in whole or in part, beyond what is necessary for the provision of the relevant storing or processing services, unless this is specifically agreed with the economic actor placing the product on the market or putting it into service;**
- (e) the product passport shall remain available for the period specified in Article 76(2), point (h), including after an insolvency, a liquidation or a cessation of activity in the Union of the economic operator that created the product passport, and shall fulfil the conditions established in accordance with Article 75(2), point (f), as regards the obligation to establish a back-up system;**
- (f) the right to access and to introduce, modify or update information in the product passport shall be restricted to the access rights specified in the construction digital product passport system;**

- (g) protection of information that constitutes trade secrets within the meaning of Article 2(1) Directive (EU) 2016/943 of the European Parliament and of the Council<sup>28</sup> or intellectual property rights shall be ensured;*
- (h) data authentication, reliability and integrity shall be ensured;*
- (i) product passports shall be designed and operated so that a high level of security and privacy is ensured and fraud is avoided.*

#### *Article 79*

##### *Unique identifiers and product passport registry*

- 1. Article 12 of Regulation (EU) .../... [Regulation on eco design for sustainable products] shall apply for the purposes of the implementation of this Regulation as regards unique identifiers and data carriers unless the delegated act referred to in Article 75(1) of this Regulation lays down more detailed or alternative rules related to those unique identifiers and data carriers, as referred to in Article 75(2)(h) of this Regulation.*
- 2. Article 13 of Regulation (EU) .../... [Regulation on eco design for sustainable products] shall apply for the purposes of the implementation of this Regulation as regards the product passport registry unless the delegated act referred to in Article 75(1) of this Regulation lays down more detailed or alternative rules related to that registry, as referred to in Article 75(2)(h) of this Regulation.*

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*Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (OJ L 157, 15.6.2016, p. 1).*

3. *Article 14 of Regulation (EU) .../... [Regulation on eco design for sustainable products] shall apply for the purposes of implementation of this Regulations as regards the web portal for information in the digital product passport.*

#### *Article 80*

##### *Mandatory use and technical adaptation*

1. *Six months after the entry into force of the delegated act referred to in Article 75(1), the system shall be fully operational and shall be fulfilling its intended objectives, including the functionalities provided for in Article 76. 18 months after the entry into force of the delegated act referred to in Article 75(1) the obligations established pursuant to Article 22(7) shall apply. The system may be used by manufacturers voluntarily in the interim period.*
2. *The Commission is empowered to adopt delegated acts in accordance with Article 89 to amend this Regulation to:*
  - (a) *further specify, add and remove functionalities referred to in Article 75(2) in order to adapt it to technical progress or to adapt it to the once-only principle in relation to information requirements in other Union law;*
  - (b) *revise Articles 77(1) and 78 of this Regulation to ensure compatibility and interoperability with Regulation (EU) .../... [Regulation on eco design for sustainable products].*

CHAPTER XI  
INTERNATIONAL COOPERATION

Article 81

International cooperation

1. ***For the purposes of the protection of health, safety or the environment***, the Commission may, ***cooperate with authorities of*** third countries or international organisations in the field of application of this Regulation. Such cooperation may include :
  - (a) the ***exchange of information on*** enforcement activities and measures related to safety and protection of the environment, including market surveillance;
  - (b) the exchange of data of economic operators;
  - (c) the ***exchange of information on*** assessment methods and product testing;
  - (d) the ***exchange of information on*** product recalls, requests for corrective actions and other similar actions;
  - (e) cooperation on scientific, technical, and regulatory matters, aiming to improve product safety or the protection of the environment ***and consumers***;
  - (f) the ***exchange of information on*** emerging issues of significant environmental, health and safety relevance;

- (g) the *exchange of information on* standardisation-related activities;
- (h) the exchange of officials.

***The exchange of information pursuant to this paragraph shall respect confidentiality rules and comply with applicable Union law.***

2. The information exchange referred to in paragraph 1 may take the form of **■** :

- (a) a non-systematic exchange, in duly justified and specific cases; *or*
- (b) a systematic exchange, based on an administrative arrangement specifying the type of information to be exchanged and the modalities for the exchange.

***The Commission shall regularly inform Member States about the cooperation activities with third countries or international organisations that it undertakes pursuant to the first subparagraph.***

3. ***The Commission may adopt implementing acts, giving authorities of selected third countries that voluntarily apply this Regulation, or that have regulatory systems for construction products similar to this Regulation, access to or the right to fully participate in one or more of the following:***

- (a) *the information and communication system established in accordance with Article 71(1);*

*(b) the construction digital product passport system set up in accordance with Article 75;*

*(c) the training events organised in accordance with Article 73(2).*

*Access to the systems and events referred to in the first subparagraph shall be granted on condition that the third country concerned commits to act against economic operators that infringe this Regulation from their territory, and to ensure confidentiality.*

*Full participation in the systems referred to in Articles 71 and 75 may only be granted where agreements between the European Union and third countries so provide. Such participation may be offered to third countries provided that the third country's legislation is aligned with this Regulation and third country competent national authorities recognise certificates issued by notified bodies or European technical assessments in accordance with this Regulation. Such participation shall be subject to the fulfilment of the same obligations as those which apply to Member States under this Regulation, including notification and follow-up obligations.*

*The implementing acts referred to in the first subparagraph shall be adopted in accordance with the advisory procedure referred to in Article 90(2).*

4. Any information exchange under this Article, to the extent it involves personal data, shall be carried out in accordance with Union data protection rules. If no adequacy decision pursuant to Article 45 of Regulation (EU) 2016/679 has been adopted by the Commission in respect of the third country or international organisation concerned, the information exchange shall exclude personal data. If an adequacy decision for the third country or international organisation has been adopted, the information exchange with that third country or international organisation may contain personal data falling within the scope of the adequacy decision but only to the extent that such exchange is necessary for the sole purpose of the protection of health, safety or the environment.

## CHAPTER XII

### INCENTIVES AND PUBLIC PROCUREMENT

#### Article 82

##### Member State incentives *for construction products*

Where Member States provide incentives for a product category *for which the performance is expressed as a performance class referred to in Article 5(5) or as a class included in environmental sustainability labelling referred to in Article 22(9)*, those incentives shall *be targeted* at the highest two **■** classes *of performance*.

Where ■ classes of performance *are defined* in relation to more than one sustainability parameter, it shall be indicated ■ in relation to which parameter this Article should be implemented.

■

When doing so, the Commission shall take into account the following criteria:

- (a) the *number of* products *in each* performance *class*; and
- (b) the need to ensure *the affordability of the products meeting those requirements, in order to avoid significant negative impacts on consumers.*

■

### Article 83

#### Green public procurement

1. *The Commission shall adopt delegated acts in accordance with Article 89 to supplement this Regulation by specifying mandatory minimum environmental sustainability requirements for construction products.*

2. *For procurement procedures falling within the scope of Directives 2014/24/EU<sup>29</sup> or 2014/25/EU<sup>30</sup> of the European Parliament and of the Council, where contracts require minimum environmental sustainability performance for construction products as regards their essential characteristics covered by harmonised technical specifications, contracting authorities and contracting entities shall apply the mandatory minimum environmental sustainability requirements laid down in the delegated acts referred to in paragraph 1.*

*This shall not prevent contracting authorities and contracting entities from establishing:*

- (a) more ambitious environmental sustainability requirements related to essential characteristics referred in the first subparagraph; or*
- (b) additional environmental sustainability requirements related to other essential characteristics than those referred in the first subparagraph.*

3. *Member States and the Commission shall provide technical assistance and advice to national contracting authorities in charge of public procurement on how to comply with mandatory minimum environmental sustainability requirements laid down in the delegated acts referred to in paragraph 1.*

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<sup>29</sup> *Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).*

<sup>30</sup> *Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).*

4. ***Mandatory minimum environmental sustainability*** requirements ***laid down in the delegated acts referred to in*** paragraph 1 for public contracts awarded by contracting authorities **■** or contracting entities ***may, as appropriate to the product family or category concerned,*** take the form of **■** :
- (a) ***‘technical specifications’ within the meaning of Article 42 of Directive 2014/24/EU and Article 60 of Directive 2014/25/EU;***
  - (b) ***‘selection criteria’ within the meaning of Article 58 of Directive 2014/24/EU and Article 80 of Directive 2014/25/EU;***
  - (c) ***‘contract performance clauses’ within the meaning of Article 70 of Directive 2014/24/EU and Article 87 of Directive 2014/25/EU;***
  - (d) ***‘contract award criteria’ within the meaning of Article 67 of Directive 2014/24/EU and of Article 82 of Directive 2014/25/EU.***
5. When establishing ***mandatory minimum environmental sustainability*** requirements pursuant to paragraph 1 for public contracts, the Commission shall, ***in line with paragraphs 13 and 28 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making,*** ***consult experts designated by each Member State and relevant stakeholders, carry out an impact assessment and*** take into account ***at least*** the following criteria:

- (a) the value and volume of public contracts awarded for *the relevant* product family or category;
- (b) the *environmental benefits resulting from the uptake of products in the highest two performance classes*;
- (c) the need to ensure sufficient demand for more environmentally sustainable products;
- (d) the economic feasibility, for contracting authorities or contracting entities, of buying more environmentally sustainable products, without entailing disproportionate costs, *and the availability of those products on the market*;
- (e) *the market situation at Union level of the relevant product family or category*;
- (f) *the effects of the requirements on competition*;
- (g) *the impact on, and needs of, SMEs*;
- (h) *the Members States' regulatory needs and different climate conditions*.

