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Subject:	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 - Mandate for negotiations with the European Parliament

I. INTRODUCTION

1. On 30 March 2022, the Commission adopted a 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.
2. The Proposal is based on Articles 114 of the Treaty on the Functioning of the European Union (TFEU) and aims at laying down EU harmonised rules for the making available on the market of construction products, fulfilling the objectives of the Green Deal and enhance the Competitiveness of the European industry through the setting of clear rules and improving enforcement and market surveillance.

3. On 21 April 2022, the European Parliament's Committee on Internal Market and Consumer Protection (IMCO) appointed Mr Christian Doleschal (EPP, DE) as rapporteur for the proposal. The Committee on Industry, Research and Energy (ITRE) and the Committee on the Environment, Public Health and Food Safety (ENVI) of the European Parliament are both committees for opinion on the proposal.
4. The European Economic and Social Committee gave an opinion on the proposal on 27 October 2022.

II. WORK WITHIN THE COUNCIL

5. The Working Party on Technical Harmonisation (Construction Products) started the examination of the Proposal on 20 May 2022 under the French Presidency. Since then, 22 additional Working Party meetings took place under the French, Czech and Swedish presidencies.
6. Following a cluster examination and several partial compromise texts, the Swedish Presidency has published 5 compromise texts on the whole proposal¹, including this latter, based on Member States interventions in the meetings and their written comments.
7. The work at Working Party level focused on the improvement of the clarity and structure of the proposal, the right balance between delegated acts and implementing acts with regards to Commission's empowerments, and balanced solutions to the existing shortcomings in the implementation of the current Construction Products Regulation. Particular attention was also paid to ensure consistency with the Ecodesign Regulation (ESPR), which is being examined in parallel and for which a general approach was reached on 22 May 2023².

¹ ST 7924/2023 on 30/03, ST 9300/2023 on 22/05, ST 9910/2023 on 02/06 and ST 10465/2023 on 16/06

² ST 9649 2023 INIT

III. MAIN CHANGES TO THE COMMISSION PROPOSAL

8. The main changes to the Commission proposal are the following:

a) Scope and definitions

9. While keeping the initial broad scope in terms of construction products placed on the market for incorporation in a permanent manner in construction works, being possible to harmonise case-by-case, all references to construction works, direct installation or economic operators dealing with such matters were removed from the scope of the Regulation. The application in relation to certain other EU legislation was excluded, where appropriate, to avoid regulatory overlap.

10. Used and remanufactured construction products are included in the scope and can be harmonised through dedicated harmonised technical specifications.

b) Standardisation requests as the starting point for harmonisation

11. The harmonising effect of the Regulation is triggered by standardisation requests sent to CEN according to Article 4(2a). Such a request is the condition for either publishing a reference to the standard delivered or, if no standard is delivered, using the empowerment to introduce similar provisions through implementing acts. The existence of a standard – or fall-back implementing act – in turn triggers the possibility for the Commission to introduce product requirements through delegated acts. Standards, fall-back implementing acts and requirements introduced through delegated acts are referred to as harmonised technical specifications.

12. The product families or categories covered by harmonised technical specifications form a harmonised zone of products, which are to be given free access to the Internal Market and national measures shall not prohibit or impede the making available of such products as long as they are in compliance with the Regulation.

c) Obligations of economic operators

13. Provisions on the obligations of economic operators were better aligned with the New Legislative Framework, and the economic operators themselves were limited to those regulated under the Market Surveillance Regulation and the ESPR.

d) Notifying authorities and notified bodies

14. The provisions on Notifying authorities and Notified bodies were aligned to ESPR, keeping some of the construction product specifics.

e) EU construction products database or system

15. Article 78 on the EU construction products database or system was clarified by specifying which functionalities the database or system should have and how it should be designed. The Commission is given the empowerment to make the database or system mandatory to use after its functionalities has been tested.

f) Alignment with the ESPR

16. Articles 83 and 84 on incentives for construction products and Green public procurement was aligned with the ESPR to establish sustainability requirements applicable to public contracts, including implementation, monitoring, and reporting of those requirements by Member States through implementing acts.

g) Repeal, transition, and date of application

17. The envisioned 20-year parallel application with the currently existing Regulation has been limited to a few select articles and the date of application has been delayed to 24 months after entry into force.

h) Commission empowerments

18. Empowerments to the Commission through implementing or delegated acts were further framed notably in Articles 6, 8, 33, 62 and 85. Delegated acts were transformed into implementing acts in Articles 4a, 78, and 84, and removed in Articles 22, 73 and 90.

IV. CONCLUSION

19. The Presidency considers that the text, as set out in the Annex, reflects a fair and balanced compromise between the different views expressed by delegations.
20. Consequently, the **Permanent Representatives Committee** is therefore invited to endorse the attached compromise text and instruct the Presidency to start negotiations with the European Parliament as soon as possible, in order to reach an agreement at first reading on this basis.
21. As indicated in the Presidency note of 6 September 2019 on openness and transparency, the Presidency suggests that, if no objections are raised, the mandate approved by the Committee is made public, in accordance with the Council's Rules of Procedure.

2022/0094 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**laying down harmonised ~~conditions~~ rules for the marketing of construction products,
amending Regulation (EU) 2019/1020 and repealing Regulation (EU) 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 Commission,

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

Having regard to the opinion of the European Economic and Social Committee,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Regulation (EU) No 305/2011 of the European Parliament and of the Council 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) In order for a construction product to be placed on the market, the manufacturer is obliged to draw a declaration of performance for such product. The manufacturer assumes the responsibility for the conformity of the product with such declared performance. Certain exemptions to this obligation are provided.
- (3) Experience with the implementation of Regulation 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 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 ~~lay down more specific and detailed~~ **update and align** legal obligations for economic operators **with other Union legislation**, as well as **add** new provisions including as regards ~~technical specifications and~~ 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, 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. Access to reliable and durable information would also mean that economic operators and other actors do not contribute to each other's non-compliance.

- (5) The European Parliament resolution of 10 March 2021 on the implementation of Regulation (EU) No 305/2011³ 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 305/2011, as announced in the Circular Economy Action Plan. The Council Conclusions on the Circular Economy in the Construction Sector from 28 November 2019⁴ urged the Commission to facilitate the circularity of construction products when revising the Construction Products Regulation (EU) No 305/2011. The Commission Communication ‘A New Industrial Strategy for Europe’⁵ stressed 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. The Commission Communication ‘Updating the 2020 New Industrial Strategy: Building a stronger Single Market for Europe’s recovery’⁶ 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 and sustainability performance of construction products, including the possibility of establishing relevant thresholds and classes. **Such classes of performance should accurately reflect the diversity of products and their state of the art and should enable 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.**

³ 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) (2020/2028(INI))

⁴ Circular Economy in the Construction Sector – Council Conclusions, adopted 28 November 2019, 14653/19

⁵ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions A New Industrial Strategy for Europe COM(2020)102 final.

⁶ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions Updating the 2020 New Industrial Strategy: Building a stronger Single Market for Europe’s recovery COM(2021)350 final.

(6) Similarly, the 2022 EU Strategy on Standardisation⁷ 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, makes it necessary to establish 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 products life, from raw material acquisition or generation from natural resources, to it's final disposal, not including any possible re-use. For used and remanufactured products, the calculated life-cycles starts with the de-installation from a construction work and include all following stages until final disposal.** For the same reason, it is necessary to extend the range of regulated economic operators, since distributors, suppliers and manufacturers all have a role to play in the calculation of the environmental sustainability in the construction sector. That range should therefore be extended into two directions, downstream from the distributors to the economic operators preparing re-use and remanufacturing of construction products and upstream from the manufacturer over the suppliers of intermediate products and/or raw materials. Moreover, certain operators coming into play in the context of dismantling used products or other parts of construction works or remanufacturing and re-use thereof need to contribute to a safe second life of construction products.

⁷ Communication from the Commission of 2 February 2022 to the European Parliament, the European Economic and Social Committee and the Committee of the Regions, 'An EU Strategy on Standardisation Setting global standards in support of a resilient, green and digital EU single market', COM/2022/31 final

(8) To ensure safety and functionality of construction products and, by extension, of construction works, it is necessary to ~~avoid that items that are not intended by their manufacturers to be construction products are placed on the market as construction products. Importers, distributors and other downstream economic operators should therefore ensure that those pseudo construction products are not sold as construction products. Moreover,~~ **ensure that** certain service providers such as fulfilment service providers **and online marketplaces** ~~or 3D printing service providers should~~ **do** not contribute to the non-compliances of other **actors** ~~economic operators~~. It is therefore necessary to render relevant provisions applicable also to these services and their providers.

(8a) 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.

- (9) It is possible that different economic operators provide a 3D printing dataset, a 3D printing machine or mould, and the material to be used therein, leading to a situation where none of those operators would be responsible for the safety and appropriate performance of the 3D-printed product. To avoid possible safety risks in circumvention of the obligations under this Regulation respect when the production technology, it is therefore necessary to lay down provisions for example 3D-printing datasets, materials intended to be used for 3D-printing and for 3D-printing services that permit 3D-printing may involve several different actors who contribute to the design and manufacture of a construction products, so that, by respecting these provisions, the economic operators jointly reach a level of safety similar to the one ensured for ordinary 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 products assume the responsibilities under this Regulation in respect of that product in its entirety, unless there is another person who either places the product on the market under his or her own name or trademark or who assumes responsibility for the product by drawing up a declaration of performance and conformity.
- (9a) 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, should be considered as the product being made available on the market.
- (10) In order to ensure safety and protection of the environment and to close a regulatory loophole that would otherwise exist, it is necessary to clarify that construction products manufactured on the construction site for immediate incorporation into the construction works are subject to the same rules as other construction products. Micro-enterprises, however, often individually manufacture and install products on site. Subjecting those micro-enterprises under all circumstances to the same rules as other enterprises would disproportionately affect those micro-enterprises. It is therefore necessary to enable Member States to exempt micro-enterprises from drawing up a declaration of performance in specific situations, where the interests of other Member States are not affected.

- (11) Ensuring the free movement of kits ~~or assemblies~~ of construction products on the internal market will bring tangible benefits to citizens, consumers and businesses, particularly. However, for reasons of legal certainty, their composition should be precisely defined in harmonised technical specifications or European assessment documents.
- (12) ~~Creating a Union market for small prefabricated one-family houses has a potential to reduce the price of housing and to have positive social and economic effects. Fairness to consumers remains a priority, specifically but not limited to ensuring affordability of housing in the context of the green transition, in line with Proposal for Council Recommendation on Ensuring a fair transition towards climate neutrality⁸, in particular recommendations 7 a)-e). It is therefore necessary to lay down harmonised rules for such small houses. However, small houses are also construction works, for which the Member States are competent. As it might not be possible to integrate cumulatively all national requirements for small prefabricated one-family houses into the future harmonised technical specifications, Member States should have the right to opt out of the application of rules that are to apply to those pre-fabricated one-family houses.~~
- (13) The compliance of construction products with Union legislation often depends on the compliance of their key parts with that legislation. However, because key parts are often integrated into various construction products, the protection of safety and of the environment, including climate, is better achieved when those key parts are assessed upstream, that is when the performance and conformity of key parts will be assessed beforehand and independently from the assessment of the final construction product into which they are integrated. Similarly, market surveillance becomes more efficient when non-compliant key parts can be identified and targeted. Hence, it is necessary to lay down rules applicable to key parts of construction products **while at the same time enabling the voluntary application of the Regulation on parts or materials intended to be used for construction products.**

⁸ ~~Proposal for a Council Recommendation on Ensuring a fair transition towards climate neutrality COM(2021)801 final 2021/0421 (NLE)~~

- (13a) Items, such as construction products, their key parts as well as other parts or materials, may be placed on the market as such or as a set of separate components intended to be used together could 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 defined. This should not preclude the possibility to market the components as construction products when placed on the market separately, as key parts or otherwise.**
- (13b) While keeping a broad scope for the Regulation’s possible application, so as to allow for case-by-case harmonisation of products placed on the market for incorporation in a permanent manner in construction works when deemed appropriate, the application in relation to certain products already harmonised by other EU legislation should be excluded to avoid regulatory overlap. The Regulation’s broad scope 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 local traditions or cultural heritage, their usage of specific materials which can only be sourced in certain localities, their limited movement within the internal market or to heterogeneous conditions inbetween Member States, should not be subject to the harmonising effect of this Regulation through the active choice of not pursuing their coverage through harmonised technical specifications.**
- (14) ~~Construction products that have already been assessed and are reused should not be subject to the rules that apply to new construction products. However, u~~Used construction products **subject to this Regulation** that have never been placed on the Union market before, should, **in the absence of dedicated provisions for used products,** be subject to the same rules as new construction products, given that such products have never been assessed.

- (15) ~~To ensure that safety and functionality of construction products is safeguarded, rules applicable to new construction products should also apply to used construction products where the intended use is changed, except to decoration purposes, for used construction products with unclear initial intended use, for used construction products which have undergone an important transformative process and for used construction products for which an economic operator claims additional characteristics or the fulfilment of product requirements.~~
- (16) ~~The fact that used construction products should, in principle, not undergo a new assessment, should not prevent the economic operator from having those construction products assessed if that helps to make the use of those used construction products more attractive by proving that those construction products still have certain characteristics or fulfil the applicable product requirements.~~
- (17) Construction products placed on the market in the outermost regions of the European 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. Accordingly, Member States should have the possibility to exempt construction products placed on the market ~~or directly installed~~ in the outermost regions of the European Union from those requirements.

(17a) To ensure that a strong link is kept between Member States regulatory needs and the standards prepared, a group of experts should be giving the Commission advice on the preparation of standardisation requests and other harmonised technical specifications. The group should include representatives from all Member States and can include different level of expertise depending on the matter at hand, as well as involve external expertise such as representatives of European standardisation organisations when appropriate. The work of the expert group should follow a work plan which should be established on the basis of inputs from Member States in addition to overall Union priorities such as the Green Deal and the Circular Economy Action Plan.

(18) 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. It follows the recent trend in product legislation to develop a fall-back solution where the European Standardisation Organisations do not deliver harmonised standards which can be cited in the Official Journal. **However, in light of the sector-specific structure used in this Regulation, where the removal of cited standards would mean the deharmonisation of the concerned product family or category, the fall-back solution should also be possible to apply in scenarios where an existing standard has either been subject to a formal objection or been referenced for a period of time which is considerably longer than the usual cycles for updating.**

As no harmonised standards for construction products could be cited in the Official Journal since late 2019 and only some dozen since Regulation (EU) No 305/2011 came into force, **such a fall-back solution should be complemented with the issuance of clear guidance giving the European Standardisation Organisations sufficient instructions on how to develop standards that meet the Commission's requirements to enable an increase in the timely citation in the Official Journal** the new back-up empowerments for the Commission should be even more comprehensive, permitting to optimise the overall output of technical specifications so to catch up the delay in the adaptation to technical progress.

(19) Where harmonised standards lay down the rules for the assessment of performances with regard to essential characteristics relevant for the construction codes of Member States, ~~harmonised standards~~ **they** should be rendered mandatory for purpose of application of this Regulation **as dedicated construction product performance standards**, as only such **mandatory** standards reach the goal of permitting the free circulation of products, whilst ensuring the Member States' ability to request safety and environmental, including climate-related, product characteristics in view of their specific national situation. 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 768/2008 of the European Parliament and of the Council. In line with Decision 768/2008, those standards should be able to provide a presumption of conformity with the requirements covered by them.

(20) In order to contribute to the objectives of the European Green Deal and the Circular Economy Action Plan, 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), inherent product requirements related to safety, ~~functionality~~ and protection of environment, including climate, are necessary. When setting these requirements, the Commission should take into account their product's potential contribution to achieving Union climate, environmental and energy efficiency objectives over the course of their life cycle. These requirements do not merely relate to the performance of construction products. Contrary to its predecessor Directive 89/106/EC, Regulation (EU) No. 305/2011 does not provide for the possibility to establish such inherent product requirements. However, certain harmonised standards for construction products contain such inherent product requirements which can relate to environment, or to safety ~~or simply to the good functioning of the product~~. These standards demonstrate that there is a practical need for such requirements on safety, or the environment ~~or simply the functioning of products~~. 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 (re-)introduce or validate inherent product requirements. Whilst these requirements need to be laid down by the legislator, there is a need for specifying them for the more than 30 product families, each with several categories. Hence, the power to adopt acts in accordance with Article 290 TFEU ~~of the Treaty on the Functioning of the European Union~~ should be delegated to the Commission to specify the requirements for the respective construction product family or category.

- (21) 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, ~~the manufacturing, the distribution, own-brand labelling, the repackaging or secondary trade, installation, de-installation for re-use or remanufacturing, and the remanufacturing itself.~~ Moreover, ~~suppliers should be obliged to cooperate with market surveillance authorities for purposes of environmental sustainability assessment. For those reasons and to avoid repetition of obligations, the term ‘economic operator’ should be defined widely, encompassing all those actors so that basic generic obligations can in one stroke be established for all of them.~~
- (22) 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 concern ~~the definitions, the obligations and rights~~ of economic operators and ~~the obligations and rights~~ of notified bodies.
- (23) In order to improve the legal certainty and to mitigate the fragmentation of the EU market for construction products ~~due to the existence of national requirements and marks~~, it is necessary to clearly define the area regulated at the EU level, the so-called ‘harmonised zone’, as opposed to the elements remaining within the ~~remit~~ **competence** of Member States’ national regulatory sphere.

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.

- (24) At the same time, 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 integrate Member States' needs into the development of harmonised technical specifications. For the same reason, **an additional mechanism of prior authorisation should be established**, allowing Member State to set, based on imperative grounds of health, safety or environmental protection, **additional requirements other than those laid down in the harmonised technical specifications** for construction products **covered by the harmonised zone** should be established. **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.**
- (25) 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 unused products. Member States should therefore be allowed to take such measures.

- (26) 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 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.
- (27) Moreover, in order to avoid diverging practices of Member States and economic operators, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to determine whether certain construction products fall within the definition of construction product.

(28) **As this Regulation is developed in line with the framework of the [ESPR] but with its provisions adapted to 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 addressed through [the ESPR]. If there is a policy need which is identified horizontally within the framework of the [ESPR], the Commission should primarily use this Regulation for adressing those concerns in regard to construction products. Only in exceptional cases where requirements under this Regulation are insufficient or ineffective, and cannot be amended or complemented in a reasonable time, [the ESPR] should be able to intervene 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.**

~~In particular~~ **As an exception**, in the case of energy-related products included in ecodesign working plans which are also construction products and for intermediary products **within the meaning of the [ESPR]**, with the exception of cement, priority for the setting of sustainability requirements will be given to the [ESPR]. This should 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 may still intervene 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. For other products, in order to avoid unnecessary burden for economic operators, the need may arise in future to determine the conditions under which the fulfilment of obligations under other Union law also fulfils certain obligations under this Regulation. The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to determine such conditions.

(29) ~~In order to create an incentive for compliance, the manufacturer of construction products should be liable for incorrect declarations of performance and conformity.~~

- (30) The increased re-use of re-manufactured construction products is part of a shift towards a more circular economy and a reduction of the environmental and carbon footprint of construction products. Moreover, the second-hand market of re-manufacturing for construction products is currently not very developed and requirements for remanufactured 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 and to respect the subsidiarity principle, Member States should have the possibility to exempt re-manufactured products from the obligation to draw up a declaration of performance. Such exemption should however not be possible for products that are not suitable for remanufacturing or where interests of other Member States are at stake. 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.
- (30a) In order to provide clarity about the width of the harmonized zone, it is important that all harmonised technical specifications are explicit in whether they cover or excludes used products from its 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.

(30b) Used products which have undergone a transformative process going beyond checking, cleaning or repairing recovery operations (“remanufactured products”) should still be considered as used products if the applicable harmonised technical specification deem the transformative process as non-essential 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.

(31) 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.

~~(32) To render the reuse and remanufacturing of construction and the use of surplus construction products nonetheless possible at large scale, an alleviated procedure for drawing up the declaration of performance should be set out for those construction products. In the case of surplus construction products, where alteration by use is excluded, the alleviated procedure should be limited to those cases where the initial manufacturer refuses to take responsibility for the surplus construction product, as it is always preferable that construction products remain under responsibility of the initial, competent manufacturer where they have not been altered.~~

- (33) In order to reduce the burden for economic operators and in particular manufacturers, economic operators issuing declarations of performance and ~~declarations of conformity~~ should **be allowed to** provide those declarations by electronic means, ~~be authorised to provide those declarations~~ **including** by permalink to an unamendable document **made accessible via a manufacturer's website or in the dedicated construction products database or system when available** or to include in those declarations permalinks to ~~unamendable documents~~.
- (34) 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. However, in order to minimise the potential administrative burden, the declaration of conformity and the declaration of performance should be combined ~~and provided by electronic means~~. 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**, ~~including on the use of appropriate technical documentation replacing type testing, 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. ~~The Member States should also have the possibility to exempt micro-enterprises which do not trade cross-border~~ **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 exemptions from the obligation to draw up a declaration of performance and conformity, it should be given the opportunity to choose either, 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.