*The first impact assessment shall be launched by the Commission by 31 December 2026.*

6. *Contracting authorities and contracting entities may on an exceptional basis decide not to apply paragraph 1 of this Article where, after preliminary market consultation in line with Article 40 of Directive 2014/24/EU and Article 58 of Directive 2014/25/EU, it was found that:*

- (a) the required construction product can only be supplied by a specific economic operator, and no reasonable alternative or substitute exists;*
- (b) no suitable tenders or no suitable requests to participate have been submitted in response to a previous public procurement procedure;*
- (c) the application of paragraph 1 or the incorporation of the required construction product in construction works would oblige that contracting authority or contracting entity to incur disproportionate costs, or would result in incompatibility or technical difficulties.*

*Contracting authorities and contracting entities may presume that estimated contract value differences above 10 %, based on objective and transparent data, are disproportionate.*

*When contracting authorities and contracting entities use the derogation in this paragraph, the procurement procedure cannot be considered to be environmentally sustainable in relation to the construction products to which the exceptions have been applied.*

*Every three years, Member States shall report to the Commission about the use of this provision, in accordance with Article 83 of Directive 2014/24/EU.*

*This paragraph shall be without prejudice to the possibility of excluding abnormally low tenders under Article 69 of Directive 2014/24/EU and Article 84 of Directive 2014/25/EU.*

7. *The Union Ecolabel and other national or regional EN ISO 14024 type I ecolabelling schemes officially recognised in accordance with Article 11 of Regulation (EC) 66/2010 of the European Parliament and of the Council<sup>31</sup> may be used to demonstrate compliance with the minimum environmental sustainability requirements where such label complies with the requirements set out in Article 19 of this Regulation.*

### CHAPTER XIII

#### REGULATORY STATUS OF PRODUCTS

##### Article 84

##### Regulatory status of products

Upon a duly substantiated request of a Member State or on its own initiative, the Commission may adopt implementing acts, determining whether or not a specific item, or category of items is a product *within the meaning of this Regulation*.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 90(3).

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<sup>31</sup> *Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel (OJ L 27, 30.1.2010, p. 1).*



## CHAPTER XIV

### EMERGENCY PROCEDURES

#### Article 85

##### *Application of emergency procedures*

1. *Articles 86 to 88 of this Regulation shall only apply if the Commission has adopted an implementing act pursuant to Article 26 of Regulation (EU) .../...<sup>+</sup> with respect to this Regulation.*
2. *Articles 86 to 88 of this Regulation shall apply exclusively to construction products, which have been designated as crisis-relevant goods pursuant to Article 14(3) of Regulation (EU) .../...<sup>+</sup>.*
3. *This Chapter, except as regards the power of the Commission referred to in Article 87(7) of this Regulation, shall apply only during the internal market emergency mode activated in accordance with Article 14 of Regulation (EU) .../...<sup>+</sup>.*
4. *The Commission may adopt implementing acts regarding the corrective or restrictive actions to be taken, the procedures to be followed and the specific labelling and traceability requirements with respect to construction products placed on the market in accordance with Articles 86 and 87. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 90(3).*

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<sup>+</sup>

*OJ: Please insert in the text the serial number of Regulation contained in document PE CONS .../... [2022/0279 (COD)]*

## *Article 86*

### *Prioritisation of the assessment and verification of crisis-relevant construction products*

- 1. This Article shall apply to construction products designated as crisis-relevant goods, which are subject to third party tasks of notified bodies related to the assessment and verification, in accordance with Article 10(1).*
- 2. The notified bodies shall make best efforts to process as a matter of priority requests for third party tasks related to the assessment and verification of construction products designated as crisis-relevant goods, irrespective of whether those requests have been lodged before or after the activation of the emergency procedures pursuant to Article 85.*
- 3. The prioritisation of applications for third party tasks related to the assessment and verification of construction products pursuant to paragraph 2 shall not give rise to additional disproportionate costs for the manufacturers, who have lodged those applications.*
- 4. The notified bodies shall make reasonable efforts to increase their respective assessment and verification capacities regarding construction products designated as crisis-relevant goods.*

## *Article 87*

### *Assessment and declaration of performance based on standards and common specifications*

1. *Where construction products have been designated as crisis-relevant goods, the Commission is empowered to adopt implementing acts, listing appropriate standards or establishing common specifications to cover the methods and the criteria for assessing the performance of those products in relation to their essential characteristics in either of the following cases:*
  - (a) *there are no performance harmonised standards and no implementing acts adopted in accordance with Article 6(1) that cover the relevant methods and criteria for assessing the performance of those products in relation to their essential characteristics and no such standards or acts are expected within a reasonable period; or*
  - (b) *severe disruptions in the functioning of the internal market, which led to the activation of the internal market emergency mode in accordance with Article 14 of Regulation (EU) .../...<sup>+</sup>, significantly restrict the possibilities of manufacturers to make use of performance harmonised standards or implementing acts adopted in accordance with Article 6(1) of this Regulation, providing the relevant methods and criteria for assessing the performance of those products in relation to their essential characteristics.*

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<sup>+</sup> *OJ: Please insert in the text the serial number of Regulation contained in document PE CONS .../... [2022/0279 (COD)]*

2. *The implementing acts referred to in paragraph 1 shall provide for the most appropriate alternative technical solution for the purposes of providing assessment and declaration of performance in accordance with paragraph 5. To this end, the implementing act may include the references of European standards, of relevant applicable international or national standards or, if there is no relevant applicable European, international or national standard, may establish common specifications.*
3. *The implementing acts referred to in paragraph 1 of this Article shall be adopted in accordance with the examination procedure referred to in Article 90(3) and they shall apply until the last day of the period for which the internal market emergency mode remains active, unless amended or repealed in accordance with paragraph 7 of this Article.*
4. *Before preparing the draft implementing act referred to in paragraph 1 of this Article, the Commission shall inform the committee referred to in Article 22 of Regulation (EU) No 1025/2012 that it considers that the conditions in paragraph 1 of this Article have been fulfilled. When preparing the draft implementing act referred to in paragraph 1 of this Article, the Commission shall take into account the views of the CPR Acquis Expert Group and shall duly consult all relevant stakeholders.*

5. *Without prejudice to Articles 13 and 15, the methods and the criteria provided in the standards or common specifications referred to in paragraph 1 of this Article, or parts thereof, may be used for assessing and declaring the performance of construction products covered by those standards or common specifications in relation to their essential characteristics. Declaration of performance and conformity based on the standards or the common specifications referred to in the implementing act referred to in paragraph 1 of this Article shall automatically cease to apply on the day the internal market emergency mode expires or is deactivated.*
6. *By way of derogation from Article 85(3) of this Regulation, unless there is sufficient reason to believe that construction products covered by the standards or common specifications referred to in paragraph 1 of this Article present a risk to the health or safety of persons or fail to achieve the declared performance, the declarations of performance and conformity of construction products which have been placed on the market in compliance with those standards or common specifications shall remain valid after the expiry or repeal of an implementing act adopted pursuant to paragraph 3 of this Article and after the expiry or deactivation of the internal market emergency mode in accordance with Regulation (EU) .../..<sup>+</sup>.*
7. *Where a Member State considers that a standard or common specification referred to in paragraph 1 is incorrect in terms of criteria and methods for the assessment of performance in relation to essential characteristics, it shall inform the Commission thereof by submitting a detailed explanation. The Commission shall assess that detailed explanation and, may, where appropriate, amend or repeal the implementing act listing the standard or establishing the common specification in question.*

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<sup>+</sup> *OJ: Please insert in the text the serial number of Regulation contained in document PE CONS .../... [2022/0279 (COD)]*

## *Article 88*

### *Prioritisation of market surveillance activities and mutual assistance among authorities*

- 1. Member States shall prioritise the market surveillance activities for construction products designated as crisis-relevant goods. The Commission shall facilitate coordination of these efforts through the Union Product Compliance Network established under Article 29 of Regulation (EU) 2019/1020.*
- 2. The market surveillance authorities of the Member States shall ensure that best efforts are made to provide assistance to other market surveillance authorities during an internal market emergency, including by mobilising and dispatching expert teams to temporarily reinforce the staff of market surveillance authorities requesting assistance or by providing logistical support such as reinforcement of the testing capacity for construction products designated as crisis-relevant goods.*

CHAPTER XV  
FINAL PROVISIONS

Article 89

Delegated acts

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 5 (5), (6) and (10), Article 7(1), and (8), Article 9(3) and (4), Article 10(2),and (4), Article 12, Article 15(5), Article 22(8) and (9), Article 32(5), Article 75(1), Article 80(2) and Article 83(1) shall be conferred on the Commission for a period of five years from ... [the date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>32</sup>.
4. The delegation of powers referred to in Article 5(5), (6) and (10), Article 7(1) and (8), Article 9(3) and (4), Article 10(2) and (4), Article 12, Article 15(5), Article 22(8) and (9), Article 32(5), Article 75(1), Article 80(2) and Article 83(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

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<sup>32</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

6. A delegated act adopted pursuant to Article 5(5), (6) and (10), Article 7(1) and (8), Article 9(3) and (4), Article 10(2) and (4), Article 12, Article 15(5), Article 22(8) and (9), Article 32(5), Article 75(1), Article 80(2) and Article 83(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

#### Article 90

##### Committee procedure

1. The Commission shall be assisted by the Committee on Construction Products. This committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

## Article 91

### Electronic applications, decisions, documentation and information

1. All applications from or to notified bodies or TABs and decisions made by these bodies made in accordance with this Regulation can be provided on paper or in a commonly used electronic format provided that the signature complies with the requirements of Regulation (EU) No 910/2014 and the signing person has been entrusted with the task of representing the body or economic operator, in accordance with the law of the Member States or Union law respectively.

2. All information obligations *under this Regulation may, unless otherwise stated, be satisfied by electronic means. Where the information is provided by electronic means, the information shall be issued in a commonly readable electronic format that enables the recipient to download and print that information.*

*When the obligation is established in accordance with Article 22(7), economic operators shall fulfil information obligations related to documents referred to in Article 76(2) by providing the product passport.*

***Declaration of performance and conformity as well as general information, instructions for use and safety information*** shall be provided *in paper format, free of charge, if requested by the end-user at the time of purchase.*

## Article 92

### Penalties

Member States shall lay down the rules on penalties applicable to instances of non-compliance with this Regulation and shall take all measures necessary to ensure that these rules are implemented.

The penalties provided for shall be effective, proportionate and dissuasive. Member States shall, by ... [insert date - 23 month after ***the date of entry*** into force ***of this Regulation***], notify the Commission of those rules and of those measures and thereafter shall notify it, without delay, of any subsequent amendment affecting them.

■

## Article 93

### Evaluation

No ***later than ... [date 7 years after the date of application of this Regulation] and at least every six years thereafter***, the Commission shall carry out an evaluation of this Regulation and of its contribution to the functioning of the internal market and the improvement of the environmental sustainability of products and construction works and built environment. That ***evaluation shall inter alia assess the correlation of this Regulation with Regulation (EU) .../... (Ecodesign for Sustainable Products Regulation) and the potential environmental and economic benefits and the impact of extended producer responsibility of manufacturers of certain construction products and of the regain of ownership of surplus and unsold products at Union level. The Commission shall also evaluate the effect of the application of this Regulation on the state of the market for different categories of used products. The Commission shall evaluate whether the penalties applied by the Member States are effective and whether they create fragmentation in the internal market. The Commission shall, if necessary, suggest how to harmonise those penalties.***

***The*** Commission shall present a report on the main findings to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions. Member States shall provide the Commission with the information necessary for the preparation of that report.

Where appropriate, the report shall be accompanied by a legislative proposal for the amendment of the relevant provisions of this Regulation.

## Article 94

### Repeal

Regulation (EU) *No 305/2011 of the European Parliament and of the Council*<sup>33</sup> is repealed with effect from ... *[date of application of this Regulation], with the exception of Article 2, Articles 4 to 9, Articles 11 to 18, Articles 27 and 28, Articles 36 to 40, Articles 47 to 49, Articles 52 and 53, Article 55, Articles 60 to 64 of that Regulation and Annexes III and V thereto which are repealed with effect from ... [15 years after the date of entry into force of this Regulation].*

References to *the repealed* Regulation (EU) *No 305/2011* shall be construed as references to this Regulation *and shall be read* in accordance with the correlation table in Annex XI *to this Regulation*.

## Article 95

### Derogations and transitional provisions

1. Product contact points for construction designated under Regulation (EU) *No 305/2011* shall be deemed to have been designated under this Regulation as well.
2. TABs and notified bodies *that are* designated *or notified* under Regulation (EU) *No 305/2011* shall be deemed to have been designated *or notified* under this Regulation as well. However, they shall be assessed and designated anew by the designating Member States in accordance with their periodic re-assessment cycle and at the latest by ... [5 years after entry into force *of this Regulation*]. The objection procedure set-out in Article 51(5) *of this Regulation* shall apply.

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<sup>33</sup> *Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (OJ L 88, 4.4.2011, p. 5).*

3. ***Harmonised standards the references of which are included in the list published in accordance with Article 17(5) of Regulation (EU) No 305/2011 that are in force on ... [date of application of this Regulation] shall remain valid under Regulation (EU) No 305/2011 until they are withdrawn by the Commission or otherwise repealed.***

■

4. European assessment documents, ***the references of which are included in the list published in accordance with Article 22 of Regulation (EU) No 305/2011 by ... [date of application of this Regulation], shall remain valid until ... [5 years after date of application of this Regulation], unless they have expired for other reasons. Products shall not be placed on the market on the basis of European technical assessments issued in accordance with these European assessment documents after ... [10 years after date of application of this Regulation].***

5. ***When a harmonised technical specification adopted in accordance with Article 5(8) or Article 6(1) of this Regulation covers the same product and the same intended use as a European assessment document, the reference of which is included in the list published in accordance with Article 22 of Regulation (EU) No 305/2011, the European assessment document shall no longer be used for the purposes of this Regulation and products shall not be placed on the market on the basis of European technical assessments issued in accordance with this European assessment document.***

6. *European technical assessments issued pursuant to European assessment documents the references of which are not included in the list published in accordance with Article 22 of Regulation (EU) No 305/2011 by [date of application of this Regulation] shall be treated as European technical assessment requests under this Regulation. The administrative transfer shall be done at no cost for the manufacturer.*
7. **█** *Certificates, test reports and European Technical Assessments issued under Regulation (EU) No 305/2011 may be used as the technical basis to demonstrate a product's compliance with this Regulation in cases where the product type corresponds to a product type under this Regulation and the requirements and assessment methods are valid in the light of the applicable harmonised technical specification. The recognition of such documents shall be possible under the conditions set out in Article 62 of this Regulation.*
8. *Article 2, Articles 4 to 9, Articles 11 to 18, Articles 27 and 28, Articles 36 to 40, Articles 47 to 49, Articles 52 and 53, Article 55 and Articles 60 to 64 of Regulation (EU) No 305/2011 shall only apply to products covered by standards referred to in paragraph 3 of this Article or to products covered by European assessment documents referred to in paragraph 4 of this Article.*

*For the purposes of Article 5(7), Article 6(1), and Article 31(2) of this Regulation, harmonised standards the references of which are included in the list published in accordance with Article 17(5) of Regulation (EU) No 305/2011 and which have not been withdrawn shall be treated as construction product performance standards.*

9. The requirements *and obligations of economic operators* set out in Chapters I, II and III *shall only be applicable* to a certain product *family or product category within such a family* from one year after the *date of adoption of an implementing act referred to in Article 5(8) laying down a harmonised standard or an implementing act referred to in Article 6(1)*, covering that product *family or category, unless a later application date has been specified in the implementing act*. However, economic operators may *choose to* apply those harmonised technical specifications as from their entry into force by undergoing the procedure leading to a declaration of performance *and* conformity.
10. Within *one year* following the *date of application of requirements and obligations in relation to* a certain product *family or category as set out in paragraph 9 of this Article*, the Commission shall withdraw from the *Official Journal of the European Union* references of harmonised standards and *European assessment documents or parts thereof published there in accordance with Articles 17(5) and 22 of Regulation (EU) No 305/2011 when they* cover the *same* respective product *family or category*.

Article 96

Entry into force

This Regulation shall enter into force on the twentieth day following its publication in the *Official Journal of the European Union*.

It shall apply as from ... [*12 months after the date of entry into force*], with the exception of *Article 1, Article 2, Article 3, Article 4, Article 5(1) to (7), Article 7(1), Article 9, Article 10, Article 12 first subparagraph, Article 16(3), Article 37(3), Article 63, Article 89 and Article 90 and Annex I, Annex VII, Annex IX and Annex X, which shall apply from ... [date of entry into force], and of Article 92, which shall apply from ... [date - 24 month after the date of entry into force of this Regulation]*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...,

*For the European Parliament*

*The President*

*For the Council*

*The President*

## ANNEX I

### BASIC REQUIREMENTS FOR CONSTRUCTION WORKS

The following list of basic requirements for construction works shall be taken as the basis for the identification of essential characteristics of products and for the preparation of *standardisation* requests, *harmonised technical specifications and European assessment documents*.

*Those* basic requirements for construction works do not constitute obligations incumbent upon economic operators or Member States.

The intended life span related to basic requirements for construction works shall take into account the likely impact of climate change.

#### 1. Structural integrity of construction works

The construction works, and all *their relevant parts*, shall be designed, constructed, used, maintained and *deconstructed or* demolished in such a way that all relevant loads and any combinations of them are sustained and transmitted into the ground safely and without causing deflections or deformations of any part of the construction works, or movement of the ground as to impair the durability, structural resistance, serviceability and robustness of the construction works.

The structure and structural elements of construction works shall be designed, manufactured, constructed, maintained and ***deconstructed or*** demolished in such a way that they meet the following requirements:

- (a) they are durable for their intended life span (durability requirement);
- (b) they are capable of withstanding all actions and influences likely to occur during construction, use and ***deconstruction or*** demolition with an appropriate degree of reliability and in ***a*** cost-effective way (structural resistance requirement) and it shall not:
  - (i) collapse;
  - (ii) deform to an inadmissible degree;
  - (iii) damage other parts of the construction works, fittings or installed equipment as a result of major deformation of the load-bearing construction;
- (c) they remain within their specified service requirements during their intended life span with appropriate degrees of reliability and in an economic way (serviceability requirement);
- (d) they maintain their integrity appropriately when faced with adverse events, including earthquake, explosion, fire, impact or consequences of human errors, to an extent disproportionate to the original cause (robustness requirement).