- (35) 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 ~~or~~ **and** conformity. The manufacturer thereby takes the responsibility for the conformity of the product with the declared performance and applicable product requirements.
- (36) To ensure safety, functionality 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 or make 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.
- (37) 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.

(37a) 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. These additional markings should therefore not be affixed on the products in combination with the CE marking. However, in order to limit distortions for products coming from or destined to the market of third countries, this prohibition should not apply to markings which indicate conformity with legislation of third countries.

(38) To avoid misleading claims, any claims made by manufacturers of construction products should ~~either~~ be based on ~~an~~ assessment methods contained in harmonised technical specifications **or European assessment documents** ~~or, where no such assessment method exists, on methods representing the best available techniques, where no such assessment method provided by a harmonised technical specification exists.~~

- (39) Technical documentation about construction products, drawn by the manufacturer, facilitates the verification of those products by authorities and notified bodies against the Union requirements. To enhance access to comprehensive information, that technical documentation should include ~~an~~ **the calculation substantiating the** assessment of the environmental sustainability of the construction product.
- (40) 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 only, or also for use by consumers.~~ To ensure that construction products can be traced back, manufacturers should be indicated **manufacturer-specific unique identification codes 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 and affixed label**, **or** where that is not possible either, in a document accompanying it.
- (41) 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.
- (42) To optimise the pursuit of the goals of the European Green Deal and of the Circular Economy Action Plan, the ~~manufacturers~~ **Commission** should **have the possibility to specify inherent environmental product requirements so that construction products** ~~be obliged to~~ **can** reach a fair level of environmental sustainability, ~~both for their products and their manufacturing.~~ This obligation requires trade-off decisions between different environmental aspects and between environmental and safety aspects, whilst both environmental and safety aspects can relate to the product as such or to the construction works. ~~To give manufacturers certainty about how to make these trade-off decisions, this Regulation should set out clear trade-off rules.~~

- (43) ~~With the goals of ensuring sustainability and durability of construction products, manufacturers~~ **This possibility** should ensure that products can be used for a very long time. ~~Such long use~~ **by, for instance,** requiring adequate design, use of reliable parts, reparability of products ~~availability of information on repair and access~~ **compatibility to** ~~with replacement~~ **spare** parts.
- (44) In view of enhancing the circularity of construction products, in line with the goals of the Circular Economy Action Plan, ~~manufacturers~~ **inherent product requirements** should **also be able to** favour **recycled content or to prepare for the possible** re-use, remanufacturing and recycling of their **construction** products. The (preparation for) re-use, remanufacturing and recycling require certain design, namely by facilitating the separation of components and materials at the later stage of recycling and avoiding mixed, blended or intricate materials.
- (44a) As the usual instructions for use and safety information is 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 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 construction product performance standards. Such guidance should however not expand or restrict the responsibility for the manufacturer to provide information as set out in the Regulation. As instructions for use and safety information** will not necessarily reach the economic operators in charge of (preparation for) re-use, remanufacturing and recycling, the ~~necessary~~ information in this regard should **also** be made available in **the dedicated construction** products databases or systems ~~and on the manufacturer's websites, in addition to the instructions for use.~~

- (45) ~~To deliver safe, functional and environmentally sustainable construction products, it is necessary to establish comprehensive sustainability and safety obligations for manufacturers. Given the importance of these obligations and achieving the right balance between the functionality, safety and sustainability, the Commission should be empowered to determine the conditions by delegated acts under which, for a specific product family or category, these obligations are fulfilled or presumed to be fulfilled.~~
- (46) Some construction products become waste though they were never used. To avoid this waste of resources, manufacturers **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.
- (47) ~~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 which might include the easily understandable traffic light labelling.~~
- (48) ~~Certain manufacturer's obligations, such as assessment of environmental sustainability or giving preference to recyclable materials, can hardly be fulfilled in case of used, remanufactured or surplus products. Economic operators enabling reuse or undertaking remanufacturing should thus be exempted from these obligations, the more so as the reuse and remanufacturing are beneficial to the environment.~~
- (49) The authorised representatives are often the only reachable persons in 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 ~~clarified and strengthened~~ **clearly set out in this Regulation.**

(50) An economic operator who modifies a product 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 to make them available in another Member State, as otherwise secondary trade and thus free circulation of products would be hampered and repackaging in principle should not affect performance nor 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.

(50a) 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.

(51) 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, **and** online market places ~~and brokers should be empowered and requested to verify certain easily verifiable characteristics of products and their manufacturers, such as determination of product type and drawing up a comprehensive technical documentation, and should actively contribute to ensuring that only compliant products reach the users.~~

- (52) In order to avoid that 3D printing is used to circumvent the obligations under this Regulation, 3D printing service providers should have certain information obligations.
- (53) The safe use of used and re-manufactured products often depends on precise information on their first use. Economic operator de-installing used products for re-use or remanufacturing should therefore take protocols on the place, conditions and presumed length of use of the de-installed product.
- (54) The performance and safety of products also depend on the components used and on the services provided by calibrators or other service providers for their design and manufacturing. For these reasons, certain obligations should be established for suppliers of components and service providers involved in the manufacturing of products. Where a non-compliance or risk might have been caused by a supplied component or service of a certain economic operator, the supplier or service provider should inform thereof his other clients who have received the same component or service, so that non-compliances and risks can be effectively tackled for other products too.
- (55) Certain items used for construction have multiple potential purposes. Their manufacturers should have the freedom to decide whether these items are intended for construction or not, also in order to avoid that they have to undergo performance and conformity assessment where not necessary. However, if they decide that a certain item is not intended for construction whilst it could be used for it (“pseudo product”), the manufacturers and other economic operators should ensure that it is not used in construction works. Otherwise some of the items would end up in construction whilst not fulfilling the requirements of this Regulation.
- (56) For the same reason, where, however, manufacturers of items which can, by nature, be used for construction and for other purposes (“double use products”), do not explicitly exclude the use for construction, they should fulfil the obligations under this Regulation for all the items of the respective type.

- (57) 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 and designate a single centralised market surveillance authority for detecting distance sales offers targeting clients on their territory, so that the responsible market surveillance authorities can take appropriate measures. As the detection of such offers requires the knowledge of research specialists or dedicated artificial intelligence software, the detection task should be centralised and entrusted to a single market surveillance authority.
- (58) Digital technologies, which provide a significant potential for reducing administrative burden and costs for economic operators and public 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. Accordingly, the Commission should be empowered to seize further opportunities of digitisation by implementing acts.
- (59) As harmonised standards developed for construction products (hereafter: construction products standards) are mostly mandatory, to create legal certainty, these standards should not only be in line with the relevant standardisation requests and with this Regulation, but also with the general principles of Union law.

- (60) In order to ensure a timely ~~citation~~ **publication** of references of construction products **performance** standards **and European assessment documents** in the Official Journal of the European Union, the European Commission should, ~~be empowered to limit in scope or overrule deficient~~ **where references to standards or European assessment documents otherwise cannot be published, have the possibility to publish these references with restrictions** for purposes of **their** legal effects under this Regulation ~~by delegating acts instead of refusing to cite their references in the Official Journal.~~ **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 the references of which have already been published in the Official Journal, 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.**
- (61) 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 rendered mandatory in accordance with this Regulation. Regulation (EU) No 1025/2012 is thus to provide, among others, for a procedure for objections to ~~harmonised~~ construction products **performance** standards where those standards do 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** requirements **for construction works** ~~set out in the relevant standardisation request or other requirements of this Regulation.~~

- (62) 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~~ **construction product performance** standards. ~~Hence and to avoid lengthy repetition of provisions, the principal rules on harmonised standards should also apply to European assessment documents.~~ 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.
- (63) 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.
- (64) The requirements applicable to designating authorities of Technical Assessment Bodies (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.

- (65) 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 ~~strengthen the resources capacity of notifying authorities, namely by setting up minimum requirements;~~ 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 ~~the tool of a qualification matrix has proven to~~ **can** be **an** most 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.
- (66) ~~To counter a common deficient practice of accreditation bodies, it is necessary to ensure that accreditation bodies take as a basis for accreditation this Regulation and not the often deviating standards.~~ **In order to preserve the correct application of this Regulation by notified bodies,** ~~it also~~ **is** 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.
- (67) 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.
- (68) ~~In order to avoid involvement between notified bodies' staff and the manufacturers, notified bodies should ensure rotation between the personnel carrying out different conformity assessment tasks.~~

- (69) 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.
- (70) To enable all authorities an easier identification of non-compliances of 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 non-compliances to relevant market surveillance authorities or notifying authorities. Notified bodies should however not trespass the information obligation by investigating other operators than their own clients or peers.
- (71) In view of 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, participation thereto should thus become mandatory.
- (72) 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.

- (73) The **sharing and** recognition of test results obtained by another manufacturer, provided for in Article 36(1)(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.
- (74) To ensure legal certainty in case of safety or performance problems, such recognition should only be permitted where both the ~~two~~ involved economic operators and the ~~two~~ involved notified bodies commit to cooperate and where the economic operator obtaining certification is in technical command of the product.
- (75) 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 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 possible non-compliances through a complaint portal.
- ~~(76) To address the identified shortcomings with regards to the market surveillance under Regulation (EU) No. 305/2011, this Regulation should contain more empowerments for Member States authorities and for the Commission that should enable authorities to act under all potential problematic circumstances.~~

- (77) 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.
- ~~(78) To ensure effective enforcement of the requirements and to strengthen market surveillance in Member States, as well as to ensure alignment with the Ecodesign for Sustainable Products Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to lay down a minimum number of checks to be performed by the market surveillance authorities on specific product group or family or in relation to specific requirements and to establish minimum resources requirements.~~
- ~~(79) 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 provide more detailed administrative coordination support and to provide them with the right to retrieve costs of inspections and testing from economic operators.~~
- ~~(80) To create an incentive for increasing the capacities of market surveillance authorities in terms of market surveillance and to reach alignment with the Ecodesign for Sustainable Products Regulation, Member States should report on their market surveillance activities regarding products covered by this Regulation, including regarding the penalties imposed.~~

- (81) 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.
- (82) 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.
- (83) 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. These 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.**

(84) The centralised registration 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 ~~centralised~~ Union construction products database or system. At this point in time it is not possible to assess the advantages and disadvantages of possible solutions, the Commission should thus be empowered to pursue ~~any of these paths~~ **possible solutions**, as appropriate, **as long as they delivers certain specified functionalities, comply with a set of technical requirements, and are compatible with the registry implemented by the [ESPR]**.

(84a) 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 according to this regulation. A data dictionary harmonised at the EU level allows for the classification and use of structured definitions by both market surveillance authorities and in the further digitalisation of the construction sector, in particular in Building Information Modelling, building logbooks, digital passports and registries.

- (85) 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, TABs, 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.
- (86) 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 ~~bigger~~ Member States. Since such support is unavoidable in some cases ~~and advisable in others~~, this Regulation should set out the basic rules for such support, namely to clarify responsibilities. ~~Moreover, Member States are challenged by the increasing technical complexity of products and the legislation applicable with regard to all aspects and product sectors cumulatively, which indicates a potential for better results by virtue of specialisation and work-sharing amongst Member States. This Regulation should therefore both reflect the particular situation of the Member States and allow exploring the potential added value of specialisation and work-sharing amongst any Member States.~~
- (87) Business on construction products becomes slowly but steadily more and more international. Hence, situations arise where non-compliances of economic operators based outside the Union need to be countered as well. ~~As third countries hardly are ready to support the enforcement of Union law on their territory where the Union does not in return provide for the possibility to assist them, some empowerments for~~ **Provisions on** international cooperation should **therefore** be provided for in this Regulation.

- (88) 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 to support these particularly cooperative third countries by allowing them to participate in certain trainings and to participate in the EU construction products database or 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.
- (89) In order to incentivise the use of sustainable construction products whilst avoiding market distortions and to remain in line with the Ecodesign for Sustainable Products Regulation, incentives for the use of sustainable construction products provided by Member States should target the most sustainable products ~~and be embedded in an exchange of information amongst Member States~~. **The Commission should furthermore have the possibility to coordinate Member States incentives in order to boost the demand of certain environmentally sustainable products.**
- (90) **Public procurement amounts to 14% of the 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**, whilst avoiding market distortions and to reach alignment with the Ecodesign for Sustainable Products Regulation, Member States' public procurement practices ~~should target the most sustainable amongst the compliant products~~. **with minimum mandatory environmental sustainability** Requirements applicable to public procurement contracts set out by implementing acts ~~should be established according to objective, transparent and non-discriminatory criteria~~.

(91) ~~Public procurement amounts to 14% of the Union's GDP. To contribute to the objective of reaching climate neutrality, improving energy and resource efficiency and transitioning to a circular economy that protects public health and biodiversity,~~ Contracting authorities and entities should, where appropriate, be required to align their procurement with specific green public procurement criteria ~~or targets~~, to be set out in the ~~delegated~~ **implementing** acts adopted pursuant to this Regulation. The criteria ~~or targets~~ set by ~~delegated~~ acts for specific product groups **families or categories**, should be complied with ~~not only~~ when directly procuring those products in public supply contracts ~~but also in public works or public services contracts where those products will be used for activities constituting the subject matter of those contracts~~. Compared to a voluntary approach, mandatory criteria ~~or targets~~ will ensure that the leverage of public spending to boost demand for better performing products is maximised.

These **minimum requirements** ~~criteria~~ should be ~~be~~ **established according to** transparent, objective and non-discriminatory **criteria and should not affect the possibilities for Member States and contracting authorities to introduce green public procurement systems and to define minimum mandatory requirements for public procurement of construction products that are more ambitious than those specified in the implementing acts, provided that those requirements are in conformity with the TFEU. When developing implementing acts related to green public procurements, 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 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 an emergency and applying the requirements would result in severe negative impact on public health.**

(92) 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 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of **amending the lists of predetermined environmental characteristics and product families, amending the required product information, determining threshold levels and classes of performance as well as laying down conditions under which a product shall be deemed to satisfy them, determining essential characteristics which always shall be declared,** establishing and amending **inherent** product specific technical provisions and **requirements for certain product families or categories as well as amending the inherent product requirements which can be established**; defining the applicable assessment and verification systems **and to introduce new ones**; determining the conditions under which obligations under other Union law fulfil certain obligations of this Regulation; amending the declaration of performance and declaration of conformity model; establishing additional obligations to manufacturers; revising and supplementing **arying** procedural rules for the development of European assessment documents; establishing minimum requirements to market surveillance authorities; setting up **specifying functionalities and requirements of the** a Union construction products database or system **and establishing longer storage periods within it**; establishing green public procurement requirements and defining minimum penalties. 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-Making⁹. 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.

⁹ OJ L 123, 12.5.2016, p. 1.

- (93) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission **for the laying down of essential characteristics and their assessment methods for certain product families and categories; for establishing common specifications; for authorising national measures deviating from the harmonised zone** means to transmit information; **for** providing details on how to execute obligations and rights of economic operators; **for** adopting the format of the European technical assessment; ~~establishing minimum resources required by notified bodies~~ **for providing details on how to execute obligations of notified bodies; for establishing whether certain national measure in respect of individual products are justified, for establishing a Union construction products database or system and to provide for its mandatory usage; and for** giving access to **regulatory** authorities of third countries to the information systems for harmonised decision-making, to the EU construction products database or system and to trainings in the context of this Regulation; **for specifying aspects of Member States incentives; and for determining whether a specific product falls within the definition of construction product**. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹⁰.
- (94) 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.

¹⁰ 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).

- (95) Regulation (EU) 2019/1020 of the European Parliament and of the Council 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. ~~Therefore, Regulation (EU) 2019/1020 should be amended accordingly.~~
- (96) 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 and where the signing person is entrusted to represent the body or economic operator, according to the law of the Member States or Union law respectively.
- (97) 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.
- (98) In order to ensure a high level of compliance with this Regulation, Member States should lay down rules on penalties applicable to non-compliances and ensure that those rules are enforced. The penalties provided for should be effective, proportionate and dissuasive. ~~In order to ensure these goals and harmonised penalties, the Commission should be empowered to establish minimum penalties by acts adopted in accordance with Article 290 of the Treaty on the Functioning of the European Union.~~

- (99) 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) 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.
- (100) 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 ~~remain in the distribution chain and thus be further made available~~ **placed** on the market. ~~Similarly to the practice under other product legislation, the appropriate period is considered to be five years after the expiry of the European technical assessment on the basis of which they have been placed on the market. In this way, six years after the entry into force of a harmonised technical specification adopted under this Regulation all products sold to users will comply with that harmonised technical specification and this Regulation.~~
- (101) 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 ~~groups and families~~ **and categories, or by European assessment documents**. Accordingly, requirements and obligations incumbent on economic operators with regard to a certain product ~~group or family~~ **or category** should only apply mandatorily as ~~from six~~ **of twelve** months **at the earliest** after the entry into force of harmonised technical specification covering the respective product ~~group or family~~ **or category**.
- (102) 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 ~~or~~ **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.

- (103) 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 EADs **European assessment documents** published in support of Regulation (EU) No 305/2011 and covering a certain product ~~group or family~~ **or category**, by ~~two years~~ **a fixed period** after the entry into force of harmonised technical specification adopted under this Regulation covering that respective product ~~group or family~~ **or category**.
- (104) **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 remain a competence of Member States.** In order to fully cover the environmental assessment of construction products **as well as** ~~and to appropriately cover~~ product requirements which exist even in current harmonised technical specifications, a more comprehensive Annex I-**A** should be developed, including also a detailed list of **predetermined** essential characteristics related to lifecycle assessment ~~and a complete framework for the product requirements~~. On that occasion, overlaps between basic requirements for construction works should be eliminated and clarifications should be brought forward.

- (105) 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 V 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 305/2011 and coherence across product families should be the guiding principles.**
- (106) 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 **TFEU** of ~~the Treaty on the European Union~~. 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

This Regulation establishes harmonised rules for the **placing or** making available on the market ~~and direct installation~~ of construction products, ~~regardless of whether undertaken in the framework of a service or not~~, by establishing:

- (a) rules on how to express the ~~environmental, including climate, and safety~~ performance of construction products in relation to their essential characteristics;
- (b) ~~environmental, including climate, functional and safety~~ product requirements for construction products.

This Regulation also establishes obligations incumbent on economic operators dealing with construction products or their components ~~or with products that could be regarded as construction products whilst not being intended by their manufacturer to be construction products~~.

Article 2

Scope

1. This Regulation shall apply to construction products, **including used products**, and to the following items, **when those products or items are intended for use on the Union market**:
- (a) ~~3D-datasets placed on the market to permit the 3D-printing of construction products covered by this Regulation and 3D-printed construction products and moulds;~~
 - (b) ~~materials intended to be used for the 3D-printing of construction products on or close to the construction site or for the manufacturing using moulds on or close to the construction site;~~
 - (c) ~~construction products manufactured on the construction site for immediate incorporation into construction works, without separate commercial action for the placing on the market;~~
 - (d) key parts of **construction** products ~~covered by this Regulation;~~
 - (e) parts or materials intended to be used for products covered by this Regulation, if the manufacturer of those parts or materials so requests;
 - (f) ~~kits or assemblies, where their composition is specified in and covered by harmonised technical specifications or European assessment documents (EADs);~~
 - (g) ~~prefabricated one-family houses of less than 180 m² surface floor space with one floor or of less than 100 m² surface floor space on two floors.~~

~~Member States may decide not to apply this Regulation for the houses referred to in point (g) by notification to the Commission~~

2. This Regulation shall also apply to used construction products and to used items referred to in paragraph 1 in any of the following cases:
- (a) those used construction products or items are imported from third countries without having been placed on the Union market before;
 - (b) the economic operator has changed the intended use of those used construction products or items from the intended use assigned to those construction products or items by the initial manufacturer in another way than by a reduction in terms of performance or intended uses or to mere decoration” purposes, those purposes being defined by the absence of any structural function for the construction works;
 - (c) the economic operator making the used construction products or items available on the market claims for them characteristics or the fulfilment of product requirements set out in Annex I, additional to or different from the characteristics and requirements declared pursuant to this Regulation or Regulation (EU) 305/2011 when the used construction product or item was first placed on the market;
 - (d) the used construction products or items have been subject to a transformative process going beyond repair, cleaning and regular maintenance (‘remanufactured product’);

~~(e) the economic operator making the used construction products or item available on the market opts for the application of this Regulation.~~

3. This Regulation shall not apply to:

(a) lifts subject to Directive 2014/33/EU of the European Parliament and of the Council¹¹, escalators and their components;

~~(b) boilers, pipes, tanks and ancillaries and other products intended to be in contact with water for human consumption;~~(c) ~~systems treating waste water;~~

(d) sanitary appliances;

~~(e) traffic signalling products.~~

(f) performance assessment and requirements subject to Directive (EU) 2020/2184 of the European Parliament and of the Council and covered by the delegated acts of Commission referred to in Article 11(8) of this Directive;

4. ~~This Regulation also shall also apply to 3D-printing services of construction products and of items covered by this Regulation. 3D-printing services include renting out of 3D-printing machines that could be used for construction products and items covered by this Regulation.~~

4a. This Regulation shall also apply to **establishes obligations for economic operators and online marketplaces providing** services linked to:

- ~~– the manufacturing and commercialisation of construction products and or items covered by this Regulation, and~~
- ~~– to the de-installing, preparation for re-use, remanufacturing and dealing with used construction products or items covered by this Regulation.~~

¹¹ 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).