## 2. Fire safety of construction works

The construction works and *the relevant parts* of them shall be designed, constructed, used, maintained and *deconstructed or* demolished in such a way that an outbreak of fire is appropriately prevented, *including through adequate usage of detectors and alarms*. The fire and smoke shall be contained and controlled, and the occupants of the construction works shall be protected against fire and smoke. Appropriate arrangements shall have been made to ensure safe escape from and evacuation of the construction works for all its occupants.

The construction works and any part of them shall be designed, constructed, used and maintained in such a way that they meet the following requirements in the case of a fire:

- (a) the load-bearing capacity of the construction works is maintained for a specific period of time *to give occupants time to leave the building*;
- (b) the rescue and emergency services' access is ensured and there are appropriate means to facilitate their work;
- (c) the generation and spread of fire and smoke is controlled and limited;
- (d) the spread of the fire and smoke to the adjacent construction works is limited;
- (e) the safety of rescue and emergency services is taken into consideration.

3. ■ Protection against adverse hygiene and health impacts related to construction works

The construction works and any part of them shall be designed, constructed, used, maintained and ***deconstructed or*** demolished in such a way that they, throughout their life cycle, do not ***adversely affect the hygiene or*** health and safety of ***construction*** workers, occupants, ***visitors*** or neighbours as a result of any of the following:

- (a) the emissions of hazardous substances, volatile organic compounds or hazardous particles, ***including microplastics***, into indoor air;
- (b) the emission of hazardous radiation into the indoor environment;
- (c) the release of hazardous substances into drinking water or substances which have an otherwise negative impact on drinking water;
- (d) the passage of moisture to the interior of the building;
- (e) faulty discharge of waste water, emission of flue gases or faulty disposal of solid or liquid waste into the indoor environment.

4. ***Safety and accessibility*** of construction works

The construction works and any part of them shall be designed, constructed, used, maintained and ***deconstructed or*** demolished in such a way that, throughout their life cycle, they do not present unacceptable risks of accidents or damage in service or in operation, including slipping, falling, collision, burns, electrocution and injury from falling or braking parts caused by external factors like extreme weather conditions or ***explosions***.

***In particular, construction works shall be designed and built taking into consideration accessibility and use for disabled persons and persons with limited mobility or orientation.***

5. Resistance to the passage of sound and acoustic properties of construction works

The construction works and any part of them shall be designed, constructed, used, maintained and ***deconstructed or*** demolished in such a way that they provide, throughout their life cycle, reasonable protection against adverse sound load through air or materials from other parts of the same construction work or sources outside its structure. That protection shall ensure that that sound load:

- (a) does not create immediate or chronic risks for the human health;
- (b) allows occupants and people nearby to sleep, rest and engage in their normal activities in satisfactory conditions.

The construction works and any part of them shall be designed, constructed, used and maintained in such a way that they provide sufficient sound absorption and reflection where these acoustic properties are required.

6. Energy efficiency and thermal performance of construction works

The construction works, *including automated processes within them*, and their heating, cooling, lighting and ventilation installations shall be designed, built, and maintained in such a way that ■ the amount of energy they require *during their use phase* shall be low, when account is taken of:

- (a) the target for nearly zero energy buildings and zero-emissions buildings in the Union;
- (b) the outdoor climatic conditions;
- (c) the indoor climate conditions.

7. ■ Emissions into the outdoor environment of construction works

The construction works and any part of them shall be designed, constructed, used, maintained and demolished in such a way that, throughout their life cycle, they are not a *risk* to the outdoor environment, as a result of any of the following:

- (a) the release of hazardous substances, **microplastics**, or radiation into **air**, ground water, marine or surface waters or soil;
- (b) faulty discharge of waste water, emission of flue gases or faulty disposal of solid or liquid waste to the outdoor environment;
- (c) damage to the building, including damage through the transport of water-borne contaminants to the foundations of the building;
- (d) the release of █ greenhouse gas emissions into the atmosphere.

8. Sustainable use of natural resources of construction works

The construction works and any part of them shall be designed, constructed, used, maintained and **deconstructed or** demolished in such a way that, throughout their life cycle, the use of natural resources is sustainable and ensures the following:

- (a) the **maximisation of the resource efficient** use of raw and secondary materials of high environmental sustainability █ ;

- (b) the minimisation of the overall amount of raw materials used;
- (c) the minimisation of the overall amount of embodied energy;
- (d) the minimisation of *the waste generated*;**
- (e) the minimisation of the overall use of drinking and brown water;
- (f) the ***maximisation of the*** reuse or recyclability of the construction works, ***in part or in whole, and of*** their materials after ***deconstruction or*** demolition;
- (g) the *ease of deconstruction*.**

## ANNEX II

### **PREDETERMINED ENVIRONMENTAL ESSENTIAL CHARACTERISTICS**

Harmonised technical specifications *and European assessment documents shall* cover the following *list of predetermined environmental* essential characteristics related to *the* life cycle assessment *of a product*:

- (a) climate change effects – *total*;
- (b) *climate change effects – fossil fuels*;
- (c) *climate change effects – biogenic*;
- (d) *climate change effects – land use and land use change*;
- (e) ozone depletion;
- (f) acidification potential;
- (g) eutrophication aquatic freshwater;
- (h) eutrophication aquatic marine;
- (i) eutrophication terrestrial;
- (j) photochemical ozone;
- (k) abiotic depletion – minerals, metals;

- (l) abiotic depletion – fossil fuels;
- (m) water use;
- (n) particulate matter;
- (o) ionising radiation, human health;
- (q) eco-toxicity, freshwater;
- (p) human toxicity, cancer;
- (r) human toxicity, non-cancer;
- (s) land use related impacts.



Harmonised technical specifications shall also cover to the extent possible the *predetermined environmental* essential characteristic of capability to temporarily bind carbon and of other carbon removals.

## *ANNEX III*

### *PRODUCT REQUIREMENTS*



*1. Product* requirements ensuring appropriate functioning and performance

*1.1. Harmonised technical specifications adopted in accordance with Article 7(1) may, as appropriate for the products that they cover, specify that products shall be designed, manufactured and packaged in such a way that, over the product's life cycle, one or more of the following functional and performance requirements are addressed in accordance with the state of the art and to the extent not covered by other Union legal acts:*

- (a) the intended purpose is effectively and reliably fulfilled;*
- (b) the fulfilment of the declared performance is not impaired;*
- (c) the fulfilment of the **safety and environmental** requirements set out in **accordance with points 2.1 and 3.1** is not impaired;*
- (d) the functionality of the products is maintained.*

**1.2. *Voluntary harmonised standards for product requirements referred to in Article 7(3)*** shall *set out how any requirements in accordance with point 1.1. can be fulfilled, by, for example, the following:*

- (a) the use of specific materials which can be specified also in terms of their chemical composition;
- (b) the specific dimensions and shapes of products or their components;
- (c) the use of certain components which can be specified also in terms of materials, dimensions and shapes;
- (d) the use of certain accessories and requirements for them;
- (e) the *ease of installation and deinstallation*;
- (f) the *ease of maintenance or the lack of maintenance required for the expected life span*;
- (g) the *characteristics of the product, including its cleanability, scratch resistance and break resistance, under usual operation conditions*.

**1.3. *When specifying the functionality and performance product requirements, harmonised technical specifications may differentiate them on the basis of their performance classes.***



## 2. Inherent product safety requirements

■ Safety relates to professionals (workers) and laypersons (consumers, occupants), while they transport, install, maintain, use or dismantle the product, as well as while they treat the product for its end of life phase or its reuse or recycling.

2.1. ***Harmonised technical specifications established by delegated acts referred to in Article 7(1) may, as appropriate for the products they cover, specify that*** products shall be designed, manufactured, and packaged in such a way that ***one or more of*** the following inherent product safety risks are, ***over the product's life cycle***, addressed in accordance with the state of the art ***and to the extent not covered by other Union legal acts***:

- (a) chemical risks due to leaking or leaching;
- (b) the risk of unbalanced composition in terms of substances resulting in flawed, safety-relevant functioning of products;
- (c) mechanical risks;
- (d) mechanical failure;
- (e) physical failure;

- (f) risks of electric failure;
- (g) risks linked to electricity supply breakdown;
- (h) risks linked to unintended charge or discharge of electricity;
- (i) risks linked to software failure;
- (j) risks of software manipulation;
- (k) risks of incompatibility of substances or materials;
- (l) risks linked to the incompatibility of different items, at least one of them being a product;
- (m) the risk of not performing as intended, where the performance is safety relevant;
- (n) the risk of misunderstanding instructions for use in a field affecting health and safety;
- (o) the risk of unintended inappropriate installation or use;
- (p) the risk of intended inappropriate use.

2.2. Voluntary harmonised *standards and common specifications conferring a presumption of conformity shall set out how any requirements in accordance with point 2.1 can be fulfilled, by, for example, the following:*



- (a) *defining* the state of the art of possible risk reduction with regard to the respective product category, including the risk of incompatibility of different items, at least one of them being a product;
- (b) *providing* technical solutions that avoid safety-related risks; *or*
- (c) where risk avoidance is not possible, *reducing and mitigating risks by addressing them through* warnings on the product, its packaging and in instructions for use.