Article 2a

Application of the regulation in the outermost regions

~~5. Member States may exempt from the application of this Regulation construction products and items covered by this Regulation that are placed on the market or directly installed in the outermost regions of the European Union in the meaning of Article 349 of the Treaty on the Functioning of the European Union. Member States shall notify to the European Commission and to the other Member States the regulations providing such exemptions. They shall ensure that exempted construction products or items do not bear the CE marking in accordance with Article 16. Construction~~
Products or items placed on the market or directly installed on the basis of such exemption shall not be deemed to be placed on the market or directly installed in the Union in the meaning of this Regulation.

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 its packaging and instructions for use, or a kit or assembly~~ combining such items, that is placed on the market ~~or produced~~ for incorporation in a permanent manner in construction works or parts thereof ~~within the Union~~, with the exception of items necessarily first integrated into an ~~assembly, kit or~~ another construction product prior to being incorporated in a permanent manner in construction works;
- (2) ‘permanent’ means ~~for a duration of two years or longer~~ intended to remain in the construction work or parts thereof after the completion of the construction or renovation process;

- (3) ‘product’ means a construction product or other item covered by **falling within the scope of** this Regulation ~~in accordance with~~ **as set out in** Article 2(1) to (3);
- (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) ~~‘direct installation’ means the installation of a product into a construction work of a client without prior making available on the market or the installation of a one family house covered by this Regulation, regardless whether in the framework of providing a service or not;~~
- (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 as set out in Annex ~~I-A Part A Point 1~~ **or and those** which ~~have been~~ **are** listed **as predetermined environmental characteristics** in Annex ~~I-A Part A Point 2~~;
- (8) **‘inherent** product requirements’ means a ~~threshold level or another~~ characteristic with which a product has to comply **with** before it can be placed on the market ~~or installed directly, including those requirements relating to labelling and instructions for use or other information to be provided;~~

- (9) ‘economic operator’ means the manufacturer, the authorised representative, the importer, the distributor **and**, the fulfilment service provider, ~~the 3D printing service provider, manufacturer, importer or distributor of materials intended for 3D printing of products, online seller, the broker, the supplier, the service provider, the own-brand labeller or any other natural or legal person, other than authorities, notified bodies, technical assessment bodies and product contact points for construction who is subject to this Regulation in relation to the manufacturing, de-installation for re-use, re-manufacturing or repackaging of products, or making those products available on the market or installing those products directly in accordance with this Regulation, and economic operators as defined in Article 3, point (13) of Regulation (EU) 2019/1020 of the European Parliament and of the Council;~~
- (10) ~~‘3D printing service provider’ means any natural or legal person offering, in the course of a commercial activity, one of the following services: renting or leasing out 3D printers, printing out 3D printing datasets, or brokering one of these services, regardless of whether the printing material is provided by that person or not;~~
- (11) ~~‘materials intended for 3D printing of products’ means any material intended for the 3D printing of products for which the respective economic operators have not explicitly and consistently excluded the use as materials for 3D printing;~~
- (12) ‘manufacturer’ means a manufacturer as defined in Article 3, point (8), of Regulation (EU) 2019/1020¹²;
- (13) ~~‘3D datasets’ means a set of numerical data describing the shape of an object by its outer dimensions and its cavities in view of permitting the 3D printing of that object;~~

¹² 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).

- (14) ‘construction works’ means buildings and civil engineering works that may both be 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, water ways, and installations which are the basis for rails of railways, but excluding wind mills, oil platforms or chemical plants, industry manufacturing installations, agricultural installations, electricity generation installations, military installations, whilst their shelters may be buildings;
- (15) ~~‘buildings’ means facilities, other than containers, giving shelter to humans, animals or objects, which either are permanently fixed to the ground or can only be transported by the help of special equipment whilst having a surface floor space of at least 20m² on one or several levels;~~
- (16) ‘level’ means the result of the assessment of the performance of a product in relation to its essential characteristics, expressed as a numerical value;
- (17) ‘class’ means a range of levels, delimited by a minimum and a maximum value, of performance of a product;
- (18) ‘threshold level’ means a ~~mandatory~~ minimum or maximum performance level of a product with regard to a certain essential characteristic;
- (19) ‘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** where any of the conditions of Article 2(2) are fulfilled or of a ~~remanufactured product~~;

- (20) 'key part' means a part which is intended by the manufacturer of a product or another economic operator to be used as **a** component or spare part for a **construction** product and ~~that~~ **which** has been specified by **a** harmonised technical specifications as essential for the characterisation, safety or performance of a **construction** product;
- (21) 'kit' means a **construction** 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 **construction** product itself, intended to be incorporated together in construction works;
- (22) ~~'assembly' means a set of at least two separate items, one of which is a product;~~
- (23) 'European assessment document' means a document adopted by the organisation of technical assessment bodies for the purposes of issuing European technical assessments;
- (24) 'used product' means a product that is not waste **or has ceased to be waste in accordance with** as defined in Article 3, point (1), of Directive 2008/98/EC of the European Parliament and of the Council, and which has been installed at least once into a construction work, and that:
- (a) ~~has not been subject to a process going beyond repair, cleaning or regular maintenance, as specified by the original manufacturer in its instructions for use or acknowledged to be necessary according to common civil engineering knowledge;~~
 - (b) has not undergone a process going beyond **checking** repair, cleaning and regular maintenance or 'preparing for re-use' **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** ~~in the meaning of Article 3, point (16) of Directive 2008/98/EC after being de-installed; **or**~~

(c) 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;

(24a) 'intended use' means the purpose of a product as defined in the applicable harmonised technical specifications or European assessment documents.

(25) '**declared** intended 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, whilst usages mentioned only in one of these are already part of the '**declared** intended use';

(26) 'repair' means the process of returning a faulty product to a condition where it can fulfil its **declared** intended use;

(27) 'maintenance' means an action carried out to retain a product in a condition where it is able to function as required;

~~(28) 'remastered product' means a product that is not waste as defined in Article 3, point (1), of Directive 2008/98/EC, but that has been installed at least once into a construction work, and that has been subject to a transformative process going beyond repair, cleaning and regular maintenance;~~

(29) 'risk' means risk as defined in Article 3, point (18), of Regulation (EU) 2019/1020;

~~(30) 'preparing for re-use' means checking, cleaning or repairing retrieval operations, by which products or components of products are prepared so that they can be re-used without any other pre-processing;~~

- (31) ‘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, produced in a specific production process using a given combination of raw materials or components, whilst identical ~~items~~ **products** of different manufacturers also belong to different product types;
- (32) ‘state of the art’ means a way to achieve a certain goal which is either the most effective and advanced or close to it ~~and thus above the average of ways which can be chosen~~;
- (33) ‘recycling’ means recycling as defined in Article 3, point (17), of Directive 2008/98/EC;
- (34) ‘fulfilment service provider’ means a fulfilment service provider as defined in Article 3, point (11), of Regulation (EU) 2019/1020;
- (35) ‘product family’ means all product types belonging to **one of the families** ~~product areas~~ listed in Annex IV, ~~Table 1~~;
- (36) ‘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;
- (37) ‘factory production control’ means the documented, ~~permanent~~ **continuous** and internal production control in a factory with regard to certain parameters or quality aspects, reflecting the specificities of a respective product family or **category** ~~a group~~ and manufacturing processes, and which aim at the constancy of performance or of continuous fulfilment of product requirements, executed in accordance with Annex V;
- (38) ~~‘harmonised zone’ means the sphere jointly covered by this Regulation, the harmonised technical specifications, and the Commission acts of general applicability adopted pursuant this Regulation;~~

- (39) ~~‘Union law’ means the TEU, the TFEU, general principles of law, acts of general applicability referred to in the second, third and fourth paragraph of Article 288 TFEU and any international agreements to which the Union is party or the Union and its Member States are parties;~~
- (40) ‘importer’ means an importer as defined in Article 3, point (9), of Regulation (EU) 2019/1020;
- (41) ‘distributor’ means a distributor as defined in Article 3, point (10), of Regulation (EU) 2019/1020;
- (41a) authorised representative’ means any natural or legal person established in the Union who has received a written mandate from the manufacturer to act on its behalf in relation to specified tasks with regard to the manufacturer’s obligations under this Regulation;**
- (42) ‘individually manufactured’ means that, due to the specifications of the client, there is a variation in terms of manufacturing method when compared with all other products produced for other clients by the economic operator in question;
- (43) ~~‘micro-enterprise’ means a micro-enterprise as referred to in the Annex to Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises;~~
- (44) ‘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.
- (45) ‘permalink’ means an internet link to a website which is stable both for its content and the address (“URL”);

- (46) ‘harmonised technical specifications’ means construction products **performance** standards **which** established in accordance with Article 4(2d) the reference of which has **have** been published in the Official Journal in accordance with Article 34 and thereby were rendered mandatory for **the** purposes of **the** application of this Regulation, and **as well as** delegated **or implementing** acts adopted in accordance with Article 4a(1), (2) and (3) and (4), or Article 5(2) **or Article 6(1)** 22(4) that contain technical prescriptions;
- (46a) ‘harmonised standard’ means a standard as defined in Article 2(1), point (c) of Regulation (EU) No 1025/2012;**
- (47) ‘construction products **performance** standard’ means a **harmonised** standard adopted by a European standardisation organisation on the basis of a request made by the Commission for the application of this Regulation the reference of which has been published in the Official Journal in accordance with Article 34, regardless of whether the use of such standard is **laying down methods and criteria for assessing the performance of a product in relation to its essential characteristics** rendered mandatory for purposes of application under this Regulation in accordance with **as set out in** Article 4(2) and Article 34(2) or whether they stay voluntary in accordance with Article 5(2), Article 22(4) and Article 34(3);
- (48) ‘double use product’ means a product that is, by its manufacturer, intended to be used as product and as an item with another intended use that would fall outside of the scope of this Regulation if it had only that other intended use;
- (49) ‘European standardisation organisation’ means a European standardisation organisation as defined in Article 2(8), of Regulation (EU) 1025/2012;

- (50) ‘European technical assessment’ (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;
- (51) ~~‘full-time equivalence’ means the work-power of one person employed full-time as defined by the Member State concerned or the work-power of several persons employed part-time working together the same number of hours per day or week;~~
- (52) ‘non-series process’ means a process that is neither prevalingly automated or produced using assembly-line techniques, nor repeated more than 100 times per year by the economic operator in question or the economic operators belonging to the same group of companies, defined by a common controlling natural or legal person, or the same organisational structure;
- (53) ‘withdrawal’ means withdrawal as defined in Article 3, point (23), of Regulation (EU) No 2019/1020;
- (54) ‘recall’ means ~~withdrawal~~ **recall** as defined in Article 3, point (22), of Regulation (EU) No 2019/1020;
- (55) ‘online marketplace’ means a provider of an intermediary service using software, including a website, part of a website or an application, that allows customers to conclude distance contracts with economic operators for the sale of products;
- (56) ‘online interface’ means online interface as defined in Article 3, point (15), of Regulation (EU) 2019/1020;
- (57) ~~‘broker’ means any natural or legal person providing an intermediation service for the placing on the market or direct installation of products;~~

- (58) ~~‘own brand labeller’ means any natural or legal person other than the manufacturer who wishes to sell a product as his own and therefore affixes his name, trade mark or label in addition to the mandatory inscriptions of other economic operators;~~
- (59) ~~‘supplier’ means any natural or legal person providing raw materials or interim products to manufacturers or to other persons providing raw materials or interim products to manufacturers;~~
- (60) ~~‘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 their design;~~
- (61) ‘accreditation’ means ‘accreditation’ as defined in Article 2(10), of Regulation (EC) No 765/2008;
- (62) ‘market surveillance authority’ means an authority as defined in Article 3, point (4), of Regulation (EU) 2019/1020;
- (63) ‘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,** ~~over manufacturing, de-installation, possibly reuse with or without prior remanufacturing to final disposal;~~
- (64) ‘reuse’ means any operation by which a product ~~or its components~~, having reached the end of their first use, ~~are~~ **is used again as a construction product or as part of a construction product** ~~for the same purpose for which they were conceived;~~
- (65) ~~‘competent authority’ means the market surveillance authority designated in accordance with Article 69(1);~~

- (66) ‘national competent authority **single liaison point**’ means the market surveillance authority designated in accordance with Article 69(2) **as focal point for contacts with the Commission and market surveillance authorities of other Member States on construction product related issues**;
- (66a) ‘notified body’ means a conformity assessment body, notified in accordance with Article 47, that is authorised to carry out assessment and verification tasks under this Regulation.**
- (67) ‘notifying authority’ means the single public administration **body, designated in accordance with Article 48**, in charge of the designation **notification** and supervision of notified bodies, ~~designated in accordance with Article 48, unless specified otherwise in the respective provision: only in the Member State where the respective notified body is located;~~
- (67a) ‘technical assessment body’ (TAB) means a body, designated in accordance with Article 44, that issues European technical assessments on the basis of European Assessment Documents;**
- (68) ‘designating authority’ means the single public administration **body, designated in accordance with Article 43**, in charge of the designation and supervision of ~~Technical Assessment Bodies, designated in accordance with Article 43, unless specified otherwise in the respective provision: only in the a Member State where the respective technical assessment body is located;~~
- (69) ‘authority’ ~~means the European Commission, its agencies, and any notifying authority, designating authority or market surveillance authority, unless specified otherwise in the respective provision: regardless of in which Member State it is located;~~

- (70) ‘product presenting a risk’ means a product that, whenever during its entire life-cycle and even when created indirectly, 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;
- (71) ‘product presenting a serious risk’ means a product presenting a serious risk as defined in Article 3, point (20), of Regulation (EU) 2019/1020.

Article 3a

Preparatory phase for the development of harmonised technical specifications

- 1. The Commission shall establish an expert group composed of experts designated by the Member States (‘the CPR Acquis Expert Group’) to support the Commission in the task of processing Member State requests for EU harmonisation through harmonised technical specifications.**
- 2. The Commission shall, after consultations with the CPR Acquis Expert Group, establish a work plan for the development of harmonised technical specifications for product families listed in Annex IV and update it at least every three years. The Commission shall set the priorities of the work plan on the basis of inputs from Member States using a transparent and balanced methodology published together with the work plan.**
- 3. Following the work 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, performance classes or product requirements that they deem necessary.**

- 4. On the basis of the basic requirements for construction works set out in Annex I-A, Point 1 and taking into account the regulatory needs communicated by Member States in accordance with paragraph 3, the CPR Acquis Expert Group shall identify the relevant technical aspects needed to prepare standardisation requests, including the essential characteristics relevant to the products. These essential characteristics together with the list of predetermined environmental characteristics set out in Annex I-A, Point 2, shall constitute the basis for the preparation of the standardisation requests referred to in Article 4(2a) and the implementing acts referred to in Article 4a(1).**
- 5. The Commission shall ensure that essential characteristics shall be covered by harmonised technical specifications to the extent that the development of such specifications is technically and economically proportionate.**
- 5a. The CPR Acquis Expert Group shall be consulted on the preparation of inherent product requirements in accordance with Article 5 as well as on the development of other harmonised technical specifications and on whether used products should be covered by or excluded from a standardisation request or any harmonised technical specification. The CPR Acquis Expert Group shall, as a matter of urgency, be consulted on notifications from Member States according to Article 7(4).**
- 6. The Commission is empowered to adopt delegated acts in accordance with Article 87 to amend:**
- (a) the list of predetermined environmental characteristics set out in Annex I-A, Point 2 in order to adapt it to new environmental risks;**
- (b) the table of product families listed in Annex IV to adapt it to technical progress and Member States regulatory needs.**

Article 4

Construction product performance standards laying down essential characteristics of products

1. The basic requirements for construction works, set out in Annex I Part A Point 1 shall constitute the basis for the preparation of standardisation requests and harmonised technical specifications.
2. The essential characteristics specified in accordance with paragraph 1 or listed in Annex I Part A Point 2 and ~~the~~ **the methods and the criteria for their assessment the performance of a product in relation to its essential characteristics** shall be laid down in **mandatory construction product performance** standards which are rendered mandatory for purposes of application of this Regulation. **These performance standards shall, where appropriate and without endangering the accuracy, reliability or stability of the results, provide methods less onerous than testing for assessing the performance of the products in relation to their essential characteristics.** The essential characteristics of products shall be identified in view of the basic requirements for construction works, taking account of the regulatory needs of Member States.
 - 2a.** The Commission ~~may~~ **shall**, issue standardisation requests in accordance with Article 10 of Regulation (EU) 1025/2012, **request one or more European standardisation organisations to draft performance 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 ~~corner stones~~ **reference points** for the establishment of these essential characteristics and their assessment methods. **The standardisation request shall be explicit about whether it covers or excludes used products from the scope of the request.**

2b. ~~The respective standardisation requests~~ **referred to in paragraph 2a the Commission** may also ~~include~~ a request that the European standardisation organisation **proposes** determine in the standards referred to in the first subparagraph the **one or more of the following elements:**

- i) voluntary or mandatory threshold levels **in relation to the essential characteristics,**
and
- ii) classes of performance in relation to the essential characteristics, and
- iii) **those** ~~which of the essential characteristics~~ **which** ~~may or~~ **always** shall **have to** be declared by manufacturers,
- iv) **technical details necessary for the implementation of the assessment and verification system that is to be applied in accordance with delegated acts adopted under Article 6(1), or**
- v) **non-binding elements as referred to in Annex I-D, point 3a.**

In that case, the **standardisation request** ~~Commission~~ shall **set out** ~~lay down~~ the basic principles and ~~corner stones~~ **reference points** for the establishment of the ~~threshold levels, classes, and mandatory characteristics in the standardisation~~ **elements** requested **in accordance with the first subparagraph.**

2c. The Commission shall ~~verify that the basic principles and corner stones, and the~~ **assess the compliance of performance standards with the relevant standardisation requests, with this Regulation and with other** Union law, **including general principles of law** ~~are respected in the standards prior to publishing the reference thereof in the Official Journal in accordance with Article 34.~~ **The Commission may assess the compliance of performance standards with other performance standards or harmonised standards, the reference of which has been published in the Official Journal.**

2d. Where a performance standard is in conformity with applicable legal requirements and satisfies the demands to be met in relation to the basic principles and reference points set out in the standardisation request as well as to the essential characteristics to be covered in view of the basic requirements for construction works, the Commission shall without delay publish a reference of that standard in the Official Journal of the European Union. One year after such publication the respective performance standard shall become mandatory to apply for the purposes of this Regulation unless a later application date has been specified as part of the publication of the reference in the Official Journal. A performance standard may however be voluntarily applied as from the date of its publication.

Where a reference to a performance standard cannot be published in the Official Journal, the Commission may publish such a reference with restrictions. Where a reference to a performance standard cannot be published in the Official Journal and cannot be published as a reference with restrictions, the Commission shall bring the issue to the attention of the CPR Acquis Expert Group.

2f. When a Member State or the Commission, the latter on the advice of the CPR Acquis Expert Group established under article 3a, considers that a performance standard 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, the procedure for formal objections to harmonised standards as set out in Article 11 of Regulation (EU) No 1025/2012 shall apply.

2g. The Commission is empowered to amend Annex I-D by means of delegated acts in accordance with Article 87 in order to adapt it to technical progress and new information needs.

Article 4a

Other harmonised technical specifications laying down essential characteristics

31. By way of derogation from Article 4 ~~paragraph 2~~ and in order to cover the regulatory needs of Member States and to pursue the goals of Article 114 of the Treaty on the Functioning of the European Union, the Commission is empowered to ~~supplement this Regulation by means of delegated acts in accordance with Article 87, by establishing, for particular product families and categories,~~ **adopt implementing acts laying down** ~~voluntary or mandatory essential characteristics, and their assessment methods~~ **and technical details pursuant to Article 4(2b)(iv) for one or more product families or for one or more product categories within a family, where** ~~in any of the following conditions~~ **are fulfilled** ~~eases:~~

- (b1) the Commission has requested, pursuant to Article 4(2a), one or more European standardisation organisations to draft a construction product performance standard for the essential characteristics or assessment methods in relation to that specific product family or category, and**
- (i) the request has not been accepted; or**
 - (ii) the construction product performance standard addressing that request is not delivered within the deadline set in accordance with Article 10(1) of Regulation (EU) No 1025/2012; or**
 - (iii) the construction product performance standard does not comply with the request; and**

(b2) no reference to a construction product performance standard covering the essential characteristics or assessment methods in relation to that specific product family or category of construction products is published in the Official Journal of the European Union in accordance with article 4(2d), or a referenced standard has either been subject to a formal objection in accordance with Article 4(2f), leaving that standard to have been maintained with restrictions, or been referenced for more than 8 years.