2.3. When specifying the inherent product safety requirements, harmonised technical specifications may differentiate these on the basis of their performance classes.

3. Inherent product environmental requirements

Environment relates to the extraction and manufacturing of the materials, the manufacturing of the product, ***the transport of materials and products***, its maintenance, its potential to remain as long as possible within a circular economy and its end of life phase.

3.1. ***Harmonised technical specifications established by delegated acts referred to in Article 7(1) may, as appropriate for the products they cover, specify that products shall be designed, manufactured, and packaged in such a way that one or more of the following inherent product environmental aspects are, over the product's life cycle, addressed wherever possible without safety loss or by outweighing negative environmental impact, and to the extent not covered by other Union legal acts:***

- (a) maximising durability ***and reliability of the product or its components as expressed through a product's technical lifetime indication of real use information on the product, resistance to stress or ageing mechanisms and*** in terms of the expected average life span, the ■ minimum life span under worst but still realistic conditions, and in terms of the minimum life span requirements ***and prevention of premature obsolescence;***
- (b) minimising ***life-cycle*** greenhouse gas emissions;
- (c) maximising ***reused, recycled and by-product content;***

- (d) the selection of safe, *sustainable-by-design, and* environmentally benign substances;
- (e) energy use and energy efficiency;
- (f) resource efficiency;
- (g) modularity;**
- (h) identifying which product or parts thereof can be reused after de-installation (reusability), and in what quantities;
- (i) upgradability;
- (j) the *ease of* reparability during the expected life span, *including compatibility with commonly available spare parts;*
- (k) the *ease* of maintenance and refurbishment during the expected life span;
- (l) recyclability and the capability to be remanufactured;
- (m) the capability of different materials or substances to be separated and recovered during dismantling or recycling procedures;

- (n) *sustainable sourcing;*
- (o) *minimising the product-to-packaging ratio;*
- (p) *amounts of waste generated, notably hazardous waste.*

3.2. Voluntary *harmonised standards and common specifications conferring a presumption of conformity shall set out how any requirements in accordance with point 3.1 can be fulfilled by, for example, the following:*

- (a) *specifying what is* the state of the art for addressing the environmental aspects with regard to the respective product category, including the minimum recycled content, *whole life cycle greenhouse gas emissions, resource efficiency, and reusability;*
- (b) *providing* technical solutions which avoid negative environmental effects and risks, including the generation of waste materials, *or*, where avoidance is not possible, *reducing and mitigating* negative effects and risks *by addressing them through* warnings on the product, its packaging and in instructions for use.

3.3. When specifying the inherent product environmental requirements, harmonised technical specifications may differentiate them on the basis of their performance classes.

## ANNEX IV

### GENERAL PRODUCT INFORMATION, INSTRUCTIONS FOR USE AND SAFETY INFORMATION ■

1. **General product** information ■
  - 1.1. Product identification: **unique identification code** of the ■ product type ■ .
  - 1.2. Product description:
    - (a) **declared** uses;
    - (b) intended users;
    - (c) conditions of uses;
    - (d) estimated average and minimum service life span for **declared** use (durability);  
■
    - (e) main materials used.  
■

- 1.3. *Contact details of the manufacturer or the authorised representative:*
- (a) *name;*
  - (b) *postal address;*
  - (c) *telephone;*
  - (d) *email address;*
  - (e) *website, where available.*
- 1.4. *Where different from point 1.3., contact details of the manufacturer or the authorised representative dealing with:*
- (a) *information on installation, maintenance, use, deconstruction and demolition;*
  - (b) *information on risks;*
  - (c) *information in the event of product failure.*
- 1.5. *Contact details of the product contact point for construction in the Member State in which the product is made available.*
2. *Instructions for use and safety information*



**2.1.** Safety during transport, installation, *deinstallation*, maintenance, deconstruction and demolition:

- (a) potential risks of the product and any reasonably foreseeable misuse thereof;
- (b) instructions for the assembly, installation and connection, including drawings, diagrams and, where relevant, the means of attachment to other products and parts of construction works;
- (c) instructions for operation and maintenance to be carried out safely, including the protective measures that should be taken during these operations;
- (d) if necessary, instructions for the training of the installers or operators;
- (e) information on what to do in the event of product failure or accidents.

**2.2.** Compatibility and integration into systems or kits:

- (a) compatibility with other materials or products, regardless of whether they are covered by this Regulation or not;
- (b) electric and electro-magnetic compatibility;
- (c) software compatibility;
- (d) integration in systems or kits.

- 2.3.** Maintenance needs with a view to maintaining the performance of the product during its service life span:
- (a) description of the adjustment and maintenance operations that should be carried out by the users and the preventive maintenance measures that should be observed;
  - (b) the type and frequency of the inspections and the maintenance required for reasons of safety *and durability* and, where appropriate, the parts subject to wear and the criteria for replacement;
  - (c) information on what to do in the event of product failure or accident.
- 2.4.** Safety during use:
- (a) instructions on the protective measures to be taken by the user, including, where appropriate, the personal protective equipment to be provided;
  - (b) instructions designed for the safe use of the product, including the protective measures that should be taken during its use;
  - (c) information on what to do in the event of product failure or accident during use.
- 2.5.** Training and other requirements necessarily to be fulfilled for safe use.

2.6. Risk mitigation possibilities going beyond points *2.1 to 2.5*.

■

2.7. ■ Recommendations for *a product's*:

(a) *repair*;

(b) *de-installation*;

(c) *reuse*;

(d) *remanufacturing*;

(e) *recycling*;

(f) *safe deposit*.

2.8. *Where applicable, information on the performance of the product as measured in terms of its climate change effects - total, as referred to in point (a) of Annex II, and human toxicity, cancer, as referred to in point (p) of Annex II.*

3. *The information provided on the elements listed in point 2* shall be enough, both in terms of quantity and quality, to enable potential purchasers to make informed decisions before proceeding with their purchase, including information on the necessary quantity, installation, use, maintenance, dismantling, reuse and recycling of the respective product. It *may* include all the drawings, diagrams, descriptions and explanations necessary for it to be fully understand.

█

█

*The information* shall, as appropriate, take into account as far as possible the needs of designers, building authorities, construction professionals, building control authorities, consumers and other users, occupant and, use managers, as well as of maintenance professionals.

4. *Guidelines and technical details issued in accordance with Article 9(2) shall also recommend where the respective information is to be provided. That location shall be one where the information is least likely to be overlooked.*

█

ANNEX V

**MODEL FOR THE DECLARATION OF PERFORMANCE AND CONFORMITY REFERRED  
TO IN ARTICLE 15<sup>1</sup>**

Name of the Manufacturer

Declaration *Code* ...<sup>2</sup>

Version No ...<sup>3</sup>

Date of that version ...

1. Product description

- (a) unique identification code of the product type **■** and, *where available, the batch or serial number*;
- (b) product category as defined by harmonised technical specifications or European Assessment Documents;

---

<sup>1</sup> *Where a Declaration of Performance and Conformity is issued in relation to a product not subject to product requirements established by delegated acts referred to in Article 7(1), points 10 and 11(c). are omitted.*

<sup>2</sup> Only one unique, unequivocal declaration *code* per product type shall be used, even where there are variants, variants being variations of the product type that do not influence performance or conformity of the product.

<sup>3</sup> Different versions may be issued, e.g. to correct mistakes or add complementary information.

- (c) ***declared*** uses of the product, ***within the scope of*** the applicable harmonised technical specification or European Assessment Document ■ ;
- (d) ***nominal*** dimensions ***or grading*** of the product;  
■
- (e) key parts of the product, ***where applicable***;
- (f) estimated average and minimum service life time for the ***declared use*** (durability);
- (g) variants, if any, and their descriptions;
- (h) ***in cases where the product has been previously installed in a construction work, the date and place of the latest de-installation.***

2. Permalinks ***or data carriers*** as regards the following, ***unless the information is available in the product passport pursuant to Article 76:***

- (a) the manufacturer's product registrations in Union databases, ***if any***;
- (b) ***information to be provided in accordance with Regulation (EC) 1907/2006,*** ■  
where ***applicable***;
- (c) ***general information,*** instructions for use ***and safety information*** in accordance with Annex IV.

3. Manufacturer:

- (a) name;
- (b) **registered** trade name;
- (c) **registered** place of business;
- (d) postal address;
- (e) telephone;
- (f) email address;
- (g) website.



4. Authorised representative, *where applicable*:

- (a) name;
- (b) **registered** trade name;
- (c) **registered** place of business;
- (d) postal address;
- (e) telephone;
- (f) email address;
- (g) website.



5. Notified *body or* bodies, *where applicable*:

- (a) name;
- (b) *identification number*;**
- (c) *registered* trade name, *where available*;
- (d) *registered* place of business;
- (e) postal address;
- (f) telephone;
- (g) email address;
- (h) website.



6. Technical Assessment Body, *where applicable*:

- (a) name;
- (b) *identification number*;**
- (c) *registered* trade name, *where available*;
- (d) place of business;
- (e) postal address;
- (f) telephone;
- (g) email address;
- (h) website.