- (a) ~~there are undue delays in the adoption of certain standards referred to in the first subparagraph of Article 4(2) by the European standardisation organisations, whilst an undue delay is given where the European standardisation organisation does not submit a standard within the time frame set out in the standardisation request;~~
- (b) ~~there is an urgency for the adoption of more harmonised technical specifications that cannot be matched with standards referred to in the first subparagraph of Article 4(2) alone;~~
- (c) ~~one or more essential characteristics referring to basic work requirements set out in Annex I Part A, Point 1 or included in Annex I Part A, Point 2 are not covered by the standards referred to in the first subparagraph of Article 4(2) the references of which are already published in the Official Journal;~~
- (d) ~~the standards referred to in the first subparagraph of Article 4(2) are for other reasons considered not sufficient to cover regulatory needs of Member States or the needs of economic operators;~~
- (e) ~~the standards referred to in the first subparagraph of Article 4(2) are not in line with EU climate and environmental legislation and ambition;~~

- (f) references to standards referred to in the first subparagraph of Article 4(2) cannot be published in the Official Journal for the reasons set out in Article 34(4) or other legal reasons;
- (g) references to standards referred to in the first subparagraph of Article 4(2) have been withdrawn from the Official Journal or were published with a restriction.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 88(2). Before preparing a draft implementing act, the Commission shall inform the committee referred to in Article 22 of Regulation EU (No) 1025/2012 that it considers that the conditions in the first subparagraph are fulfilled.

In cases where an implementing act covers the same essential characteristics or assessment methods in relation to a specific product family or category as a construction product performance standard the reference to which has been published for more than 10 years, the Commission shall withdraw from the Official Journal references to that performance standard or, in case the implementing act only partially covers the performance standard, retain that performance standard with restrictions.

When a Member State considers that an implementing act adopted in accordance with this paragraph does not entirely satisfy the demands 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 by submitting a detailed explanation. The Commission shall assess that detailed explanation and, if appropriate, amend the implementing act in question.

When a reference to a construction product performance standard is published in accordance with article 4(2d), the Commission shall repeal implementing acts adopted in accordance with this paragraph, or parts thereof, which cover the same essential characteristics or assessment methods in relation to the same product families or categories.

42. In order to cover the regulatory needs of Member States and to pursue the environmental, safety and harmonisation goals of Article 114 of the Treaty on the Functioning of the European Union, cases where the Commission is ~~has~~ supplemented the standardisation request with a request for a proposal in accordance with article 4(2b), it shall be empowered to supplement this Regulation, by means of delegated acts in accordance with Article 87, by determining, for ~~particular~~ the product families or product and categories and for the elements covered by that request, the following:

- (ai) voluntary or mandatory threshold levels in relation to the essential characteristics, and
- ii) classes of performance in relation to the essential characteristics, or ~~and~~
- iii) those ~~which of the~~ essential characteristics which ~~may or~~ always shall have to be declared by manufacturers.

The Commission may, after consultations with the CPR Acquis Expert Group, deviate from the proposals of the European standardisation organisation.

Delegated acts referred to in the first subparagraph may, irrespective of any prior standardisation request but on the advice of the CPR Acquis Expert Group, also be adopted to determine the elements set out in points (i) and (ii) in relation to any of the groupings of essential characteristics of a horizontal nature listed in Annex VI.

3. 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 shall be empowered to supplement this Regulation, by means of delegated acts in accordance with Article 87, by laying down (b) conditions under which a product shall be deemed to satisfy a certain level, threshold level or to qualify for a class of performance without testing or without further testing.

5. The Commission is empowered to amend Annex ~~VI Part A~~ by means of delegated acts in accordance with Article 87 in order to adapt it to **Member States regulatory needs** ~~technical progress and to cover new risks and environmental aspects.~~

Article 5

Inherent product requirements

1. ~~All~~ **Where a products family or one or more categories of products within a product family is either** covered by **a construction product performance standard published in accordance with article 4(2d) or an implementing act adopted in accordance with article 4a(1), the Commission shall be** ~~this Regulation shall, prior to their placing on the market or direct installation, satisfy the generic, directly applicable product requirements set out in Annex I Part D and the product requirements laid down in Annex I Part B and C as specified for the respective product family or category in accordance with paragraph 2. The product requirements laid down in Annex I Part B and C are only applicable where they have been specified in accordance with paragraph 2.~~
2. ~~In order to specify the product requirements set out in Annex I Part B, C and D, the Commission is empowered to supplement this Regulation, by means of delegated acts in accordance with Article 87, by establishing inherent product requirements in accordance with Annex I-BC for that~~ **specifying, for particular product families and or categories, or for parts thereof** ~~these product requirements and by laying down the corresponding assessment methods. Once the Commission has specified these product requirements by delegated acts, it may issue standardisation requests which aim at the elaboration of voluntary harmonised standards providing presumption of conformity with these mandatory product requirements as specified by these delegated acts.~~
3. The Commission is empowered to amend Annex ~~I-BC Part B, C and D~~ by means of delegated acts in accordance with Article 87 in order to adapt it to ~~technical progress and in particular to cover new risks and environmental aspects.~~

Article 5a

Voluntary standards and common specification

- 1. 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 mandatory inherent product requirements established in accordance with Article 5(1). A product subject to those 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 inherent product requirements covered by those standards or parts thereof.**
- 2. The Commission may adopt implementing acts establishing common specifications that provide an alternative means to comply with the inherent product requirements established in accordance with Article 5(1).**

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

- (a) the Commission has requested, pursuant to paragraph 1, one or more European standardisation organisations to draft a harmonised standard for the inherent product requirements and:**

 - (i) the request has not been accepted; or**
 - (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 inherent 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 88(2).

- 3. Before preparing the draft implementing act referred to in paragraph 2, 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 2 have been fulfilled.**
- 4. When preparing the draft implementing act referred to in paragraph 2, the Commission shall take into account the views of the CPR acquis expert group and shall duly consult all relevant stakeholders.**
- 5. A product which is in conformity with the common specifications established by implementing acts referred to in paragraph 2, or parts thereof, shall be presumed to be in conformity with the inherent product requirements established in accordance with Article 5(1) covered by those common specifications or parts thereof.**
- 6. Where a harmonised standard 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. When reference of a harmonised standard is published in the Official Journal of the European Union, the Commission shall repeal the implementing acts referred to in paragraph 2, or parts thereof which cover the same inherent product requirements as those covered by that harmonised standard.**

- 7. When a Member State considers that a common specification does not entirely satisfy the inherent product requirements established in accordance with Article 5(1), it shall inform the Commission thereof by submitting a detailed explanation. The Commission shall assess that detailed explanation and, if appropriate, amend the implementing act establishing the common specification in question.**

Article 6

Assessment and verification systems ~~and their product specific modalities~~

- 0+. Assessment and verification of a product's constancy of performance in relation to its essential characteristics as set out in harmonised technical specifications adopted in accordance with Articles 4 and 4a or European assessment documents referred to in Article 7a, or of its conformity with product requirements adopted in accordance with Article 5, shall be carried out in accordance with one or more of the systems set out in Annex V.**

- 1.** ~~In order to apply a tailor-made approach and to minimise the potential burden on manufacturers whilst ensuring a high level of protection of health, safety and the environment,~~ **†** The Commission is empowered to supplement this Regulation, by means of delegated acts in accordance with Article 87, by determining for each product family or category the applicable assessment and verification system among those set out in Annex V. It may also determine different assessment and verification systems to the same product family or category when differentiating by essential characteristic or product requirement.

Delegated acts adopted in accordance with the first subparagraph shall take into account a product's sensitivity to performance variations under different production conditions, the susceptibility to errors during its manufacturing and the possibility of easily detecting manufacturing errors. They shall apply a tailor-made approach for the respective product families or categories and minimise the potential burden on manufacturers whilst ensuring a high level of protection of health, safety and the environment.

2. In order to facilitate and to harmonise the application of the requirements or obligations contained in Annex V, the Commission is empowered to supplement this Regulation, by means of delegated acts in accordance with Article 87, by specifying these requirements and obligations for a given product family or category.
3. In order to counter systematic non-compliances of notified bodies or manufacturers, **to enable the assessment and verification of used products**, or in view of adaptation to technical progress, the Commission is empowered to **adopt** amend this Regulation, by means of delegated acts in accordance with Article 87; **in order to** by **amend Annex V to** introducing additional assessment **and** or verification steps in the systems of Annex V. **Such systems may only be introduced when it is evident that guidance on the application of existing systems has proved insufficient. Additional systems may not set out more demanding obligations for economic operators than prescribed for in System 1+.**

Article 7

Harmonised zone and national measures

1. **This Regulation, and the harmonised technical specifications adopted in accordance with it, jointly establish a harmonised zone.** The harmonised zone **covers all products subject to harmonised technical specifications as referred to in Article 4(2d) and 4a(1).**

Harmonised technical specifications shall be presumed to be comprehensive, **in**

- (a) **laying down** covering all potential **essential characteristics and their assessment methods**,
- (b) **specifying all inherent product** requirements for products other than those covered by other Union law, **and**

(c) determining the applicable assessment and verification systems.

Used products, which were previously placed on the Union market, are only covered by a harmonised technical specification where explicitly provided for in that specification.

2. Member States shall respect the harmonised zone in their national laws, **regulations** ~~other rules or administrative~~ **measures** ~~action~~ and shall not set additional requirements for **prohibit or impede the making available of** products covered by it **when they 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.

- 2a.** ~~They~~ When complying with the obligations provided for in paragraph 2, Member states shall in particular apply the following in relation to products covered by the harmonised zone:

- (a) no **requirements for** information; **or** registration **of the product** ~~or other requirements~~ 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;
- (e) ~~unless otherwise specified in accordance with Article 5(3), national law, other rules or administrative action shall not duplicate or go beyond product requirements specified in accordance with Article 5 or the threshold levels established in accordance with Article 4(4);~~
- (d) ~~national law, other rules or administrative action shall not require more assessments and verifications than those set out in Annex V and shall not extend the scope of the assessments and verifications of Annex V;~~
- (d1) no markings attesting 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 requiring such markings in national measures shall be withdrawn;**
- (e) national laws, **regulations** ~~other rules or administrative~~ **measures** ~~action~~ shall replicate and not request more or less than what has been required by **respect the** threshold levels established in accordance with Article 4a(4);
- (f) national laws, **regulations** ~~other rules or administrative~~ **measures** ~~action~~ shall not be based on classes, sub-classes or additional classes other than those established in accordance with Article 4a(4);
- (g) ~~where assessment methods have been established in accordance with Article 4(2) or in Article 5(2), national laws, other rules or administrative~~ **regulations** ~~other rules or administrative~~ **measures** ~~action~~ shall, both for construction works and in relation to the characteristics of or requirements for products, not refer to other **shall** assessment methods **not require more assessments and verifications than those established in accordance with Article 6(1)** or modify or complement these assessment methods or select just a part thereof.

~~This paragraph shall also apply to public tenders or direct attributions of contracts where those public tenders or direct attributions are executed under direct or indirect control of public entities or are executed with reference to public provisions on public tenders or direct attribution of contracts. This paragraph shall also apply to grants or other positive incentives with the exception of fiscal incentives. However, harmonised technical specifications may permit or recommend Member States to link the decisions on the attribution of public tenders, of contracts or of grants or other positive incentives to subclasses or additional classes other than those established in accordance with Article 4(4) where these still relate to environmental performances assessed in accordance with these harmonised technical specifications.~~

- ~~3. Member States shall communicate to the other Member States and to the Commission the essential characteristics they require for each product family or category, the respective product requirements and the assessment methods they apply. They shall refer to these essential characteristics, requirements and assessment methods proactively in all fora and on all occasions relevant for the elaboration of harmonised technical specifications. Fora elaborating harmonised technical specifications shall take note of these essential characteristics, requirements and assessment methods. The essential characteristics shall be covered by harmonised technical specifications to the extent.~~

4. Where a Member State deems it necessary, ~~on imperative grounds of health, safety or protection of the environment, including climate, to establish requirements by regulation or to take administrative measures~~ **applicable to products within the harmonised zone in relation to characteristics not laid down in harmonised technical specifications of paragraph 2 in order to address immediate regulatory needs that cannot be addressed expeditiously through the ordinary process for developing harmonised technical specifications**, it shall notify the Commission thereof, justifying the need for the ~~procedural obligations established and explain the regulatory need it aims to address and provide evidence both for the existence of the regulatory need and the lack of coverage by the harmonised zone and other Union law.~~ Member States shall to that end use the notification procedure under Directive (EU) 2015/1535 **while making reference to this paragraph and specifying which elements are part of the measure**, where applicable.

The Commission shall reply to the notification within the time limits established in procedure set up under Directive (EU) 2015/1535. The Commission shall within six months of the notification either put forward a proposal for authorisation in accordance with paragraph 5 or communicate its grounds for rejecting the national measure.

Upon receipt of a notification in the first paragraph, the Commission shall, irrespective of whether the measure may be authorised or not, without delay submit the matter to the CPR Acquis Expert Group established in accordance with Article 3a for consultations on whether updates to existing construction product performance standards need to be requested as a priority.

5. The Commission shall, by means of implementing acts, authorise the national measure notified under paragraph 4 where:

- (a) ~~it ascertains that the~~ **notified** ~~regulation or administrative measure~~ appears duly justified in the light of imperative grounds of health, safety or protection of the environment, **including climate** ~~referred to in paragraph 4;~~

- (b) the regulatory need is not covered by the harmonised **technical specifications** zone or by other Union law;
- (c) the notified ~~regulation or administrative~~ measure does not discriminate against economic operators of other Member States;
- (d) the notified ~~regulation or administrative~~ measure is able to cover the respective regulatory need; **and**
- (e) the notified ~~regulation or administrative~~ measure does not constitute a **serious** ~~disproportionally large~~ obstacle to the functioning of the Union market; **and**
- (f) ~~the Commission does not indicate by a letter of intent addressed to the Member States its intention to publish or cite, within one year as from the date of notification in accordance with paragraph 4, in the Official Journal the harmonised technical specification or to adopt an act of general applicability covering the respective need.~~

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 88(2) **and be withdrawn when 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 88(3).

6. ~~Member States shall register all their national regulation, and administrative measures directly or indirectly influencing the usability of products on their territory, into the Single Digital Gateway.~~

7. This Regulation does not ~~hinder~~ **affect the possibilities for** Member States to introduce mandatory deposit-refund systems; **or** to oblige manufacturers to ~~take back used or not used products~~ **accept to regain,** directly or via their importers and distributors **ownership of new, surplus or unsold products that are in a state equivalent to the one in which they were placed on the market** and ~~to establish obligations regarding the collection and the treatment of products for waste,~~ provided that all of the following is complied with:
- (a) ~~the owner of the product, whilst having a choice amongst the manufacturer, the importer or the distributor as addressee, is in charge of the transport back to the distributor, importer or manufacturer;~~
 - (b) ~~economic operators in other Member States are not otherwise directly or indirectly discriminated.~~
8. **This Regulation does not affect the possibilities for** Member States ~~may~~ **to** ban the destruction of products ~~taken back in accordance with Article 22(2), point (j) and Article 26~~ or **to** make the destruction of these products dependent on their prior making available on a national brokering platform for non-commercial use of products.

Article 7a

European assessment documents

1. When a product is not covered by Construction Product Performance Standards as referred to in Article 4 or implementing acts referred to in Article 4a(1), the methods and criteria for assessing the performance of that product in relation to its essential characteristics can be laid down in European assessment documents. This provision also applies to used products.

European assessment documents constitute the basis for European technical assessments as set out in Article 42.

2. The organisation of TABs may, in agreement with the Commission, 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, draw up and adopt a European assessment document. The basic requirements for construction works, set out in Annex I-A Point 1, and the list of predetermined environmental characteristics, set out in Annex I-A Point 2, 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 procedure set out in Article 36.

3. A product shall not be considered as covered by harmonised technical specifications as referred to in paragraph 1 when:

- (i) the declared use of the product falls outside of the scope of the intended use set out in the harmonised technical specification,**
- (ii) the materials used are not identical to the materials intended to be used under the harmonised technical specification, or**

(iii) the assessment method of the harmonised technical specification is not appropriate for that product.

4. European assessment documents shall not be drawn up in relation to an essential characteristic or assessment method of 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 has been submitted to the Commission for assessment in accordance with Article 38(1).

The organisation of TABs and the Commission may merge or reject requests for the development of a European assessment document in accordance with the provisions of Annex III, Point 5.

5. The organisation of TABs shall withdraw a European assessment document for a specific product when a harmonised technical specification covering the same product and the same intended use has entered into force.

Article 8

Relationship with other Union law

To avoid double assessment of **the same aspects of health, safety or protection of the environment of** products, the Commission is empowered to supplement this Regulation by delegated acts adopted in accordance with Article 87 by determining the conditions under which ~~the fulfilment of obligations under other Union law also fulfils certain 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, ~~where otherwise the same aspect of health, safety or protection of the environment would be assessed in parallel~~ **satisfied by the fulfilment of obligations** under **one or more of the legal acts listed in Annex Va** this Regulation and 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.

CHAPTER II

PROCEDURE, DECLARATIONS AND MARKINGS

Article 9

Declaration of performance and conformity

1. Where a product is covered by a harmonised technical specification adopted in accordance with Articles 4(2) or 4a(3), the manufacturer shall undergo the applicable assessment and verification system set out in Annex V 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 5, the manufacturer shall also verify the product's compliance with applicable product requirements that have been specified by delegated acts.**

A 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. Where a product is covered by a harmonised technical specification, information about its performance in relation to the essential characteristics laid down in the applicable harmonised technical specification may be provided elsewhere than in the declaration of performance only if in parallel provided in the declaration of performance. This obligation shall not apply to situations where, in accordance with Article 10, no declaration of performance has been drawn up.~~

3. By drawing up the declaration of performance **and conformity**, the manufacturer assumes responsibility for the conformity of the product with such **its** declared performance **and any applicable product requirements** and becomes liable in accordance with Union and national laws on contractual and extra-contractual liability, and this even where it did not act negligently. In the absence of objective indications to the contrary, Member States shall presume the declaration of performance **and conformity** drawn up by the manufacturer to be accurate and reliable.

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

Article 10

Exemptions from drawing up a declaration of performance and conformity

1. By way of derogation from Article 9(1), a manufacturer may refrain from **undergoing 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 ~~placing a product covered by a harmonised technical specification on the market where~~ any of the following applies:
- (a) the product is, ~~otherwise than by 3D printing or already existing moulds,~~ individually manufactured or custom-made in a non-series process in response to a specific order, and 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 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; **or**
 - (b) ~~the product is otherwise than by 3D printing or already existing moulds manufactured on the construction site, in a non-series process for its incorporation in the respective construction work 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; or~~
 - (c) 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.**

2. ~~A Member State may exempt from Article 9(1) remanufactured products based on products which remain safe after remanufacturing provided that it ensures that the product does not circulate outside the territory of that Member State.~~
3. ~~A Member State may exempt from Article 9(1) parts of construction works other than products that are prepared for re-use or remanufactured provided that the part does not circulate outside the territory of that Member State.~~
4. ~~A Member State may exempt from Article 9(1) products where all of the following applies:~~
 - (a) ~~the manufacturer is a micro-enterprise without belonging to a family of companies or other commercial organisation, including networks, able to determine or organise the manufacturer's activities;~~
 - (b) ~~the manufacturer uses exclusively or in essence components or materials with commonly known stable characteristics or products which have been voluntarily subject to this Regulation and, in all instances, the characteristics of the product depend in essence on the characteristics of these components or materials;~~
 - (c) ~~the product does not circulate outside the territory of that Member State.~~

Content of the declaration of performance and conformity

1. 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 5 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 be drawn up using the model set out in Annex II ~~without the section relating to conformity~~. The declaration of performance **and conformity** shall at least cover the **a product's performance over its life-cycle with in** regard to the ~~mandatory~~ essential characteristics **of climate change effects** listed **as mandatory** in Annex I-A Part A Point 2, **as well as those** essential characteristics **rendered** mandatory by virtue of ~~harmonised technical specifications or delegated acts~~ adopted in accordance with Article 4a(23), and the assessment of environmental sustainability referred to in Article 22(1).

- 2a. 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 I-A Point 2 for those characteristics that are declared. The performance shall include the packaging used or most likely to be used and be calculated using the latest version of the software made freely available on the website of the European Commission.**

2b. No other marking than the CE marking may be placed on the declaration of performance and conformity.

3. The Commission is empowered to amend the model set out in Annex II by delegated acts adopted in accordance with Article 87 to ~~permit the inclusion of further information in order to allow economic operators to cover~~ **adapt it to technical progress as regards** new information needs, **use of harmonised data structures and open exchange formats, and to ensure interoperability with the database or system according to Article 78.**
4. The information **included in section 3 of the safety data sheet** referred to in Article 31 or, as the **presence of substances as referred to** ~~ease may be,~~ in Article 33 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council¹³ shall be provided **in or** together with the declaration of performance **and conformity.**

Article 12

Modified declaration of performance for used, remanufactured and surplus products

- ~~1. Where a declaration of performance, issued by the initial manufacturer or another economic operator pursuant to this Regulation or Regulation (EU) 305/2011, is available for a used product, the new declaration of performance may, in derogation from Article 11(1), refer to the initial declaration of performance in relation to the characteristics declared therein if:~~
- ~~(a) the intended use is not changed otherwise than by reduction in terms of performance or intended uses or to merely decorative purposes;~~

¹³ 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.).