■

7. ***Reference to certificates or validation reports issued by notified bodies and TABs.***

8. ***Technical reference documents:***

- (a) harmonised technical specifications ***laying down essential characteristics*** applied ■ (reference number and date of issue); ***or***
- (b) European assessment document applied (***reference number and date of issue***) and ***European Technical Assessment issued (technical assessment body, reference number and date of issue).***

■

9. Declared performances and sustainability characteristics:

- (a) the ***complete*** list of essential characteristics, as determined in the harmonised technical specification or European assessment document for the respective product category for which a performance is declared ***and the applicable assessment and verification system applicable to them;***

- (b) the performance of the product, by calculated values, levels or classes, or in a description. Respective values, levels or classes shall be reproduced in the declaration of performance itself and thus cannot be expressed solely by inserting references to other documents. ***For essential characteristics where no performance is declared, the word “NULL” shall be inserted in the place for the declaration of the value. The performance of structural behaviour of a product may be expressed by referring to attached production documentation or structural design calculations;***
- (c) the environmental sustainability ***expressed, for the applicable*** essential characteristics ***of the applicable life cycle modules, in accordance with Article 15(2);***
- (d) ***reference to the version of the software used as provided by the Commission.***

10. ***Applicable product requirements specified by harmonised technical specifications, the applicable assessment and verification system applicable to them and the reference to the harmonised standard or common specifications or parts thereof applied including the date.***

***Where applicable, information on the performance of the product measured in terms of its product requirements.***

11. Declarations:

- (a) the performance of the product identified above is in conformity with the set of declared performances referred to in point 9;
- (b) the sustainability data of the product identified above have been correctly calculated on the basis of the product category rules applicable to it;
- (c) the product identified above is in conformity with the requirements listed under point 10.

Signed for and on behalf of the manufacturer by:

[name, function<sup>4</sup>]

At [place]

on [date of issue]

[signature]

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<sup>4</sup>

The person signing must be authorised under national law to represent the manufacturer, either on the basis of a mandate, or by virtue of his or her role as a legal representative.

## ANNEX VI

### PROCEDURE FOR *REQUESTING EUROPEAN TECHNICAL ASSESSMENTS AND FOR* ADOPTING A EUROPEAN ASSESSMENT DOCUMENT

1. Request for a European Technical Assessment
  - 1.1. When a manufacturer makes a request for a European Technical Assessment to any TAB for a product, and after the manufacturer and the TAB ('responsible TAB') have signed an agreement of commercial secrecy and confidentiality, unless the manufacturer decides otherwise, the manufacturer shall submit to the responsible TAB a technical file describing the product, its use as foreseen by the manufacturer and details of the factory production control the manufacturer intends to apply;
  - 1.2. When a group of manufacturers or a manufacturers' association (the 'Group') makes a request for a European Technical Assessment, it shall address the request to the organisation of TABs that will propose to the Group a TAB to act as the responsible TAB. The Group can either accept the proposed TAB or ask the organisation of TABs to propose an alternative TAB. Once the Group has accepted the responsible TAB proposed by the organisation of TABs, the members of the Group shall sign a commercial secrecy and confidentiality agreement with that TAB, unless the Group decides otherwise, and the Group shall submit to the responsible TAB a technical file describing the product, its use as foreseen by the Group and details of the factory production control that the members of the Group intend to apply;

1.3. In the absence of a request for a European Technical Assessment, when the Commission initiates the development of a European Assessment Document, it shall deliver to the organisation of TABs a technical file describing the product, its use and details *to become applicable. The organisation of TABs shall, together with* the Commission, *agree on a* TAB to act as the responsible TAB ■ .

## 2. Contract

For products referred to in Article 33(1), point (c), within 1 month from the reception of the technical file, in the cases referred to in points 1.1. and 1.2., a contract shall be concluded respectively between the manufacturer or the Group and the responsible TAB for the production of the European Technical Assessment, specifying the work programme for drawing up the European Assessment Document, including:

- (a) the organisation of work within the organisation of TABs;
- (b) the composition of the workgroup to be established within the organisation of TABs, designated for the product *family* in question; and
- (c) the coordination of TABs.

In the case referred to in point 1.3., the responsible TAB shall submit to the Commission the work programme for drawing up the European Assessment Document with the same content and within the same deadline. Thereafter, the Commission shall have 30 working days to communicate to the responsible TAB its observations on the work programme, and the responsible TAB shall amend that work programme accordingly.

3. ***Communication of work programme***

***In the cases referred to in points 1.1. and 1.2., after agreement with the manufacturer and the Group respectively, the organisation of TABs shall inform the Commission of the work programme for drawing up the European Assessment Document and the schedule for its execution, indicating the assessment programme. That communication shall take place within three months of receipt of the request for a European Technical Assessment by a TAB, whereupon the TAB shall initiate the procedure laid down in points 1.1. and 1.2..***

***In the case referred to in point 1.3., the organisation of TABs shall submit to the Commission the work programme for drawing up the European Assessment Document with the same content and within the same deadline as indicated in the previous subparagraph. The Commission shall then communicate to the organisation of TABs within 30 working days its observations on the work programme. After the responsible TAB and the organisation of TABs has been given the opportunity to comment, the responsible TAB shall amend the work programme accordingly.***

4. The draft European Assessment Document

The organisation of TABs shall, by means of the working group coordinated by the responsible TAB, finalise a draft European Assessment Document which it shall communicate to the parties concerned within 6 months of the date the Commission was informed of the work programme in the cases referred to in points 1.1. and 1.2. or the date the Commission communicated to the responsible TAB its observations on the work programme in the case referred to in point 1.3..

5. Commission Participation

A Commission representative may participate, as an observer, in all the parts of the execution of the work programme. The Commission may request the organisation of TABs at any stage to abandon or modify the development of a certain European Assessment Document ***if the development is not in line with this Regulation or if the approach is not efficient or effective in terms of resources and final applicability. The Commission may request the organisation of TABs at any stage to merge parallel processes for the development of European assessment documents, or to split a single process in two, in order to increase the clarity of, or to ensure efficiency in, the development process or in the future application of the assessment document under consideration.***

***Where the TABs involved do not agree on a European assessment document within the time limits provided, the organisation of TABs shall submit the matter to the Commission for resolution, including through instructions to the organisation of TABs on how to complete its work.***

6. Member States consultation

In the case referred to in point 1.3., the Commission shall inform Member States on the development of the European Assessment Document after the finalisation of the work programme for it. When requested, Member States may, where appropriate, participate in its execution. ***Observations from the Member States shall be communicated to, and shall be dealt with by, the Commission. The organisation of TABs shall be informed by the Commission of any change in the work programme, required and agreed to by the Commission, within the time frame given to the Commission for commenting on the work programme before starting the development of the European Assessment Document.***

7. Extension and delay

Any delay in relation to the time limits set in points 1 to 4 of this Annex shall be reported by the working group to the organisation of TABs and to the Commission.

If an extension of the time limits for developing the European Assessment Document can be justified, notably by the absence of a Commission decision on the applicable assessment and verification system for the product or by the need to develop a new test method, an extended time limit shall be set by the Commission.

8. Amendments and adoption of a *draft* European Assessment Document
- 8.1. In the cases referred to in points 1.1. and 1.2., the responsible TAB shall communicate the draft European Assessment Document to the manufacturer or the Group, respectively, who shall have **20** working days to react thereto. Thereafter, the organisation of TABs shall:
  - (a) if applicable, inform the manufacturer or the Group as to how their reactions have been taken into account;
  - (b) adopt the draft European Assessment Document;
  - (c) send a copy of it to the Commission.
- 8.2. In the case referred to in point 1.3., the responsible TAB shall:
  - (a) adopt the draft European Assessment Document;
  - (b) send a copy of it to the Commission.

9. ***Commission assessment of draft European Assessment Documents***

***The Commission shall assess the submitted draft European Assessment Document and, within 30 working days of receipt, communicate its observations to the organisation of TABs. The organisation of TABs, after having been given the opportunity to comment, shall amend the draft accordingly and resend copies of the amended draft European Assessment Document in accordance with points 8.1.(b) and (c) and 8.2.(b).***

10. ***Adoption of final European Assessment Document and publication***

The organisation of TABs shall adopt the final European Assessment Document and shall send a copy thereof to the Commission, together with a translation of its title in all the official languages of the Union, for publication of its reference in the *Official Journal of the European Union* ***without delay.***

The organisation of TABs shall publish the European Assessment Document ***within 90 days from the date of adoption, in one or more languages of the Union and, as a minimum, ensure that it remains accessible until all European technical assessments based on it cease to be valid.***

## ANNEX VII

**LIST OF PRODUCT FAMILIES**

<b>CODE</b>	<b>PRODUCT <i>FAMILY</i></b>
1	PRECAST NORMAL/LIGHTWEIGHT/AUT OCCLAVED AERATED CONCRETE PRODUCTS.
2	DOORS, WINDOWS, SHUTTERS, GATES AND RELATED BUILDING HARDWARE.
3	MEMBRANES, INCLUDING LIQUID APPLIED AND KITS (FOR WATER AND/OR WATER VAPOUR CONTROL).
4	THERMAL INSULATION PRODUCTS. COMPOSITE INSULATING KITS/SYSTEMS.
5	STRUCTURAL BEARINGS. PINS FOR STRUCTURAL JOINTS.
6	CHIMNEYS, FLUES AND SPECIFIC PRODUCTS.