- (b) the lifespan of the initial product or the relevant durability performance has been specified in the initial declaration of performance, the harmonised technical specification on which the initial declaration of performance was based, or is generally known on the basis of common civil engineering knowledge;
- (c) the time that expired after the first integration of the product into a construction work does not exceed the lifespan of the product or the relevant durability performance, whatever is shorter.

The economic operator shall attach the initial declaration of performance to the declaration of performance issued by him, whilst the latter shall be labelled “declaration of performance for used product”.

2. Where there is no declaration of performance available for a used product issued by the initial manufacturer or another economic operator pursuant to this Regulation or Regulation (EU) 305/2011, an economic operator may issue a new declaration of performance without undergoing a full procedure in accordance with this Regulation where it limits the intended use to “decoration”. Where the economic operator has used this derogation, the declaration of performance shall be labelled “declaration of performance for used product”.
3. Paragraphs 1 and 2 shall not apply where:
 - (a) the mechanical and chemical properties of the used product cannot be assumed to be stable enough anymore for the new intended use;
 - (b) health and safety of persons would be at risk due to the properties of the product;
 - (c) the product has been subject to stresses that makes it unsuitable for the new intended use; or
 - (d) such stress is not very unlikely according to the protocol established by the de-installer in accordance with Article 29 and the documentation on the conditions of a certain building (“building log-book”).

Member States shall set up requirements for de-installers and the certification to be provided in accordance with the last sentence, including on the definition of stresses that render the product unsuitable.

4. Paragraphs 1 to 3 shall also apply to remanufactured products, if the transformative process, whilst going beyond repair, cleaning or regular maintenance or preparing for re-use as defined in Article 3, point (16), of Directive 2008/98/EC after being de-installed, does not jeopardise the compliance with this Regulation or the performance of the product in relation to the relevant characteristics because, by their design, the transformative process cannot negatively influence the performance and the compliance or because the used replacement part has been assessed as equivalently performing and compliant. Where the economic operator has used this derogation, the declaration of performance shall be labelled “declaration of performance for re-manufactured product”.

5. Paragraphs 1 to 4 shall apply to all of the following:

- (a) products which have reached the user or have left the distribution chain, but were never installed and for which the initial manufacturer no longer assumes any responsibility as new product (“surplus products”);
- (b) for which the initial manufacturer refused to confirm its responsibility within one month after receiving the respective request of the economic operator wishing to make available on the market the surplus product.

Where the economic operator has used this derogation, the declaration of performance shall be labelled “declaration of performance for surplus product”.

6. Article 21(3) and Article 22(1) shall only apply to products falling under the derogations of paragraphs 1 to 5 where the economic operator making them available on the market requests their application.

Article 21(2) shall not apply to products falling under the derogations of paragraphs 1 to 5. However, the economic operators shall provide the information set out in Annex I Part D.

7. ~~Unless the economic operator opts for the application of harmonised technical specifications, the products falling under the derogations of paragraphs 1 to 5 shall be exempted from threshold levels, product requirements and applicable harmonised technical specifications.~~
8. ~~By issuing the declaration of performance, the economic operator assumes responsibility for the conformity of the product with such declared performance and becomes liable in accordance with EU and national laws on contractual and extra-contractual liability. In the absence of objective indications to the contrary, Member States shall presume the declaration of performance to be accurate and reliable.~~
9. ~~This article shall not apply to used, remanufactured or surplus products which have never been placed on the Union market or which have never been installed in the Union.~~

Article 13

Declaration of conformity

1. ~~Before placing a product on the market, the manufacturer who is not exempted from the obligation to produce a declaration of performance shall:~~
- ~~(a) verify the product's compliance with the product requirements of Annex I Part B and C to the extent that they have been specified by delegated acts in accordance with Article 5(2), and with the product requirements of Annex I Part D;~~
 - ~~(b) undergo the respective assessment and verification system set out in Annex V; and~~
 - ~~(c) draw up a declaration of conformity.~~

2. ~~The manufacturer may decide to issue a declaration of conformity in accordance with paragraph 1 even where exempted from the obligation to produce a declaration of performance.~~
3. ~~By the declaration of conformity, the manufacturer assumes responsibility for the conformity of the product with the product requirements and becomes liable in accordance with national laws on contractual and extra-contractual liability, and this even where it did not act negligently. In case of non-compliance or absence of a declaration of conformity, the product may not be made available on the market. In the absence of objective indications to the contrary, Member States shall presume the declaration of conformity drawn up by the manufacturer to be accurate and reliable.~~

Article 14

Content of the declaration of conformity

1. ~~The declaration of conformity shall express conformity of a product with product requirements referred to in Article 5(1) and (2).~~
2. ~~The manufacturer shall combine the declaration of conformity with the declaration of performance into a single declaration, to be labelled “Declaration of performance and conformity” as set out in Annex II.~~
3. ~~Article 11(2) to (4) and Article 12 shall apply with regard to the declaration of conformity.~~
4. ~~The manufacturer shall fulfil the obligations of this Article as from the first revision of the declaration of performance undertaken by the manufacturer after the date of application of harmonised technical specification, for the respective product family or category, but at the latest 3 years after that date.~~

Article 15

Supply of the declaration of performance and of the declaration of conformity

1. ~~The manufacturer **Economic operators** shall supply by electronic means a copy of the declaration of performance and of the declaration of conformity **with** of each product which is made available on the market. However, where a batch of the same product is supplied to a single user, it may be accompanied by a single copy of the declarations.~~
2. ~~Where the declaration is provided by electronic means, the manufacturer shall issue that declaration in a commonly readable, but unamendable electronic format. Alternatively, the manufacturer may use a permalink provided that the permalink and the document accessible via the permalink are unamendable. Commission Delegated Regulation (EU) No 157/2014¹⁴ shall apply under this Regulation.~~

~~The manufacturer shall supply a **A** paper copy of the declarations **shall be supplied** if the recipient requests for such paper copy.~~

3. ~~Declarations may contain permalinks to unamendable environmental product declarations or other unamendable documents containing the requested information if those documents follow the order and structure of the declarations or if a correlation table linking the order of the declarations to the order of these documents is provided together with the permalink.~~

¹⁴ ~~Commission Delegated Regulation (EU) No 157/2014 of 30 October 2013 on the conditions for making a declaration of performance on construction products available on a website; OJ L 52, 21.2.2014, p. 1.~~

4. The ~~manufacturer shall supply the declaration of performance and the declaration of conformity~~ **shall be supplied** in the language or the languages required by the Member States where ~~the manufacturer intends to make the product~~ **is placed or made available on the market**. Another economic operator **other than the manufacturer seeking to** who makes a product available **on the market** in another Member State **requiring a different language** shall ~~make available~~ **may supply** a translation of the declaration of performance and the declaration of conformity in the languages required by that Member State together with the original, ~~and shall comply with paragraphs 1 and 2.~~

Article 16

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 **only** be affixed to those products for which the manufacturer has drawn up a declaration of performance ~~or~~ **and** conformity in accordance with Articles 9 and 11 ~~to 14~~. The CE marking shall be affixed to key parts. The CE marking may not be affixed to parts **or materials intended to be used for products covered by this Regulation for which the manufacturer has opted for the application of this Regulation in accordance with article 2(1)(e)** ~~which are not key parts.~~
3. ~~If neither a declaration of performance nor a declaration of conformity has been drawn up by the manufacturer, the CE marking shall not be affixed.~~

4. By affixing or having affixed the CE marking, the economic operator indicates that it ~~takes~~ **has assumed** responsibility for the conformity of the product with the declared performance and applicable product requirements ~~of this Regulation or 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 these requirements in accordance with national law on contractual and extra-contractual liability.~~

5. The CE marking shall be the only marking which attests the performance of the product with regard to assessed essential characteristics **in accordance with this Regulation** and **as well as** the conformity of the product with this Regulation.

~~Member States shall not introduce any references or shall withdraw any references in national measures to a marking attesting conformity with requirements or the declared performance in relation to the essential characteristics covered by the harmonised zone.~~

6. ~~A Member State shall not prohibit or impede, within its territory or under its responsibility, the making available on the market or the use of products bearing the CE marking, when the declared performances correspond to the requirements for such use in that Member State.~~

~~A Member State shall not prohibit or impede, within its territory or under its responsibility, the making available on the market or the use of products bearing the CE marking, when the product conforms with product requirements set up in or by means of this Regulation, unless it is specified in the respective harmonised technical specification that the respective requirements constitute only minimum requirements.~~

7. ~~A Member State shall ensure that the use of products bearing the CE marking 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.~~

Rules and conditions for the affixing of CE marking

1. The CE marking shall be affixed visibly, legibly and indelibly to the product ~~or to a label attached to it~~. Where this is not possible or not warranted on account of the nature of the product, ~~it~~ **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 ~~it~~ **the CE-marking** was first affixed; **or, in 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 on the used product**;
 - (b) the name and the registered address ~~of the manufacturer~~, or the identifying mark allowing **easy and unambiguous** identification of the name and address, of the manufacturer ~~easily and without any ambiguity~~;
 - (c) the name and the registered address ~~of the authorised representative~~, or the identifying mark allowing **easy and unambiguous** identification of the name and address, of the authorised representative, **where available** ~~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, ~~the permalink to the manufacturer's products registration(s) in Union databases and the precise location therein where the product can be found~~;

- (e) ~~the permalink to the manufacturer's own product presentation website, if any there is any;~~
- (f) the reference ~~number~~ **code** of the declaration of performance **and conformity**; ~~and~~
- (g) the identification number of the notified body **or bodies verifying the product type and assessing the factory production control**, if applicable; **and**
- (h) a permalink to the product registration in the database or system established in accordance with Article 78, where available.**

The ~~items~~ **information** listed in points d) to f) may be replaced by a permalink to the ~~combined~~ declaration of performance and of conformity (electronic CE marking).

3. The CE marking shall be affixed before the product is placed on the market ~~or directly installed into a construction work~~. It may be subsequently followed by a pictogram or any other mark indicating a special risk or use.

Other markings and performance claims

- 1.** ~~Markings other than the CE marking, including private ones may **not** be affixed on a product only if they do not **indicate that the product's performance in relation to essential characteristics covered by applicable** or refer to harmonised technical specifications **had to be assessed in a different way than what has been laid down by this Regulation**, or to product requirements or essential characteristics or assessment methods included in the harmonised zone **This does not apply to markings which indicate conformity with legislation of third countries.**~~ **2.** ~~No **Other markings than marking set out by Union legislation** **allowed in accordance with paragraph 1** may be affixed on a product in a distance smaller than the double length **shall not impair the visibility, legibility and meaning** of the CE marking measured from any point of the CE and the other marking set out by Union law.~~

~~No other marking than the CE marking may be placed on the declaration of performance or the declaration of conformity.~~

- 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 be in compliance with the assessment method for that particular essential characteristic as laid down in the harmonised technical specification.**

- 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 elsewhere than in the declaration of performance and conformity only if in parallel provided in the declaration of performance and conformity. This obligation shall not apply to situations where, in accordance with Article 10, no declaration of performance and conformity has been drawn up.**

CHAPTER III

OBLIGATIONS AND RIGHTS OF ECONOMIC OPERATORS

Article 19

Obligations of all economic operators

- 0. The obligations of economic operators under this Chapter are only applicable in relation to products covered by a harmonised technical specification or to products CE-marked based on a European technical assessment.**
1. An economic operator shall take all necessary measures to ensure continued compliance, including of products, 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 70(1), the economic operator shall submit progress reports to that authority until that authority decides that the corrective action can be closed.~~

- ~~2. Where diverging statements of non-compliance of an economic operator or of a product and requests for corrective action emanate from authorities of different Member States, an economic operator shall take differentiated measures, subject to where the products are intended to be made available on the market or directly installed. Where this is not possible or where a more severe measure imposed by one Member State encompasses the less severe measure imposed by another, the more severe measure shall be taken. Where these rules do not lead to a clear result, the Member States concerned and the Commission, and, on their request, other Member States shall try to find a common solution and, if need is, adopt an implementing act in accordance with Article 33.~~
3. An economic operator shall, on request of an **market surveillance** authority, ~~communicate~~ **identify** any economic operator or other actor to that authority:
- (a) ~~who has supplied it with a product, including components or replacement~~ **spare** parts of products, ~~or services, with relevance for a product, and the quantity of that supply,~~ **or who has supplied it with a service covered by this Regulation;**
 - (b) ~~to whom~~ **it** has supplied a product, including components or ~~replacement~~ **spare** parts of products, ~~or services, with relevance for a product, and the quantity of that supply,~~ **or to whom it has supplied a service covered by this Regulation;**
 - (e) ~~who is involved in financial and other collateral services linked to the making available or direct installation of products.~~

~~When identifying the operators referred to in first subparagraph, an economic operator shall inform the authority about to all connected data, including:~~

- ~~(i) addresses of the operators referred to in the first subparagraph;~~
- ~~(ii) contact details of these operators;~~

- (iii) email addresses, websites and social media profiles of these operators;
- (iv) tax and company registration numbers of these operators;
- (v) bank accounts of these operators; and
- (vi) names, addresses, contact details of natural or legal persons acting for those operators.

4. An economic operator shall be able to present **keep** all documents~~ation~~ and **all** information referred to in this Chapter to **at the disposal of market surveillance** authorities for a period of **at least** ten years after they have last been in possession or dealing **the economic operator supplied or was supplied** with the product **or service** in question, unless they **documents or the information have been made** are permanently available via the product registration database or system established in accordance with **paragraph 5 Article 78**.

An economic operator It shall present the documents~~ation~~ and information within 10 days of receipt of a request by the respective authority.

5. An economic operator shall provide all the requested data into **Once** the database or system established in accordance with Article 78 **is operational, an economic operator may make the following data or documents** within two months after the availability **through** of that database or system has been stated in a publication of the Official Journal and bear the fees of registration linked thereto. It shall at least bi-annually verify the correctness of the provided data:

- (a) **the declaration of performance and conformity referred to in Article 11 in the form of a product data sheet;**
- (b) **the technical documentation referred to in Article 21(3); and**

(c) the general information, instructions for use and safety information referred to in Article 21(6).

~~An economic operator shall register into its respective national system established in accordance with Article 77(5).~~

~~An economic operator shall make available to consumers and users communication channels, including telephone numbers, e-mail or dedicated sections of its website and social media page, allowing it to communicate any accident, other incident or safety issue it has experienced with the product.~~

5a. Five months after the entry into force of the implementing act referred to in Article 78(1d), an economic operator shall:

(a) before placing a product on the market, ensure that the corresponding data or documents referred to in paragraph 5 points (a) and (c) have been shared or uploaded in the database or system established in accordance with Article 78;

(b) before making a product available on the market in a Member State requiring the data or documents referred to in paragraph 5 points (a) and (c) to be in a different language than what has previously been shared or uploaded, ensure that a translation of the data or documents have been shared or uploaded in the database or system established in accordance with Article 78.

6. An economic operator may inform authorities of any likely infringement of this Regulation it becomes aware of. Where this economic operator considers that non-conforming products present a risk to human safety or to the environment, it shall immediately inform the competent 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.

7. ~~An economic operator subject to certification by a notified body or supplying services or parts to manufacturers shall permit notified bodies to have access to its documentation and to its premises to the extent that this is needed for the activities of the notified bodies. It shall produce correct information for notified bodies and shall correct any incorrect information. Moreover, this economic operator shall inform the notified body within one month of all changes that might affect the compliance with this Regulation.~~

Article 20

Procedural rights of economic operators

1. ~~Any definitive or interim measure, decision or order taken or made by authorities pursuant to this Regulation against an economic operator and the natural or legal persons acting on their behalf shall state the exact grounds on which it is based.~~
2. ~~Any such measure, decision or order shall be communicated without delay to the relevant economic operator and the natural or legal persons acting on their behalf, who shall at the same time be informed of the remedies available to them under the law of the Member State concerned and of the time limits to which those remedies are subject.~~
3. ~~Before a measure, decision or order referred to in paragraph 1 is taken or made, the economic operator concerned shall be given the opportunity to be heard within an appropriate period of not less than 10 working days, unless there is urgency of the measure, decision or order, based on health or safety requirements or other grounds relating to the public interests covered by this Regulation.~~

4. ~~If the measure, decision or order is taken or made without the economic operator being given the opportunity to be heard, the economic operator shall be given that opportunity as soon as possible thereafter and that measure, decision or order can be reviewed promptly by the market surveillance authority.~~
5. ~~Member States shall ensure that any measure covered by this Article can be appealed, with or without prior administrative appeal procedure, before a competent court. That court shall also be competent for deciding on the suspensive effect of the appeal or interim measures to be imposed by the court in view of both the public interest and the interests of the economic operator.~~

Article 21

Obligations of manufacturers

1. **When placing a product on the market, the manufacturer shall determine the product type, respecting the boundaries set up therefore by the definition provided in Article 3 point (31). 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 adopted in accordance with Article 5(1), the manufacturer shall ensure that the product has also been designed and constructed in accordance with those requirements.**
- 1a. **Where a product's compliance with applicable requirements and its performance in relation to essential characteristics referred to in paragraph 1 have been demonstrated** type shall be processed in accordance with the applicable assessment and verification system **or systems** set out in Annex V₂. ~~The manufacturer shall draw up a declaration of performance and a declaration of conformity in accordance with Articles 9 and to Articles 11 to 15 and affix the CE marking in accordance with Articles 16 and 17.~~

2. ~~The manufacturer shall refrain from any claim about the characteristics of a product that is not based on:~~
- ~~(a) the assessment method contained in a harmonised technical specification where the relevant characteristic is covered by such; or~~
 - ~~(b) where no such assessment method exists, an assessment method which represents the most effective and advanced method to achieve an accurate assessment.~~
3. The manufacturer shall, as the basis for the declarations **of performance and conformity** referred to in paragraph 1, draw up a technical documentation describing the **declared** intended use **which shall fall within the scope of the applicable intended use. The technical documentation shall including describe** the precise conditions for **the product's** use and **include** all the **relevant** elements necessary to demonstrate performance and conformity, **including information on procedures in place according to paragraph 4 and on the application of the system or systems applicable in Annex V and on any simplified procedures applied in accordance with Article 64 and 66.**

That technical documentation shall, **where applicable,** contain the ~~mandatory or facultative~~ calculation **substantiating the assessment** of **a product's** environmental, including climate sustainability **performance** assessed **as referred to** in accordance with **Article 11(2a)** harmonised technical specifications adopted under this Regulation or with Commission acts adopted under this Regulation.

The second subparagraph shall not apply in case of used, remanufactured or surplus products, unless the economic operator, subject to the obligations of this Article by virtue of Article 26, opts for the application of this Regulation for new products.

4. The manufacturer shall ensure that procedures are in place **for products** ~~to ensure that~~ **are part of** series production **to** maintains **their** declared performance and **remain in** conformity **with this Regulation**. Changes in the production process, in product design or in characteristics, and changes in the **applicable** harmonised technical specifications **or harmonised standards** ~~by reference to which performance or conformity of a product is declared or by application of which its performance or conformity is verified~~, shall be adequately taken into account and, in case the product's performance or conformity 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 of any such monitoring.

~~The procedures referred to in the first subparagraph, the sample tests referred to in the second subparagraph and the application of the applicable system of Annex V shall be described in the technical documentation referred to in paragraph 3.~~

5. The manufacturer shall ensure that its product bears a manufacturer-specific **unique identification code of the product** type number and, **where available**, a batch or serial number. If **Where** this is impossible **not possible on account of the nature of the product**, the required information shall be provided on the packaging, on an affixed **tag label** or, **where that is also not possible** ~~as last resort~~, 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 it is not intended for consumers or other non-professional users. Products not labelled “Only for professional use” shall be deemed to be also intended for non-professional users and consumers in the meaning of this Regulation and the Regulation (EU) ... [Regulation on General Product Safety].~~

~~The manufacturer shall, in a visible manner, display to customers before it is bound by a sales contract, including in case of distance selling, the information which shall be labelled pursuant to this Regulation or harmonised technical specifications.~~

6. When making a product available on the market in a certain Member State, the manufacturer shall ensure that the product is accompanied by **general information, instructions for use and safety information as set out in Annex I-D** ~~the information set out in harmonised technical specifications and in Annex I Part D~~ 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 Commission may, by means of implementing acts determine the format and the way of transmission of information to be provided by the manufacturer in accordance with the first subparagraph.~~

~~Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 88(2).~~

7. ~~The manufacturer shall upload the data of the declaration of performance, of the declaration of conformity, the information referred to in paragraph 6 and the technical documentation in the EU product database or system established in accordance with Article 78.~~

8. The manufacturer who **considers or** has reason to believe that a product which it has placed on the market is not in conformity with **its declared performance or in compliance with** requirements of this Regulation or adopted in accordance with this Regulation, shall immediately take the necessary corrective measures to bring that product into conformity, 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 national competent authority thereof; the latter shall transmit the respective information to the national competent authority responsible for the supplier or service provider and suggest appropriate measures.~~
9. Where the product presents a risk ~~or is likely to present a risk~~, the manufacturer shall within two working days thereof inform the authorised representative, importers, distributors, fulfilment service providers, and online market places involved in the 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 case of risks caused by products which have already reached the final user or consumer, the manufacturer shall also ~~alert the media and~~ inform them **public** about **those products and any** appropriate measures to eliminate or, if not possible, to reduce the risks. ~~In case of~~ **If a product presents a** “serious risk” in the meaning of Article 3, point (71) the manufacturer shall withdraw and recall the product at their own cost.
10. ~~The manufacturer shall be liable for infringement of this Article and of Article 19 in accordance with national law on contractual and extra-contractual liability.~~

Article 22

Additional environmental obligations of manufacturers

1. ~~For the product characteristics specified in Annex I Part A Point 2, the manufacturer shall assess the environmental characteristics of the product in accordance with harmonised technical specifications or with Commission acts adopted under this Regulation and use, once available, the latest version of the software made freely available on the website of the European Commission. However, this shall not apply in case of used, remanufactured or surplus products, unless the economic operator, subject to the obligations of this Article by virtue of Article 26, opts for the application of this Regulation as for new products.~~
2. ~~Unless product safety or the safety of construction works is thereby negatively impacted, the manufacturer has the following obligations:~~
 - (a) ~~design and manufacture products and their packaging in such a way that their overall environmental, including climate sustainability reaches the state of the art level, unless a lower level:~~
 - (i) ~~is proportionate when compared to the environmental sustainability improvement triggered by them at the level of the construction works; and~~
 - (ii) ~~is either necessary to improve the environmental sustainability at the level of the construction works.~~

- (b) ~~under the conditions set out in point (a)(i) and (ii) give preference to recyclable materials and materials gained from recycling;~~
- (c) ~~respect the minimum recycled content obligations and other limit values regarding aspects of environmental, including climate sustainability contained in harmonised technical specifications;~~
- (d) ~~prevent premature obsolescence of products, use reliable parts and design products in such a way that their durability does not fall beyond the average durability of products of the respective category;~~
- (e) ~~design products in such a way that they can be easily repaired, refurbished and upgraded, unless such design triggers non-compliance with other requirements of this Regulation, or other Union law, or repairing, refurbishing or upgrading is risky for human safety or the environment, in which case the manufacturer shall refrain from repairable, refurbishable or upgradable design and warn against repairing in accordance with point (f);~~
- (f) ~~make available, in product databases, instructions for use and on permalinks of their own websites, information on how to repair the products and any additional information necessary for repairing, including relevant warnings;~~

- (g) ~~make available on the market itself or by specially designated distributors or by manufacturers of spare parts, with reasonably short delivery time, spare parts for their products for 10 years after the last product of the respective type has been placed on the market or directly installed and inform proactively about this availability;~~
- (h) ~~design products in such a way that re-use, remanufacturing and recycling are facilitated, namely by facilitating the separation of components and materials at the later stage of recycling and avoiding mixed, blended or intricate materials, unless remanufacturing and recycling are risky for human safety or the environment. In this case the manufacturer shall refrain from such design and warn against remanufacturing and recycling in accordance with the following point;~~
- (i) ~~make available, in product databases, instructions for use and on their own websites, information on how to remanufacture or recycle the products and any additional information necessary for re-use, remanufacturing or recycling, including relevant warnings;~~
- (j) ~~accept to regain, directly or via their importers and distributors, ownership of surplus and unsold products that are in a state equivalent to the one in which they were placed on the market.~~

~~Where obligations of this paragraph cannot be cumulatively fulfilled due to a conflict arising between different obligations, the manufacturer shall choose a trade-off solution that brings the highest and most cost-effective benefits in terms of environmental sustainability for the products and construction works combined. However, the “safety first” principle, applicable both for the construction product and the construction works, shall in all instances be respected, and shall encompass protection of health.~~

3. ~~Paragraph 2, points (a) to (c) and paragraph 2 point (j), shall not apply in case of used, remanufactured or surplus products, unless the economic operator, subject to the obligations of this Article by virtue of Article 26, opts for the application of this Regulation as for new products.~~
4. ~~In order to specify the obligations set out in paragraph 2, the Commission is empowered to supplement this Regulation, by means of delegated acts in accordance with Article 87, by specifying, for particular product families and categories, these obligations. Alternatively, the Commission may issue standardisation requests which aim at the elaboration of harmonised standards providing presumption of conformity with the obligations of paragraph 2 for a specific product family or category. The obligations contained in paragraph 2 shall not apply before such a delegated act or a harmonised standard has become applicable.~~
5. ~~In order to ensure transparency for the users and to promote sustainable products, the Commission is empowered to supplement this Regulation by delegated acts adopted in accordance with Article 87 to establish specific environmental sustainability labelling requirements including “traffic light labelling” in relation to environmental obligations set out in paragraph 1, product inherent environmental requirements set out in Annex I Part C Point 2, and environmental performance classes established in accordance with of Article 4(4), point (a).~~
6. ~~The manufacturer shall affix the traffic light label in the way set out in the delegated acts adopted in accordance with paragraph 5.~~

Article 23

Obligations of authorised representatives

1. A manufacturer 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. Authorised representatives shall act with due care in relation to the obligations of this Regulation. They shall be liable for gross negligence or conscious infringement of this Article and of Article 19 in accordance with national law on contractual and extra-contractual liability.~~
3. The authorised representative shall perform the tasks specified in the mandate **received from the manufacturer**. The mandate shall allow the authorised representative to **do** carry out at least the following tasks ~~and shall give the authorised representative the following rights~~:
 - (a) keep the declaration of performance and the technical documentation at the disposal of national market surveillance authorities;
 - (b) **further to a reasoned request from a competent national authority**, provide ~~that~~ **the** market surveillance authorities with all the information and documentation necessary to demonstrate the conformity of ~~the~~ **a** product with ~~its~~ **the** declaration of performance and compliance with other applicable requirements in this Regulation at their reasoned request;

- (c) terminate the ~~contract~~ **mandate if** where the manufacturer **acts contrary to its obligations under** infringes this Regulation and ~~inform thereof the competent national authorities of the Member States where the product is placed on the market and the national competent authority of his own place of business;~~
- (d) **inform competent national authorities** when having reason to believe that a product **covered by the mandate** ~~in question~~ is non-compliant or presents a risk, ~~inform the national competent authorities of the Member States where the product is placed on the market and the national competent authority of his own place of business thereof; and~~
- (e) cooperate with the ~~market surveillance~~ **competent national** authorities, at their request, on any action taken to eliminate risks posed by **and to remedy non-conformities in** products covered by the mandate of the authorised representative; ~~or to remedy non-conformities.~~

~~The drawing up of technical documentation shall not form part of the authorised representative's mandate, but may become subject to a separate contract between the manufacturer and the authorised representative.~~

4. ~~The authorised representative shall verify the compliance of the product with requirements regarding marking, labelling, instructions for use, declaration of performance and conformity. The authorised representative shall also verify at a documentary level that the manufacturer satisfies his obligations set out in Article 19(4) to (6), Article 21(1) to (3) and (5) to (7), Article 22(1) and Article 22(2) points (f) and (i), and Article 27(6).~~

5. ~~Where an authorised representative considers that there is a non-compliance mentioned in the paragraph 4, the authorised representative shall ask the manufacturer to remedy the non-compliances. The manufacturer shall thereon stop the placing on the market and ask other economic operators involved in the distribution to stop their commercial activities, until the authorised representative regards the infringements as remedied. Where the non-compliances are not remedied within one month whilst products possibly continue to be made available on the market, the authorised representative shall be allowed to terminate his contract with the manufacturer and thereof inform the national competent authorities of the Member States where the products are placed on the market and the national competent authority of his own place of business. The latter shall coordinate joint actions of all competent authorities, unless the national competent authorities agree on another national competent authority to coordinate.~~

Article 24

Obligations of importers

1. The importer shall place on the Union market only products which are compliant with this Regulation.
- 1a.** 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** ~~verify at a documentary level that the manufacturer has complied with the obligations set out in~~ **accordance with** Article 21(1), **and (1a). It shall ensure that the manufacturer has drawn up the technical documentation referred to in Article 21(3), and that the product bears the CE marking, where required, and that the manufacturer has complied with the requirements set out in Article 21(5) to (7) and in Article 22(2), points (f) and (i).** It shall be liable for infringement of this Article and of Article 19 in accordance with national law on contractual and extra-contractual liability.

2. The importer shall verify that the ~~intended~~ use of the product has ~~been precisely and correctly determined~~ **declared** by the manufacturer and shall ensure that the product is accompanied by a ~~clear indication of the~~ **general information, instructions for use and safety information in accordance with Article 21(6)** ~~set out in harmonised technical specifications and in Annex I Part D~~ in a language determined by the Member State concerned 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 case of distance selling, the information which shall be labelled pursuant to this Regulation or harmonised technical specifications.~~
3. The importer shall ensure that, while a product is under its responsibility, storage or transport conditions do not jeopardise its conformity with the declaration of performance and **conformity or its** compliance with other applicable requirements in this Regulation.
4. ~~After having assembled all available product information from the manufacturer and the de-installer, the importer shall in particular scrutinise used and remanufactured products, namely with regard to damages or indications for loss of performance or non-compliance and changed mechanical or chemical properties, and assess all risks; when necessary to ensure safety or the protection of the environment, the importer shall reduce the intended use or refrain from selling. This obligation shall also apply to used and remanufactured products for which no declaration of performance is mandatory.~~
5. Where an importer considers or has reason to believe that the 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 in 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 ~~geographically~~ responsible ~~national competent~~ **market surveillance** ~~authorities~~ 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 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.
- 7a. 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.**
- ~~8. The importer selling to final users shall also fulfil the obligations incumbent on distributors.~~

Article 25

Obligations of distributors

1. When making a product available on the market, the distributor shall act with due care in relation to the ~~obligations~~ **requirements** of this Regulation. ~~It shall be liable for infringement of this Article and of Article 19 in accordance with national law on contractual and extra-contractual liability.~~

2. ~~When~~ **Before** making a product available on the market, the distributor shall fulfil the obligations incumbent on importers in accordance with Article 24(1) to (5) whilst references to “placing on the market” shall be understood as “further making available on the market” **verify that:**
- (a) **the product bears the CE marking, where required;**
 - (b) **the product is accompanied by the general information, instructions for use and safety information in accordance with Article 21(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;**
 - (c) **the manufacturer and the importer have complied with the requirements set out in Article 21(5) and Article 24(6) respectively.**
3. ~~The distributor shall ensure that no products are sold to consumers or other non-professional users which are labelled “for professional use only”. These products shall, in their premises, online and on paper publicity material, be presented as products for professional use only.~~
- 4 **Where an distributor considers or has reason to believe that the 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 market surveillance 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. The distributor who consider or have reason to believe that a product, which they have 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, to withdraw or to recall it, if appropriate, are taken. Furthermore, where the product poses a risk, the distributor shall immediately inform the competent national authorities of the Member States in which they have 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 Articles 21 and 22, where:
- (a) ~~there is no manufacturer in the meaning of this Regulation;~~
 - (b) it places a product on the market as ~~manufacturer~~ under its name or trademark;
 - (c) it modifies a product in such a way that compliance with the declaration of performance and ~~of~~ conformity or with the requirements set out in and in accordance with this Regulation may be affected;
 - (d) ~~it treats a product in a way that changes the hazards or increases the level of risk caused by it during its life cycle;~~

- (e) it makes a product available on the market with an **declared** ~~intended~~ use that is different from the **declared** ~~intended~~ use attributed by the manufacturer in the performance and conformity assessment procedure; or
- (f) it claims for its characteristics deviating from the characteristics claimed by the manufacturer.

1a. Paragraph 1 shall apply to economic operators who place a used product on the market which is covered by a harmonised technical specification with provisions for used products.

2. Paragraph 1 shall also apply to:

- (a) an importer of used ~~or remanufactured~~ products **not covered by paragraph 1a**, unless the used ~~or remanufactured~~ product has been placed on the Union market before being used;
- (b) an importer or distributor of used products **not covered by paragraph 1a** who does either of the following:
 - (i) subjects those used products to a transformative process going beyond **checking** ~~repair~~, cleaning and ~~regular maintenance~~ **repairing recovery operations** after being de-installed;
 - (ii) opts for assuming the role of the manufacturer.

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

- (a) adds translations of the 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 the information to be provided in accordance with 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 they own the products or whether they provide services. It shall carry out the repackaging in such a way that the original condition of the product **or its compliance with this Regulation is** cannot be affected by the repackaging and that the information to be provided in accordance with this Regulation is still correctly provided. The economic operator shall act with due care in relation to the obligations of this Regulation. ~~It shall be liable for infringement of this Regulation.~~

Article 27

***Obligation of fulfilment service providers, ~~brokers,~~ and online market places, ~~online sellers,~~
online shops and online search engines***

- ~~1. When contributing to the making available on the market or direct installation of a product, fulfilment service provider or broker shall act with due care in relation to the obligations of this Regulation. It shall be liable for infringement of this Article and of Article 19 in accordance with national law on contractual and extra-contractual liability.~~
- ~~2. A fulfilment service provider, online seller or broker shall:~~
- ~~(a) display, in a visible manner, to customers before they are bound by a sales contract, including in case of distance selling, the information which shall be labelled pursuant to this Regulation or harmonised technical specifications;~~
 - ~~(b) verify that the manufacturer has complied with the obligations set out in Article 21(1), (3) and (5) to (7) and Article 22(2), points (f) and (i);~~

- (c) fulfil the obligations laid down in Article 24(5), whilst references to “placing on the market” shall be understood as “supporting the making available on the market”;
- (d) ~~eliminate all offers for products which are non-compliant or likely to be risky in the meaning of Article 21(9) last sentence on their own initiative or, within two working days, on request of the market surveillance authorities;~~
- (e) ~~inform concerned authorities on the measures taken in accordance with points (b), (c) and (d);~~
- (f) ~~support product withdrawals or recalls, regardless of whether initiated by authorities, the manufacturer, the authorised representative or the importer. In cooperation with the economic operator concerned, the fulfilment service provider or broker shall inform consumers directly of product withdrawals or recalls. It shall keep the concerned authorities informed of any action taken.~~

3. An online marketplace shall:

- (a) **for the purpose of the requirements of Article 31(1) of Regulation (EU) 2022/2065**, design and organise its online interface in such a way that it allows **economic operators to fulfil their obligations under Article 32(1a) of this Regulation** third party traders to provide to the customers of these traders any information referred to in paragraph 2, point (a);
- (b) establish a single contact point for direct communication with Member States’ authorities in relation to ~~non-compliance~~ **with this Regulation**, ~~under performing or unsafe product~~. This contact point may be the same as the one referred to in [Article 20(1)] of Regulation (EU) ~~2023/988~~ **2023/988** ~~.../...~~ [the General Product Safety Regulation] or [Article ~~110~~(1)] of Regulation (EU) ~~2022/2065~~ **2022/2065** ~~.../...~~ [the Digital Services Act];

- (e) ~~give an appropriate answer without undue delay, and in any event within five working days, in the Member State where the online marketplace operates, to notices related to notification of accidents and other incidents with products received in accordance with [Article 14] of Regulation (EU) [.../...] on a Single Market for Digital Services (Digital Service Act) and amending Directive 2000/31/EC;~~

3a. The cooperation between information society service providers and market surveillance authorities referred to in Article 7(2) of Regulation (EU) 2019/1020 shall, with regard to online marketplaces and for the purposes of this Regulation, include in particular:

- (d) ~~cooperatione~~ to ensure effective market surveillance measures, including by abstaining from putting in place obstacles to such measures;
- (e) ~~information to~~ the market surveillance authorities of any action taken **with regard to non-compliance or suspected non-compliance concerning products covered by this Regulation;**
- (f) ~~the~~ **establishment of** a regular and structured exchange of information on ~~offers~~ **content** that ~~has~~ been removed ~~on the basis of this Article~~ by online marketplaces **on the request of market surveillance authorities;**
- (g) ~~allow online tools operated by market surveillance authorities to access their interfaces in order to identify non-compliant products;~~
- (h) ~~upon request of the market surveillance authorities, when the online marketplace or its online sellers have put in place technical obstacles to the extraction of data from their online interfaces, allow those authorities to scrape such data for product compliance purposes based on the identification parameters provided by the requesting market surveillance authorities.~~

4. ~~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, for all products covered by this Regulation, to order an online marketplace to remove specific illegal content referring to a non-compliant product from its online interface, to disable access to it or to display an explicit warning to end users when they access it. Such orders shall comply with [Article 8(1)] of Regulation (EU) .../... [the Digital Services Act].~~
5. ~~An online marketplace shall take the necessary measures to receive and process in accordance with [Article 8] of Regulation (EU) .../...[the Digital Services Act] the orders referred to in paragraph 4.~~
6. ~~The paragraphs 1 and 2, paragraph 3, points (b) to (i) and paragraphs 4 and 5 shall also apply to manufacturers, importers, distributors or other economic operators offering products online without involvement of an online marketplace (“online shops”).~~
7. ~~The paragraph 3, points (d) to (h) shall also apply to online search engines.~~
8. A fulfilment service provider shall ensure that the conditions during warehousing, packaging, addressing or dispatching, do not jeopardise the products’ **conformity with its declared performance or its** compliance with **other applicable** the requirements set out in this Regulation.

Article 28

Obligations of 3D-printing service providers and of providers of moulds, of 3D-printing datasets, and of 3D-printing materials

1. ~~A 3D-printing service provider shall:~~
 - (a) ~~refrain from placing on the market or directly installing products for clients without satisfying the obligations incumbent on manufacturers;~~

- (b) ~~inform its clients that they may use 3D printing services only for the fabrication of products for their own use, unless satisfying the obligations incumbent on manufacturers;~~
- (c) ~~inform its clients that the 3D datasets and the materials to be used shall have undergone the procedures applicable to products under this Regulation; and~~
- (d) ~~inform its clients that both the information provided by the manufacturer of the 3D dataset and the information provided by the manufacturer of the printing material shall coincide and confirm the usability of the material for that type of 3D dataset and the given 3D printing technology.~~

2. ~~Providers of moulds and of 3D datasets intended to produce items covered by this Regulation shall produce 10 such items and shall make them available to the notified body, technical assessment body and to authorities on request. Providers of moulds and of 3D datasets intended to produce items covered by this Regulation shall assess and document the fulfilment of requirements of this Regulation with regard to the produced items.~~
3. ~~Providers of materials intended to be used for the 3D printing of items covered by this Regulation on or close to the construction site shall produce 10 such items for each intended use and shall make them available to the notified body, technical assessment body and to authorities on request. Providers of materials intended to be used for the 3D printing of items covered by this Regulation on or close to the construction site shall assess and document the fulfilment of requirements of this Regulation with regard to the produced items.~~

Article 29

Obligations of economic operators de-installing or dealing with used products for re-use or remanufacturing

1. ~~An economic operator de-installing used products for re-use or re-manufacturing shall establish protocols on the place, conditions and presumed length of use of the de-installed product and make them available together with the products, regardless whether it exerts its activity on its own behalf or for somebody else. The economic operator shall also make the protocols available on request to authorities, to later users of these products and to owners of the construction works in which they were re-installed.~~
2. ~~Where an economic operator brokers, sells or otherwise makes available de-installed used products on its own behalf or for somebody else, it shall also fulfil the obligations of importers or distributors with regard to used products.~~

Article 30

Obligations of suppliers and service providers involved in the manufacturing of products

1. ~~A supplier or service provider involved in the manufacturing of products shall:~~
 - (a) ~~provide to manufacturers, notified bodies and authorities all available information on the environmental sustainability of their supplied component or service;~~
 - (b) ~~ensure the correctness of such information namely by respecting this Regulation and correct any errors made by communication to all their clients and, if potentially useful, to notified bodies and authorities;~~

- (c) ~~permit, in absence of such information, their customers to assess that environmental sustainability on their own expense and support that assessment, namely by giving access to all documents, including those of commercial character, relevant for that assessment;~~
- (d) ~~permit notified bodies to verify the correctness of any calculation of the environmental sustainability and support that verification;~~
- (e) ~~permit notified bodies to verify the performance and compliance of the supplied component or service and support that verification.~~

~~2. Where a supplier or service provider has been informed in accordance with the last sentence of Article 21(8), it shall forward that information to his other clients who have, in the last 5 years, received components or services which are identical with regard to the issue in question. In case of a serious risk as defined in Article 3, point (71) or a risk falling under the last sentence of Article 21(9), the supplier or service provider shall also inform the national competent authorities of the Member States where products with that component or manufacturing service have been made available on the market or directly installed; where it cannot identify these Member States, it shall inform all national competent authorities.~~

Article 31

Double use and pseudo products

~~1. A manufacturer of double use products shall satisfy the obligations of this Regulation for all the items of the respective type, unless they are specifically marked as “not for construction”.~~

- ~~2. Other economic operators dealing with double use products shall fulfil the obligations incumbent on them in accordance with this Regulation. In their commercial contracts, they shall establish an obligation of their clients to do the same and not to sell or to use items for construction which are marked as “not for construction”.~~
- ~~3. For items suitable for construction for which the manufacturer has never intended such use and which, therefore, have not been CE marked (“pseudo products”), other economic operators shall:~~
- ~~(a) not acquire or sell them as items being intended for construction without undergoing the procedures set out in this Regulation to be undergone by manufacturers;~~
 - ~~(b) ensure by presentation that they cannot be understood as being intended for construction; and~~
 - ~~(c) establish a contractual obligation of their clients to do the same and not to use these items for construction.~~

Article 32

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 clients in the Union. An offer for sale shall be considered to be targeted at clients in the Union if the relevant economic operator directs, by any means, its activities to a Member State. Inter alia, an offer shall be considered to be targeted at clients in the Union where:~~
- ~~(a) the economic operator uses an official language of a Member State, unless selling to the Union is explicitly excluded by effective means;~~

- (b) ~~the economic operator uses the currency of the Member States or a crypto-currency covered by Regulation (EU) [...] ¹⁵ unless, in the latter case, selling to the Union is explicitly excluded by effective means;~~
- (c) ~~the economic operator has the used internet domain name registered in one of the Member States or uses an internet domain that refers to the Union or one of the Member States; or~~
- (d) ~~the geographical areas to which dispatch is available includes a Member State.~~

1a. Where economic operators make products available on the market online or through other means of distance sales, the offer of those products shall clearly and visibly indicate the CE-marking and provide the information following it according to Article 17(2) or a permalink to the product registration in the database or system established in accordance with Article 78, where available.