7	GYPSUM PRODUCTS.
8	GEOTEXTILES, GEOMEMBRANES, AND RELATED PRODUCTS.
9	CURTAIN WALLING/CLADDING/STRUCT URAL SEALANT GLAZING.
10	FIXED FIRE FIGHTING EQUIPMENT (FIRE ALARM/DETECTION, FIXED FIREFIGHTING, FIRE AND SMOKE CONTROL AND EXPLOSION SUPPRESSION PRODUCT).
<b>11</b>	<b><i>SANITARY APPLIANCES.</i></b>
<b>12</b>	<b><i>CIRCULATION FIXTURES: ROAD EQUIPMENT</i></b>
<b>13</b>	STRUCTURAL TIMBER PRODUCTS/ELEMENTS AND ANCILLARIES.
<b>14</b>	WOOD BASED PANELS AND ELEMENTS.

<b>15</b>	CEMENT, BUILDING LIMES AND OTHER HYDRAULIC BINDERS.
<b>16</b>	REINFORCING AND PRESTRESSING STEEL FOR CONCRETE (AND ANCILLARIES). POST TENSIONING KITS.
<b>17</b>	MASONRY AND RELATED PRODUCTS. MASONRY UNITS, MORTARS, AND ANCILLARIES.
<b>18</b>	WASTE WATER ENGINEERING PRODUCTS.
<b>19</b>	FLOORINGS.
<b>20</b>	STRUCTURAL METALLIC PRODUCTS AND ANCILLARIES.
<b>21</b>	INTERNAL & EXTERNAL WALL AND CEILING FINISHES. INTERNAL PARTITION KITS.
<b>22</b>	ROOF COVERINGS, ROOF LIGHTS, ROOF WINDOWS, AND ANCILLARY PRODUCTS. ROOF KITS.

23	ROAD CONSTRUCTION PRODUCTS.
24	AGGREGATES.
25	CONSTRUCTION ADHESIVES.
26	PRODUCTS RELATED TO CONCRETE, MORTAR AND GROUT.
27	SPACE HEATING APPLIANCES.
28	PIPES-TANKS AND ANCILLARIES NOT IN CONTACT WITH WATER INTENDED FOR HUMAN CONSUMPTION.
29	<b><i>CONSTRUCTION PRODUCTS IN CONTACT WITH WATER INTENDED FOR HUMAN CONSUMPTION.</i></b>
30	FLAT GLASS, PROFILED GLASS AND GLASS BLOCK PRODUCTS.
31	POWER, CONTROL AND COMMUNICATION CABLES.

32	SEALANTS FOR JOINTS.
33	FIXINGS.
34	BUILDING KITS, UNITS, AND PREFABRICATED ELEMENTS.
35	█ FIRE STOPPING, FIRE SEALING AND FIRE PROTECTIVE PRODUCTS. FIRE RETARDANT PRODUCTS.
35a	<i>ATTACHED LADDERS</i>
█	█

## ANNEX VIII

### REQUIREMENTS FOR TABS

TABs shall be able to fulfil the following tasks and requirements:

Competence	Description of tasks	Requirement
1. Analysing risks	Identify the possible risks and benefits for the use of innovative products in the absence of established/consolidated technical information regarding their performance when installed in construction works.	A TAB shall be established under national law and have legal personality. It shall be independent from the stakeholders and from any particular interests. A TAB shall have staff with:
2. Setting technical criteria	Transform the outcome of the risk analysis into technical criteria for evaluating behaviour and performance of the products regarding the fulfilment of applicable national requirements; provide the technical information needed by those participating in the building process as potential users of the products (manufacturers, designers, contractors, installers).	(a) objectivity and sound technical judgement; (b) detailed knowledge of the regulatory provisions and other requirements in force in the Member States where it is designated, concerning product <i>families</i> for which it is to be designated; (c) general understanding of construction practice and detailed technical knowledge, concerning product <i>families</i> for which it is to be designated;
3. Setting assessment methods	Design and validate appropriate methods (tests or calculations) to assess performance for essential characteristics of products, taking into account the current state of the article.	(d) detailed knowledge of specific risks involved and the technical aspects of the construction process; (e) detailed knowledge of the existing harmonised standards and test methods within ■ product <i>families</i> for which it is to be designated; (f) detailed knowledge of this Regulation; (g) appropriate linguistic skills. The remuneration of the TAB personnel shall not depend on the number of the assessments carried out or on the results of such assessments.
4. Determining the specific factory production control	Understand and evaluate the manufacturing process of the specific product in order to identify appropriate measures ensuring product constancy through the given manufacturing process.	A TAB shall have staff with appropriate knowledge of the relationship between the manufacturing processes and product characteristics related to factory production control.

5. Assessing the product	Assess the performance for essential characteristics of products on the basis of harmonised methods against harmonised criteria.	In addition to the requirements listed in points 1, 2 and 3, a TAB shall have access to the necessary means and equipment for the assessment of the performance for essential characteristics of products within product <i>families</i> for which it is to be designated.
6. General management	Ensure consistency, reliability, objectivity and traceability through the constant application of appropriate management methods.	<p>A TAB shall have:</p> <ul style="list-style-type: none"> <li>(a) a proven record of respect of good administrative behaviour;</li> <li>(b) a policy and the supporting procedures to ensure confidentiality and protection of sensitive information within the TAB and all its partners;</li> <li>(c) a document control system to ensure registration, traceability, maintenance, protection and archiving of all relevant documents;</li> <li>(d) a mechanism for internal audit and management review to ensure the regular monitoring of the compliance with appropriate management methods;</li> <li>(e) a procedure to manage objectively appeals and complaints.</li> </ul>

## ANNEX IX

### ASSESSMENT AND VERIFICATION SYSTEMS (AVS)

The manufacturer shall, *in accordance with Article 22(1)*, correctly determine the product type and apply the corresponding product category on the basis of the applicable harmonised technical specification *or European Assessment Document*. Where a notified body is involved in assessment and verification, the notified body shall, *in accordance with Article 55(1)*, **verify that the** product type *was correctly determined* and the corresponding product category was correctly applied.

1. System 1+ : full notified body control including audit sample testing
  - (a) The manufacturer shall carry out:
    - (i) factory production control;
    - (ii) further testing of samples taken at the manufacturing plant in accordance with the prescribed test plan;
    - (iii) **the drawing up of** technical documentation **containing** proof of the correct application of this Regulation with regard to the assessment of performance;
    - (iv) **the drawing up of** technical documentation **containing** proof of conformity with **the applicable** product requirements under this Regulation.

- (b) The notified body shall ***decide on the issuing, restriction, suspension, or withdrawal of the certificate of constancy of performance and of conformity of the product*** on the basis of:
- (i) confirmation that the product type was correctly determined and the product category correctly applied;
  - (ii) an assessment of the performance of the product on the basis of type-testing (including sampling of the items to be taken as representative of the type), type calculation or tabulated values ***or*** documentation ***describing*** the product;
  - (iii) initial inspection of the manufacturing plant and of factory production control;
  - (iv) continuing surveillance, assessment and evaluation of factory production control including periodic inspections to the manufacturing plant;***
  - (v) audit-testing of samples taken before placing the product on the market;
  - (vi) ■ verification of the tasks under points (a) (iii) and (iv).

■

2. System 1: Full notified body control without audit sample testing
- (a) The manufacturer shall carry out:
    - (i) factory production control;
    - (ii) further testing of samples taken at the manufacturing plant by the manufacturer in accordance with the prescribed test plan;
    - (iii) ***the drawing up of*** technical documentation ***containing*** proof of the correct application of this Regulation with regard to the assessment of performance;
    - (iv) ***the drawing up of*** technical documentation ***containing*** proof of conformity with ***the applicable*** product requirements ***under*** this Regulation.
  - (b) The notified body shall ***decide on the issuing, restriction, suspension, or withdrawal of*** the certificate of ***constancy of*** performance and of conformity ***of the product*** on the basis of:

- (i) confirmation that the product type was correctly determined and the product category was correctly applied;
- (ii) an assessment of the performance of the product on the basis of type-testing (including sampling of the item or items to be taken as representative of the type), type calculation or tabulated values *or* documentation *describing* the product;
- (iii) initial inspection of the manufacturing plant and of factory production control;
- (iv) *continuing surveillance, assessment and evaluation of factory production control including periodic inspections to the manufacturing plant;***
- (v) ■ verification of the tasks under points (a) (iii) and (iv).