~~2. Member States shall designate a single centralised market surveillance authority responsible for detecting products offered from economic operators outside the Union to clients on their territory online and via other distance sales methods.~~

3. Economic operators or online marketplaces shall give market surveillance authorities access to online interfaces where products covered by this Regulation are made available. If there are technical obstacles to the extraction of data from those online interfaces, the economic operator or online marketplace shall, upon a reasoned request of a market surveillance authority, allow that authority to scrape such data for product compliance purposes on the basis of identification parameters specified in the request.

¹⁵ ~~Future Regulation of the European Parliament and of the Council on Markets in Crypto-assets, and amending Directive (EU) 2019/1937, see COM/2020/593 final.~~

Article 33

Implementing acts on economic operators' obligations and rights

Where this is necessary to ensure a harmonised application of this Regulation and only to the extent necessary to prevent diverging practices **fragmenting the internal market** creating an uneven playing field for economic operators, the Commission may adopt implementing acts providing details on how to execute the obligations and rights of economic operators contained in this Chapter.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 88(2).

CHAPTER IV

**~~CONSTRUCTION PRODUCTS STANDARDS AND EUROPEAN ASSESSMENT
DOCUMENTS~~**

Article 34

~~Construction products standards~~

- ~~1. Construction products standards shall be established by the European standardisation organisations on the basis of a standardisation request issued by the Commission.~~

2. ~~Construction products standards developed pursuant to Article 4(2) shall be of mandatory application for purposes of this Regulation as of six months after the publication of their reference in the Official Journal in accordance with paragraph 4, but may be voluntarily applied on request of the manufacturer as from the date of that publication. They shall provide the methods and the criteria for assessing the performance of the products in relation to their essential characteristics. These standards shall, where appropriate and without endangering the accuracy, reliability or stability of the results, provide methods less onerous than testing for assessing the performance of the products in relation to their essential characteristics, classes, threshold levels or product requirements.~~
3. ~~Construction products standards developed pursuant to the second sentence of Article 5(2) or the third sentence of Article 22(4) shall be voluntary. Products which are in conformity with voluntary standards adopted in accordance with Article 5(2), 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 requirements laid down in Annex I Part B and C, as specified for the respective product family or category by harmonised technical specifications adopted in accordance with the second sentence of Article 5(2), to the extent that those requirements are covered by such voluntary standards and that this coverage has been precisely stated in the respective harmonised standard. Manufacturers who comply with voluntary standards adopted in accordance with Article 22(2), 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 obligations set out in Article 22(2), to the extent that those obligations are covered by such standards and that this coverage has been precisely stated in the respective standard.~~

4. ~~The Commission shall assess the conformity of construction products standards established by the European standardisation organisations with the relevant standardisation requests, with this Regulation and with other Union law. The Commission shall publish or publish with restrictions in the Official Journal of the European Union the list of references of accepted conforming construction products standards that have been made available at an affordable price. Where a reference to a standard cannot be published otherwise in the Official Journal, the Commission is empowered to supplement this Regulation by delegated acts adopted in accordance with Article 86 to modify the respective standards for purposes of legal effects under this Regulation.~~

Article 35

European assessment document

1. ~~Article 4(1) and (4), Article 6, Article 9 and Articles 11 to 17 shall apply to European assessment documents. Where the CE marking is issued on the basis of a European assessment document and European technical assessment, the European assessment document shall be referred to in the declaration of performance and the declaration of conformity.~~
2. ~~Following a request for a European technical assessment by a manufacturer or a group of manufacturers or on initiative of the Commission, a European assessment document may be drawn up and adopted by the organisation of technical assessment bodies ('TABs') in agreement with the Commission for any product not covered by:~~
- ~~(a) a harmonised technical specification;~~
 - ~~(b) a harmonised technical specification intended to be adopted in the next 2 years as from the date of verification with the Commission;~~
 - ~~(c) another European assessment document already cited in the Official Journal or submitted to the Commission for citation therein.~~

The product shall not be considered as covered by the harmonised technical specification where:

- (i) the intended use of the product is different than the intended use supposed in the document,
- (ii) the materials used are not identical to the materials intended to be used under the document, or
- (iii) the assessment method of the document is not appropriate for that product.

3. The organisation of TABs and the Commission may bundle or reject requests for the development of a European assessment document. The procedure for adopting the European assessment document shall respect Article 36 and shall comply with Article 37 and Annex III.
4. The Commission is empowered to amend Annex III by delegated act adopted in accordance with Article 87 to establish supplementary procedural rules for the development and adoption of a European assessment document, where this is necessary to ensure the good functioning of the European assessment documents system.

Article 36

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

1. The procedure for **When** developing and adopting European assessment documents, **individual TABs and the organisation of TABs** shall **follow the procedure set out in Annex III.**

1a. When developing and adopting European assessment documents, individual TABs and the organisation of TABs shall respect the following principles:

- (a) be transparent to Member States, the manufacturer concerned and to other manufacturers or stakeholders that request to be informed;
- (b) disclose as little as possible **confidential** information protected by intellectual property rights **only when necessary to assess the compliance of a European assessment document with regulatory provisions**, and **otherwise** protect commercial secrecy and confidentiality;
- (c) specify appropriate mandatory time limits in order to avoid unjustified delay;
- (d) allow at any stage 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 principles** laid down in points (a) and (b) shall at least allow 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 Annex III, point 3., and **of** the detailed contents of the draft European assessment document set out in Annex III, point 7.

2. 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 ~~started on~~ **initiated** ~~by~~ **by** of the Commission.

3. TABs and the organisation of TABs shall avoid any proliferation of European assessment documents where there is no technical justification for differentiating between products and **shall** therefore in particular give preference to the extension of a scope of an existing European assessment document.
4. ~~TABs and the organisation of TABs shall refrain from developing European assessment documents where there is a high likelihood of duplication with harmonised technical specifications or pre-existing European assessment documents and shall withdraw duplicating European assessment documents.~~
5. **The Commission is empowered to, after consultations with the organisation of TABs, amend Annex III by delegated act adopted in accordance with Article 87 to establish supplementary procedural rules for the development and adoption of a European assessment document, where this is necessary to ensure the good functioning of the European assessment documents system.**

Article 37

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

1. ~~The TAB~~ **When** receiving a request for a European technical assessment from a manufacturer, a group of manufacturers or ~~a~~ **the** manufacturers' association, **the TAB** shall inform the applicant if ~~the product is covered, fully or partially, by a harmonised technical specification or European assessment document~~ as follows:
 - (a) where the product is ~~fully~~ covered by a harmonised technical specification **or a European assessment document cannot be drawn up in accordance with Article 7a**, the TAB shall inform the ~~manufacturer, the group of manufacturers or the manufacturers' association~~ **applicant** that, ~~in accordance with Article 35(2), 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 ~~cited~~ **published** in the Official Journal, the TAB shall inform the ~~manufacturer, the group of manufacturers or the manufacturers' association~~ **applicant** that **the referenced European assessment** such a document will be used as the basis for the European technical assessment to be issued;
- (c) where the product is **eligible** ~~not covered by any harmonised technical specification for a~~ European assessment document **pursuant to Article 7a** and ~~where no such harmonised technical specification is intended to be adopted in the next two years, or no such or European assessment document is already in the procedure of~~ **being** developed ~~ing pursuant to Annex III, the TAB shall~~ **inform the applicant that** apply the procedures set out in Annex III **will be initiated** ~~or those established in accordance with Article 35(4).~~

In cases referred to in point (c) but where a construction product performance standard covering the same product has been submitted to the Commission for assessment in accordance with Article 4(2c) or the Commission has informed about the fulfilment of the conditions for an implementing act covering the same product in accordance with Article 4a(1) second subparagraph, the TAB shall inform the applicant about the possibility of a European assessment document being withdrawn pursuant to Article 7a(5).

2. In the cases referred to in paragraph 1, points (b) and (c), the TAB shall inform the organisation of TABs and the Commission of the content of the request and of the reference to a relevant Commission act determining the assessment and verification system **in accordance with Article 6(1)**, which the TAB intends to apply for that product, or of the lack of such a Commission decision.
3. If the Commission considers that an appropriate Commission act determining the assessment and verification system does not exist for the product, it may adopt such act in accordance with Article 6(1).

Publication of references

1. The Commission shall, **in accordance with Annex III, Point 8a**, assess the ~~conformity~~ **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** ~~or publish with restriction in the Official Journal of the European Union, the list of~~ **Where a** references of accepted conforming **to a** European assessment documents **cannot be published in the Official Journal**, ~~the~~ Commission **may** ~~shall~~ publish **such a reference with restrictions** any updates to that list.
2. Only European assessment documents referred to in that list and published in at least one language of the Union by either the Commission or by the organisation of TABs shall authorise the issuing of European technical assessments in accordance with Article 42 and trigger legal effects in accordance with Article 42(5), including with regard to the manufacturer who requested the development of the European assessment document. This legal effect of European assessment documents shall expire ten years after their first citation in the Official Journal of the European Union unless they have been renewed in the last year prior to expiry and the Commission decides to maintain the listing.

Following publication in accordance with paragraph 1, a European assessment document may in accordance with Article 42 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. The organisation of TABs may in the last year prior to the expiration of a European assessment document decide to submit it for renewed validity. The Commission shall in that case reassess it in accordance with paragraph 1.

Article 39

Dispute resolution in cases of disagreement between TABs

If the TABs do not agree upon the European assessment document within the time limits provided for, the organisation of TABs shall submit this matter to the Commission for appropriate resolution, including instructions to this organisation how to complete its work.

Article 40

Content of the European assessment document

1. A European assessment document shall contain the following elements:
 - (a) a description of the product covered **and its intended use**; and
 - (b) the list of essential characteristics relevant for the intended use of the product as set out by the manufacturer and agreed between the manufacturer and the organisation of TABs **as well as predetermined environmental characteristics as set out in Annex I-A Point 2**, and the methods and criteria for assessing the performance of the product in relation to these essential characteristics **listed**.
2. Principles for the applicable factory production control to be applied shall be set out in the European assessment document, taking into account the conditions of the manufacturing process of the product concerned.

3. Where the performance of ~~some of certain~~ essential characteristics of the product can appropriately be assessed with methods and criteria **already** established in harmonised technical specifications or **other** European assessment documents, those existing methods and criteria shall be incorporated as parts of the European assessment document, unless there **is a technical necessity** ~~are good reasons~~ to deviate from this rule. **Where applicable, these principles shall also apply for thresholds levels and classes of performance adopted in accordance with Article 4a(2).**

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 satisfy **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 ~~or product requirements~~ set out in Annex I;
 - (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 35(2);~~

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 **or from** 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 42

European technical assessment

1. ~~The A~~ European technical assessment shall be issued by a TAB, at the request of a manufacturer on the basis of a European assessment document ~~established in accordance with the procedures set out in Article 37 and Annex III~~ the reference of which has been ~~cited~~ **published** in the Official Journal of the European Union in accordance with Article 38.

Provided that there is a European assessment document, 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 ~~citation~~ **publication of a reference to a** the construction products **performance** standard in the Official Journal of the Union **in accordance with Article 4(2d) or the entry into force of an implementing act in accordance with Article 4a(1) covering the same product.**

2. The European technical assessment shall include the performance to be declared, by levels or classes, or in a description, of those essential characteristics agreed by the manufacturer and the TAB receiving the request for the European technical assessment for the declared ~~intended~~ use, and technical details necessary for the implementation of the assessment and verification system.
3. 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 88(2).

4. European technical assessments issued on the basis of a European assessment document remain valid for five years **either** after the expiry date of the European assessment document in accordance with Article 38(2) **or after the reference to the European assessment document is withdrawn from the Official Journal of the European Union in the course of its validity. Products may no longer be placed on the market on the basis of a European technical assessment when a harmonised technical specification covering that product has entered into force.**
5. 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
TECHNICAL ASSESSMENT BODIES

Article 43

Designating authorities

1. Member States wishing to designate technical assessment bodies (**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** in charge of **TABs** technical assessment bodies (hereafter: the “designating authority”). Designating authorities shall satisfy the requirements for notifying authorities set out in Articles 48(1) and Article 49. **Member States may designate the notifying authority, as referred to in Article 48, as designating authority.** The designating authority shall not be eligible for designation in accordance with Article 44(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. ~~However, Member States may not use accreditation.~~

Article 44

Designation, monitoring and evaluation of TABs

1. Member States may, **through their designating authorities**, designate Technical Assessment Bodies (TABs) within their territories for one or several product **families** areas listed in of Annex IV, Table 1. The Commission is empowered to amend this table by delegated acts adopted in accordance with Article 87 to adapt it to technical progress. **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 IV**

Member States shall communicate the name of the **TAB** technical assessment body, its address and the product **family or families** areas **it is competent for** referred to in the first sentence to the Commission.

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

The Commission shall **make publicly available** ~~publish~~ the list of these TABs **designated under this Regulation** that satisfy applicable legal requirements referred to Article 45(1) and (2) by electronic means and indicate **their identifications numbers**, the product **families** areas for which they are designated and any limitations in the most precise possible way.

The Commission shall ~~publish any updates to~~ **ensure** that **this** list **is kept up-to-date**.

3. The designating authority ~~designated in accordance with Article 43~~ 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** ~~instruct the~~ TABs wherever there is an infringement of law **this Regulation** ~~or common practice agreed between the Member States and the Commission~~. ~~In case of repeated infringement of the law, it may revoke the designation of the TAB.~~

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 ~~relevant Member State and notified authority~~ **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. The Commission may investigate the compliance of TABs with the requirements set out in this chapter, as well as the fulfilment by the responsible designating authorities of their monitoring obligations.
6. TABs shall, upon request by 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**.
7. Where a TAB no longer complies with the requirements of this Regulation, the **designating authority** Member State shall **restrict, suspend or** withdraw the designation of that TAB for the relevant product **family** area **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, the designating authority may restrict, suspend or withdraw the designation of that TAB.** ~~and~~ **The designating authority shall** inform the Commission and the other Member States thereof **any restriction, suspension or withdrawal of a designation**. Articles 58(2) and 59 **shall** apply.

Article 45

Requirements for TABs

1. A TAB shall be competent and equipped to carry out the assessment in **relation to** the product **families** area for which it has been designated. The decision making staff and at least half of the technical competent staff ~~of the TAB shall be located in the designating Member State.~~ **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 IV ~~a~~, ~~Table 2~~ within the scope of its designation. Article 50(2~~1~~) to (5), Article 50(6) points (a) and (b), Article 50(7), (8) and (10) and Article 51 shall apply.
3. A TAB shall have made publicly available its organigram and the names of the members of its internal decision-making bodies.

~~Where a TAB no longer complies with the requirements referred to in paragraphs 1 and 2, the Member State shall withdraw the designation of that TAB for the relevant product area and inform the Commission and the other Member States thereof.~~

Article 46

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) ~~investigate potential for new harmonised technical specifications and inform the Commission of such potential~~
 - (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 65(2)~~ and in Article 66(~~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 65(2)~~ and in Article 66(~~2~~) and suggest improvements to the Commission based on experience gained;
- (f1) 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 set to take place according to the work plan referred to in Article 3a(2);**
- (g) communicate any observations concerning a TAB not satisfying its tasks in accordance with the procedures set out ~~in Article 65(2)~~ and in Article 66(~~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, and in particular on the geographical distribution of the TABs;**
 - (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 in all EU languages.

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. ~~The value of the contribution of each TAB shall not be less than 2% of its annual budget or turn-over.~~
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, ~~including with regard to a fair geographic distribution of TABs~~ **set out in these tasks.**
7. **TABs shall participate in relevant activities of the organisation of TABs or ensure that their assessment personnel is informed about those activities.**

CHAPTER VI

NOTIFYING AUTHORITIES AND NOTIFIED BODIES

Article 47

Notification

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 (~~hereinafter referred to as 'notified bodies'~~).

Member States shall inform the Commission of their ~~national~~ 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 48

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 ~~for~~ the monitoring of notified bodies, including their compliance with requirements laid out in Article 50 **and 53**.

2. Member States may decide that the assessment and monitoring referred to in paragraph 1 shall be carried out by their national accreditation bodies **within the meaning of and** in accordance with ~~Chapter II of~~ Regulation (EC) No 765/2008. ~~Member States shall instruct their national accreditation body to take as a basis for accreditation only the precise legal body applying for accreditation and to assess that body against the relevant requirements and tasks laid down in this Regulation.~~
3. Where the notifying authority delegates **or otherwise entrusts** the assessment, notification or monitoring referred to in paragraph 1 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 49. 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.
5. ~~The Commission shall provide for the organisation of exchange of experience between the Member States' national authorities responsible for policy on notification and notifying authorities.~~

Article 49

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 activities performed by notified bodies, 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 relevant national authorities **which shall safeguard confidentiality of the information received.**

5a. The notifying authority shall take as a basis for notification only the specific body applying for notification and not take account of the capacities or personnel of parent or sister companies. The authority shall assess that body against all relevant requirements and third-party assessment tasks.

6. The notifying authority shall have a sufficient number of competent personnel and sufficient funding at its disposal for the proper performance of its tasks. ~~The Commission may adopt implementing acts laying down a minimum number of full-time equivalences considered sufficient for the proper monitoring of notified bodies, where appropriate in relation to specific conformity assessment tasks. Where monitoring is carried out by a national accreditation body or a body referred to in Article 48(3), this minimum number shall apply to that body.~~

~~Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 88(2).~~

Article 49a

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. This 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 this group.

The Commission may establish the specific arrangements for the functioning of the coordination group of the notifying and designating authorities.

2. The Commission shall provide for the organisation of regular exchanges of experience between the Member States' national authorities responsible for notification policy.

Article 50

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 11.
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 ~~be independent of~~ **not have** any ~~and all~~ business ties with organisations **that** ~~having~~ an interest in the products it assesses, **in particular** manufacturers, their trade partners ~~or~~ **and** their shareholding investors, ~~as well as with other notified bodies and their business associations, parent companies or subsidiaries.~~

~~This does not preclude the notified body from carrying out assessment and verification activities for competing manufacturers.~~

A **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 an independent body.

This shall not preclude the body from carrying out assessment and verification activities for competing manufacturers.

4. A notified 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, nor the representative of any of those parties. This shall not preclude the use of assessed products that are necessary for the operations of the notified body or the use of products for personal purposes.

A notified body, its top-level management and the personnel responsible for carrying out the third party tasks in the assessment and verification process shall not become directly involved in the design, manufacture or construction, 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 ~~not provide~~ consultancy services in relation to product families for which they have been notified.**

A notified body shall ensure that activities of its parent or sister companies, its subsidiaries or subcontractors do not affect the confidentiality, objectivity and impartiality of its assessment and/or verification activities.

A notified 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 ~~may not be delegated to a subcontractor or a subsidiary.~~

5. A notified body and its 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, and **They** shall be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their assessment and/or verification activities, especially from persons or groups of persons with an interest in the results of those activities.
6. A notified 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 V in relation to which it has been notified, whether those tasks are carried out by the notified 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 notified body shall have the following at its disposal:

- (a) the necessary personnel with technical knowledge and sufficient and appropriate experience to perform the third party tasks in the assessment and verification process. ~~Personnel responsible for taking assessment decisions shall be employed by the notified body under the national law of the notifying Member State, shall not have any other potentially conflicting loyalty obligation or potential conflict of interest, shall be competent to verify the assessments made by other staff, external experts or subcontractors. Its number shall be sufficient to ensure business continuity and a consistent approach to conformity assessments;~~
- (b) the necessary description of procedures **in accordance** to which the assessment process is carried out, ensuring the transparency and the ability of reproduction of ~~these~~ procedures. ~~This shall include a qualification matrix matching~~ **including a description of how** relevant personnel, their ~~respective~~ status and tasks ~~within the conformity assessment body with~~ **correspond to** the conformity assessment tasks in relation to which the body intends to be notified;
- (c) appropriate policies and procedures ~~in place that~~ **to** distinguish ~~between~~ the tasks it carries out as a notified body **from** ~~and~~ other activities;
- (d) ~~the necessary~~ procedures **for the** ~~to~~ **performance of** its 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.