■

3. System 2+: Notified body focusing on the factory production control

- (a) The manufacturer shall carry out:
  - (i) an assessment of the performance of the product on the basis of testing (including sampling of the item or items to be taken as representative of the type), type calculation, tabulated values or descriptive documentation of that product;
  - (ii) factory production control;

- (iii) testing of samples taken at the factory in accordance with the prescribed test plan;
  - (iv) ***the drawing up of*** technical documentation ***containing*** proof of the correct application of this Regulation with regard to the assessment of performance;
  - (v) ***the drawing up of*** technical documentation ***containing*** proof of conformity with ***the applicable*** product requirements ***under*** this Regulation.
- (b) The notified body shall ***decide on the issuing, restriction, suspension or withdrawal of*** the certificate of conformity of the factory production control on the basis of:
- (i) confirmation that the product type was correctly determined and the product category was correctly applied, and that the performance of the product was correctly assessed on the basis of the review of the documentation of the product;
  - (ii) initial inspection of the manufacturing plant and of factory production control;

- (iii) continuing surveillance, assessment and evaluation of factory production control, including periodic inspections to the manufacturing plant;**
- (iv) verification of the tasks under points (a) (iv) and (v).**

■

4. System 3+: Notified body's control of environmental sustainability assessment
- (a) The manufacturer shall carry out:
    - (i) the assessment of the performance of the product on the basis of data collection for input values, assumptions and modelling;**
    - (ii) factory production control.**
  - (b) The notified body shall **decide on the issuing, restriction, suspension or withdrawal of the validation report on the basis of:**
    - (i) validation of the input values, assumptions made and compliance with applicable generic or product category specific rules;**
    - (ii) validation of the manufacturer's assessment;**
    - (iii) validation of the process applied to generate that assessment;**
    - (iv) validation of the correct usage of software appropriate for the assessment;**
    - (v) initial inspection of the manufacturing plant to validate any company-specific data.**

5. System 3: Notified body focusing on the determination of the product type
- (a) The manufacturer shall carry out:
    - (i) **further** assessment of the performance of the product on the basis of testing (including sampling of the item(s) to be taken as representative of the type), type calculation, tabulated values or descriptive documentation of that product;
    - (ii) factory production control;
    - (iii) **the drawing up of** technical documentation **containing** proof of the correct application of this Regulation with regard to the assessment of performance;
    - (iv) **the drawing up of** technical documentation **containing** proof of conformity with **the applicable** product requirements **under** this Regulation.
  - (b) The notified body shall **decide on the issuing, restriction, suspension or withdrawal of** the certificate of **constancy of** performance and of conformity **of the product** on the basis of:
    - (i) **an assessment** of the **performance on the basis of testing performed by a notified testing laboratory** (based on sampling carried out by the manufacturer), **■** calculation, tabulated values **or descriptive** documentation of the product;

- (ii) ***confirmation that the product type was correctly determined and the product category was correctly applied.***

6. System 4: Manufacturer's self-verification and self-certification

- (a) The manufacturer shall carry out:
  - (i) an assessment of the performance of the product on the basis of testing (including sampling of the item(s) to be taken as representative of the type), type calculation, tabulated values or descriptive documentation of that product;
  - (ii) ***determine*** the product type and **■** the product category on the basis of type-testing, type-calculation or tabulated values **■** ;
  - (iii) factory production control;
  - (iv) ***the drawing up of*** technical documentation ***containing*** proof of the correct application of this Regulation with regard to the assessment of performance;
  - (v) ***the drawing up of*** technical documentation ***containing*** proof of conformity with ***the applicable*** product requirements ***under*** this Regulation.
- (b) There is no task for the notified body.

7. ***The following horizontal rules pertaining to some or all of the systems above [REDACTED] shall apply:***
- (a) ***When a system includes an inspection of the manufacturing plant by a notified body, those inspections shall cover all locations at which significant manufacturing processes take place and shall at least include verification of the following elements:***
- (i) ***the factory production control specifying the measures and frequencies foreseen to ensure constancy of performance, including the critical to performance parameters;***
- [REDACTED]
- (ii) ***an outline of the intended factory production control.***
- (b) ***When a system includes factory production control, those controls shall cover the production process from the moment when the raw materials and components were received to the dispatch of the product [REDACTED] ('gate to gate' approach) once that production has started, and shall at least include the following elements:***
- (i) ***ensuring that the products conform to the product type and therefore attain the performance declared in the declaration of performance and conformity, and are compliant with the requirements set out in or adopted in accordance with this Regulation;***
- (ii) ***application of the technical details necessary for the implementation of the assessment and verification system or systems, as defined in harmonised technical specifications, European assessment documents and harmonised standards, including, as a minimum, those parameters that are critical to performance.***

- (c) *When a system includes further testing of samples, the following shall apply:*
- (i) *tests shall include testing of an adequate number of products, as defined in harmonised technical specifications, European assessment documents and harmonised standards, with regard to conformity with the product type;*
  - (ii) *where tests are not suitable for the product, the product type may be defined using the applicable extended application rules referred in harmonised technical specifications, European assessment documents and harmonised standards, where available, and notified bodies confirming that the product type was correctly determined shall also confirm that the relevant extended application rules were correctly applied;*
  - (iii) *results from tests undertaken by another manufacturer or notified body may be used in accordance with Articles 59 and 62.*

(d) *In the case of systems dealing with environmental sustainability, the validation shall consist of the verification of calculations and input data, in which context, the notified body shall verify whether the modelling and input data applicable in accordance with the harmonised technical specification or European assessment document reflect the performance of the product, as well as the use of the software provided by the Commission, along with any data used and in particular shall verify the reliability of any company-specific data used.*

■

(e) Notified bodies *and* manufacturers ■ shall consider the European Technical Assessment issued for the product ■ as the assessment of the performance of that product. *Manufacturers finding evidence or informed by the notified body that the performance of the product is not in conformity with the European technical assessment shall bring that product into conformity with that assessment, including, when relevant, by fulfilling of obligations set out in Article 22(11).*

## ANNEX X

### ESSENTIAL CHARACTERISTICS *OF A HORIZONTAL NATURE*

*The following are groupings of essential characteristics of a horizontal nature, which have been developed on the basis of Annexes I and II, for the application of this Regulation.*

1. Reaction to fire.
2. Resistance to fire.
3. External fire performance.
4. Noise absorption.
5. ***Release and content*** of dangerous substances.
6. Environmental sustainability.

## ANNEX XI

### CORRELATION TABLES

Table 1: Regulation (EU) *No* 305/2011 > this Regulation

Regulation (EU) <i>No</i> 305/2011	This Regulation
Article 1	Article 1
Article 2	Article 3
Article 3	Article 4
Article 4	Article 9
Article 5	Article 10
Article 6	Article 11
Article 7	Article 15
Article 8	Article 16
Article 9	Article 17
Article 10	Article 79
Article 11	Article 22
Article 12	Article 23
Article 13	Article 24
Article 14	Article 25
Article 15	Article 26
Article 16	Article 30

Article 17	Article 34
Article 18	Article 34
Article 19	Article 35
Article 20	Article 36
Article 21	Article 37
Article 22	Article 38
Article 23	Article 39
Article 24	Article 40
Article 25	Article 41
Article 26	Article 42
Article 27	-
Article 28	Article 6
Article 29	Article 44
Article 30	Article 45
Article 31	Article 46
Article 32	-
Article 33	-
Article 34	-
Article 35	-

Article 36	Article 64
Article 37	Article 65 and 67
Article 38	Article 66
Article 39	Article 47
Article 40	Article 48
Article 41	Article 49
Article 42	Article 47
Article 43	Article 50
Article 44	Article 51
Article 45	Article 53
Article 46	Article 54
Article 47	Article 55
Article 48	Article 56
Article 49	Article 57
Article 50	Article 58
Article 51	Article 59
Article 52	Article 60
Article 53	Article 61

Article 54	Article 48
Article 55	Article 63
Article 56	Article 70
Article 57	Article 71
Article 58	Article 72
Article 59	Article 70
Article 60	Article 86
Article 61	Article 86
Article 62	Article 86
Article 63	Article 86
Article 64	Article 88
Article 65	Article 92
Article 66	Article 93
Article 67	-
Article 68	Article 94

Table 2: this Regulation > Regulation (EU) *No* 305/2011

This Regulation	Regulation (EU) <i>No</i> 305/2011
Article 1	Article 1
Article 2	-
Article 3	Article 2
Article 4	Article 3
Article 5	-
Article 6	Article 28
Article 7	-
Article 8	-
Article 9	Article 4
Article 10	Article 5
Article 11	Article 6
Article 12	-
Article 13	-
Article 14	-
Article 15	Article 7
Article 16	Article 8
Article 17	Article 9

Article 18	-
Article 19	-
Article 20	-
Article 21	-
Article 22	Article 11
Article 23	Article 12
Article 24	Article 13
Article 25	Article 14
Article 26	Article 15
Article 27	-
Article 28	-
Article 29	-
Article 30	Article 16
Article 31	-
Article 32	-
Article 33	-
Article 34	Article 17 and 18
Article 35	Article 19
Article 36	Article 20

Article 37	Article 21
Article 38	Article 22
Article 39	Article 23
Article 40	Article 24
Article 41	Article 25
Article 42	Article 26
Article 43	-
Article 44	Article 29
Article 45	Article 30
Article 46	Article 31
Article 47	Article 39 and 42
Article 48	Article 40 and 54
Article 49	Article 41
Article 50	Article 43
Article 51	Article 44
Article 52	-
Article 53	Article 45
Article 54	Article 46

Article 55	Article 47
Article 56	Article 48
Article 57	Article 49
Article 58	Article 50
Article 59	Article 51
Article 60	Article 52
Article 61	Article 53
Article 62	-
Article 63	Article 55
Article 64	Article 36
Article 65	Article 37
Article 66	Article 38
Article 67	Article 37
Article 68	-
Article 69	-
Article 70	Article 56 and 59
Article 71	Article 57
Article 72	Article 58

Article 73	-
Article 74	-
Article 75	-
Article 76	-
Article 77	-
Article 78	-
Article 79	Article 10
Article 80	-
Article 81	-
Article 82	-
Article 83	-
Article 84	-
Article 85	-
Article 86	Article 60, 61, 62 and 63
Article 87	-
Article 88	Article 64
Article 89	-
Article 90	-
Article 91	-
Article 92	Article 65
Article 93	Article 66
Article 94	Article 68