~~A notified body~~ **It** 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**
 - (c) appropriate knowledge and understanding of the applicable harmonised technical specifications and of the relevant provisions of the Regulation;
 - (d) the ability required to draw up the certificates, records and reports to demonstrate that the assessments and the verifications have been carried out.

7a. Personnel responsible for taking assessment decisions shall be employed by the notified body under the national law of the notifying Member State, shall not have any potential conflict of interest, shall be competent to verify the assessments made by other staff, external experts or subcontractors. The number of such personnel shall be sufficient to ensure business continuity and a consistent approach to conformity assessments.

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

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

9. A notified 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 ~~and/or~~ the verification performed.
10. The personnel of the notified body shall ~~be bound to~~ observe professional secrecy with regard~~ing~~ to all information ~~gained~~ **obtained** in carrying out its tasks under Annex V, except in relation to the ~~competent administrative~~ **notifying** authorities **and other national authorities** of the Member State in which its activities are carried out. Proprietary rights shall be protected.
11. A notified body shall **participate in, or** ensure that its assessment personnel is informed of the relevant standardisation activities ~~and shall participate in, and ensure that its assessment personnel is informed of,~~ 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 51

Presumption of conformity of notified bodies

Where a ~~A~~ conformity assessment body ~~to be authorised to carry out third party tasks in the assessment and verification process which~~ demonstrates its conformity with the criteria laid down in the relevant harmonised standards or parts thereof, the references of which have been published in the *Official Journal of the European Union*, **it** shall be presumed to comply with the requirements set out in Article 50 in so far as the applicable harmonised standards cover those requirements.

Article 52

Formal objection

~~Where a Member State or the Commission has a formal objection to the harmonised standards referred to in Article 51, the provisions of Article 11 of Regulation (EU) 1025/2012 shall apply.~~

Article 53

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 50, 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** ~~The relevant notified bodies shall establish procedures for the on-going monitoring of the competence, activities and performance of its subcontractors or subsidiaries, taking into account the qualification matrix referred to in Article 50(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 ~~any~~ **the** subcontractor or the subsidiary and the ~~tasks~~ **work** carried out by **them** ~~such parties~~ under Annex V.

Use of facilities outside the testing laboratory of the notified body

1. On request of the manufacturer and where justified by technical, economic or logistic reasons **related to the nature of the product or the testing equipment**, notified bodies may decide to carry out the tests referred to in Annex V, 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 50.

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 55

Application for notification

1. A body to be authorised to carry out third party tasks in the assessment and verification ~~process~~ **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/or verification processes for which the body claims to be competent, the ~~qualification matrix~~ **description of competence** referred to in Article 50(6), point (b), **as well as** an accreditation certificate, where one exists, issued by the national accreditation body ~~within the meaning of Regulation (EC) No 765/2008~~, attesting that the body ~~meets~~ **fulfils** the requirements laid down in Article 50. The accreditation certificate shall relate only to the **precise** ~~specific conformity assessment body~~ **legal body** applying for notification and ~~not take account of the capacities or personnel of parent or sister companies~~. It shall be based, in addition to relevant harmonised standards, on the specific requirements and ~~assessment~~ 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 50.

Article 56

Notification procedure

1. Notifying authorities may notify only bodies which have satisfied the requirements laid down in Article 50.
2. They shall notify the Commission and the other Member States, notably using the electronic notification tool developed and managed by the Commission.

Exceptionally, for cases **regarding groupings of essential characteristics** set out in Annex VI, for which the appropriate electronic tool is not available, a ~~hard copy of the~~ 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 V, 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 VI.

4. Where a notification is not based on an accreditation certificate as referred to in Article 55(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 50.

5. A notification ~~The body concerned~~ may become valid only where no objections are raised by ~~perform the activities of a notified body if~~ the Commission or the other Member States ~~do not raise any objections~~ within 2 weeks of ~~a~~ notification, where an accreditation certificate is used, or within 2 months of notification, where an accreditation certificate is not used.

~~The notification shall become valid the day after the body is included in the list of notified bodies referred to in Article 57(2) by the Commission. The Commission shall not list a body if it is aware or becomes aware that the relevant body does not meet the requirements laid down in Article 50.~~

6. ~~The body concerned may perform the activities of a notified body only after the notification has become valid.~~ Only such a body shall be considered as a notified body for the purpose of this Regulation.

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

Article 57

Identification numbers and lists of notified bodies

1. The Commission shall assign an identification number to each 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 allocated to them and the activities for which they have been notified, ~~notably using the electronic notification tool developed and managed by the Commission.~~

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

Article 58

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 50, 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 ~~withdrawal~~, restriction ~~or~~, suspension **or withdrawal** of notification, or where the notified body has ceased its activity, the notifying Member State ~~concerned~~ shall take ~~the~~ appropriate steps to ensure that **this body's** files ~~of that body~~ are either processed by another notified body or kept available for the responsible notifying and market surveillance authorities at their request.

Article 59

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 take the necessary corrective measures, including withdrawal of notification if necessary.**

Article 60

Operational obligations ~~for~~ of notified bodies

1. Notified bodies shall, in accordance with Annex V:
- (a) assess the performance and the conformity of products;
 - (b) verify the conformity of products and ~~of the manufacturer~~;
 - (ba) verify the compliance of the manufacturer with the obligations of this Regulation;**
 - (c) verify the constancy of performance of products;
 - (d) verify the calculation of environmental sustainability calculations undertaken by the manufacturer.

These tasks are hereafter 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 ~~its~~ **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 non-compliances, notified bodies shall apply clear and pre-determined criteria.~~

~~7. Notified bodies shall ensure rotation between the personnel carrying out different assessment tasks.~~

Article 61

Information obligations for 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 market surveillance 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 body shall provide the other bodies notified under this Regulation carrying 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, ~~and, on request, positive~~ results from these assessments **and** verifications, ~~and therein,~~ in particular, any refusal, restriction, suspension, or withdrawal of certificates or test reports **and, upon request, positive results from these assessments.**

A notified body shall, upon request from another notified body or an authority, a notified body shall inform the requesting body whether confirm the status of certificates or test reports issued by it are valid, restricted, suspended, or withdrawn.

3. Where the Commission or the market surveillance 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 N~~**otified bodies have or receive shall share with the market surveillance or notifying authority concerned, as appropriate, evidence that on all of the following:**
- (a) another notified body does not comply with the requirements laid down in Article 50 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~~ **presenting** a serious risk~~;~~

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

Article 62

Implementing acts on notified bodies' obligations ~~and rights~~

Where this is necessary to ensure a harmonised application of this Regulation **and no resolution of the dispute of the diverging practices was achieved in the group of notifying and designating authorities, in accordance with Article 49a**, and only to the extent necessary to prevent diverging practices **fragmenting the internal market** leading to unequal treatment of and creating an uneven playing field for economic operators, the Commission may adopt implementing acts providing details on how to execute the obligations of notified bodies contained in Articles 60 and 61.

Those implementing acts shall be adopted in accordance with examination procedure referred to in Article 88(2).

Article 63

Coordination of notified bodies

1. The Commission shall ensure that appropriate coordination and cooperation between bodies notified **under this Regulation** pursuant to Article 47 are put into place and properly operated in the form of a group of notified bodies. ~~Coordination and cooperation in the groups referred to in paragraph 1 shall aim at ensuring the harmonised application of this Regulation.~~

Notified bodies shall participate in the work of that group, directly or by means of designated representatives.

2. Notified bodies shall apply as a general guidance **any relevant documents** the ~~administrative decisions and documents produced by that~~ **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 at ensuring the harmonised application of this Regulation.**

CHAPTER VII

SIMPLIFIED PROCEDURES

Article 64

Use of appropriate technical documentation

1. A manufacturer may replace type testing by appropriate **with a specific section in the technical documentation referred to in Article 21(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 to that end in the relevant harmonised technical specification or a Commission **delegated acts adopted pursuant to Article 4a(3)**; 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 ~~items~~ **components**, which the manufacturer assembles duly following precise instructions, including compatibility criteria in case of individual ~~items~~ **components**, given by the provider of such a system or of a component thereof, who has already tested that system or that ~~item~~ **component** for one or several of its essential characteristics in accordance with the relevant harmonised technical specification. 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 for the system or the ~~item~~ **component** provided to him.

2. If the product referred to in paragraph 1 belongs to a family or category of products for which the applicable assessment and verification system is system 1 + or 1, as set out in Annex V, a notified body or TAB shall, in addition to **place of the assessment of the performance of the product** tasks set out in Annex V, assess and certify the correct fulfilment of the obligations referred to in paragraph 1.

Article 65

Use of simplified procedures by micro-enterprises

- ~~1. Micro-enterprises manufacturing products covered by a harmonised technical specification may treat products to which system 3 applies in accordance with provisions for system 4. When a manufacturer uses this simplified procedure, the manufacturer shall demonstrate compliance of the product with the applicable requirements by means of a Specific Technical Documentation.~~
- ~~2. The fulfilment of the requirements of this Article shall be assessed and confirmed by a TAB or a notified body.~~

Custom-made non-series products

1. ~~In relation to~~ **For a** products covered by a harmonised technical specification and which **is** ~~are~~ individually manufactured or custom-made in a non-series process in response to a specific order, ~~and which are installed in a single identified construction work by a~~ manufacturers who ~~are~~ **is** also responsible for the safe incorporation of ~~that~~ these products into **a** construction works, the performance assessment part of the applicable system, as set out in Annex V, may be replaced ~~by the manufacturer~~ by a ~~Specific~~ **section in the** ~~Technical Documentation~~ **referred to in Article 21(3) where the manufacturer** demonstrates ~~ing~~ **the** compliance of that product with the applicable requirements and provides ~~ing~~ data equivalent to those required by this Regulation and the applicable harmonised technical specifications. Equivalence is given where all the data needed and requirements applicable to the particular construction work and its future dismantling, including reuse, remanufacturing and recycling of its installed products, are provided or fulfilled on the basis of state-of-the-art methods.
2. **If the product referred to in paragraph 1 belongs to a family or category of products for which the applicable assessment and verification system is system 1 +, 1 or 3, as set out in Annex V, a notified body or TAB shall, in addition to place of the tasks assessment of the performance of the product** set out in Annex V, assess and certify the correct fulfilment of the obligations referred to in paragraph 1.

Sharing and Recognition of assessment and verification by another notified body

- 0. A manufacturer may refrain from carrying out the performance assessment of a certain product when provided for in Annex V and instead use the result of an assessment performed by another manufacturer when the product-type corresponds to the one which is to be placed on the market. The manufacturer may use assessment results obtained by the other manufacturer only after having obtained an authorisation of that manufacturer, who remains responsible for the accuracy, reliability and stability of those assessment results. Where a notified body is involved in the assessment and verification of a product, the notified body shall decide if such shared assessment results can be used as a basis for the notified body's decision to issue a certificate.**
1. **When a**~~A notified body (hereafter: recognising notified body)~~ **shall assess and verify** ~~may refrain from the assessment and verification of a certain~~ **product according to Annex V, it may refrain from the assessment and verification** ~~item to be assessed or verified in accordance with this Regulation and recognise the assessment and verification undertaken by another notified body for the same~~ **or another** economic operator where **all of the following applies:**
- (a) the **product** ~~item~~ has been correctly assessed and verified by the other notified body which is ~~whilst being rebuttable~~ to be assumed where the respective report does not contain any information suggesting an error;
 - (b) there is an agreement in place between the ~~two~~ notified bodies obliging them to share all information regarding the assessment and verification ~~and their respective certificates and reports;~~

- (c) the assessed or verified economic operator agrees to share all relevant data and documents with the recognising notified body;
- (d) 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 ~~test~~ **validation** reports ~~that are not followed by a certification~~ and to assessments of calculation of the environmental sustainability undertaken under Regulation (EU) ... [Regulation on ecodesign for sustainable products].

2. Where the notified body wishes to recognise an assessment or verification undertaken by another notified body in relation to an economic operator for which only the other notified body is in charge (~~“other economic operator”~~), **the recognition shall only be possible** and ~~provided that~~ **if** there is additionally an agreement in place between the two economic operators that ensures the free flow of all information between them and the notified bodies in view of ensuring compliance with this Regulation, ~~the recognition shall only be possible with regard to the following:~~

- (a) ~~with regard to the verification of the environmental sustainability calculation of the other economic operator, namely supplier or service provider, and their respective supplied goods or services, or~~
- (b) ~~with regard to components where these components do not constitute the entire product.~~

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

CHAPTER VIII

MARKET SURVEILLANCE AND SAFEGUARD PROCEDURES

Article 68

Complaint Portal

1. The Commission shall set up a system allowing any natural or legal person to share complaints or reports related to possible non-compliances with this Regulation.
2. Where the Commission considers a complaint or report relevant and substantiated, it shall **transmit** assign it to **the single liaison point of the Member State concerned** a market surveillance authority for it to follow-up with the relevant natural or legal person in accordance with Article 11(7), point (a) of Regulation (EU) 2019/1020.

Article 69

Competent authorities Single liaison point

- ~~1. Member States shall designate, amongst their market surveillance authorities, one or more 'competent authorities' that dispose of the particular knowledge needed to assess products both technically and legally.~~
2. Member States shall designate, **a single liaison point** amongst their competent **market surveillance** authorities, the 'national competent authority' which **shall act as** is the focal point for contacts with **the Commission and market surveillance authorities 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.**

Procedure to deal with non-compliant products

1. Where a market surveillance authority of one Member State has sufficient reason to believe that certain products covered by a ~~construction products standard~~ **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 cooperate as necessary with the market surveillance authorities.

Where, in the course of that evaluation, the market surveillance authority finds that the products ~~or its manufacturer~~ does not comply with the requirements ~~and obligations~~ laid down in this Regulation, it shall without delay require the relevant economic operators to take all appropriate and proportionate corrective actions, **as provided for in Article 16(3) of Regulation (EU) 2019/1020**, to bring the products ~~or himself~~ into **the non-compliance to an end** with those requirements ~~and obligations~~ or, **if that is not possible**, to withdraw the products from the market, or to recall them, all within a reasonable period ~~and~~ **which is** commensurate with the nature ~~and degree~~ of the non-compliance. ~~The corrective action required to be taken by the economic operators may include the actions listed in Article 16(3) of Regulation (EU) 2019/1020.~~

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** ~~national competent authority~~, inform the Commission and the other Member States of the results of the evaluation and of the actions which it has required the economic operators to take.

3. The economic operators shall **ensure that** take all appropriate corrective action **is taken** in respect of all the products **concerned** that ~~it~~ that economic operators has made available on the market throughout the Union.

4. Where the relevant economic operators, within the period referred to in the second subparagraph of paragraph 1, ~~does~~ not take adequate **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** take all appropriate provisional or ~~definitive measures to prohibited~~ or ~~restricted~~ the making available on the market of the products, ~~to withdraw these product from the market or to recall them.~~

The market surveillance authority shall inform the public, and via the **single liaison point** ~~national competent authority~~ 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; ~~and/or~~

(a1) failure of the products to meet the **inherent product** requirements **established in accordance with Article 5(1)** ~~related to the fulfilment of basic requirements for construction works laid down in this Regulation;~~

- (b) failure of the manufacturer to meet obligations;
- (c) shortcomings in the harmonised technical specifications **referred to in Article 4 or 4a(1), or in a European assessment document, in the harmonised standards referred to in Article 5a(1) or in the implementing acts referred to in Article 5a(2).**

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. ~~The other~~ 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 71

Union safeguard procedure

1. Where, on completion of the procedure set out in Article 70(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 or operators** and shall evaluate the national measure. On the basis of the results of that evaluation, the Commission shall decide by means of implementing act adopted whether the measure is justified or not.

Those implementing acts shall be adopted in accordance with advisory procedure referred in Article 88(1).

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

2. If the national measure is considered **to be** justified, all Member States shall ~~take the necessary measures to ensure that~~ **appropriate restrictive measures, such as withdrawal, are taken in respect of** the non-compliant product ~~is withdrawn from their markets~~ 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, construction products harmonised standards or implementing acts** as referred to in Article 70(5), point (c), the Commission shall apply the procedure provided for in **Article 4(2f), in Article 4a(1) third subparagraph, Article 5a(7) or in Article 41 of this Regulation or in** Article 11 of Regulation (EU) No 1025/2012 **respectively**.

Complying products which nevertheless present a risk

1. Where, having performed an evaluation pursuant to Article 70(1), a market surveillance authority ~~Member State~~ finds that, although ~~certain~~ a products ~~are~~ is in compliance with this Regulation, ~~they~~ it ~~presents~~ a risk ~~for the fulfilment of the basic requirements for construction works,~~ 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 operators 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** ~~national competent authority,~~ 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 enter into consultation with 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 decide by implementing act whether the measure is justified or not and, where necessary, ~~propose~~ **order** appropriate measures.

5. Those implementing acts shall be adopted in accordance with the advisory **examination** procedure referred to in Article 88(1).
6. The Commission shall address its decision to all Member States and shall immediately communicate it to them and to the relevant economic **operator or** operators.

Article 73

Minimum checks and minimum human resources

- ~~1. The Commission is empowered to adopt delegated acts in accordance with Article 87 supplementing this Regulation by laying down the minimum number of checks to be performed by the market surveillance authorities of each Member State on specific products covered by harmonised technical specifications or in relation to specific requirements set out in such measures in order to ensure checks are performed on a scale adequate to safeguard the effective enforcement of this Regulation. The delegated acts may, where relevant, specify the nature of the checks required and methods to be used.~~
- ~~2. The Commission is also empowered to adopt delegated acts in accordance with Article 87 supplementing this Regulation by laying down the minimum human resources to be deployed by Member States for purposes of market surveillance with regard to products covered by this Regulation.~~

Market surveillance coordination and support

1. For the purposes of this Regulation, the administrative cooperation group ('ADCO') set up pursuant to Article 30(2) of Regulation (EU) 2019/1020 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) elaborate guidelines for the application and enforcement of **this Regulation** ~~requirements and obligations set out in delegated acts referred to in Article 4(3) and (4) and Article 5(2) and (3) and the delegated acts referred to in Article 22(4), including 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 the ADCO fulfils its tasks set out in Article 32 of Regulation (EU) 2019/1020 and this Article.~~

Article 75

Retrieval of costs

~~Market surveillance authorities shall have the right to recover from economic operators in possession of a non-compliant product or from the manufacturer the costs of document inspection and physical product testing.~~

Article 76

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. The Commission shall, every **four** ~~2~~ years, draw up a report by 30 June 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 these reports shall be published by [OP: Please add date: **four** ~~two~~ 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** ~~two~~ 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** ~~two~~ previous calendar years in relation to products covered by **harmonised technical specifications or CE-marked based on a European technical assessment** ~~delegated acts adopted pursuant to Articles 4, 5, 6 and 22 of this Regulation;~~
- (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 77

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. ~~The Commission may, by implementing decision give access to authorities of third countries that apply voluntarily this Regulation or that have regulatory systems for construction products similar to this Regulation.~~

~~Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 88(1).~~

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. ~~They shall raise such questions or issues where reasonable doubt exists about how to apply or interpret those rules in a given situation.~~
3. ~~For purposes of paragraph 2, reasonable doubt shall be assumed to exist where the bodies listed in paragraph 1:~~
 - (a) ~~are aware or made aware of 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) ~~are aware or made aware of questions or issues raised through the information and communication system related to the situation they are confronted with or to their own practice;~~

- (c) ~~are confronted with a situation 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) ~~have to apply the rules laid down in or pursuant to this Regulation to a situation to which other provisions of Union law also apply and the resulting question.~~

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 list service to inform their 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. Authorities, ~~economic operators~~, TABs and notified bodies with place of business in the respective Member State shall register into ~~the~~ system or email list service and take account of all information transmitted via them. **Economic operators may register into the system or email list service.**

7. The national information system or email list service shall be able to receive complaints ~~on behalf of the national competent authority~~ 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 ~~national competent authority~~ **single liaison point** shall forward such complaints to their peers in other Member States and to the Commission.
8. ~~Member States and the Commission may use artificial intelligence to detect diverging decision-making practices.~~

Article 78

EU construction products database or system

1. The Commission is ~~empowered to supplement this Regulation by means of delegated act according to Article 87, by setting up~~ **shall adopt an implementing act to establish** a Union construction products database or system ~~that builds to the extent possible on the Digital Product Passport established by Regulation (EU) ... [Regulation on ecodesign for sustainable products].~~ **This implementing act shall be adopted in accordance with the examination procedure referred to in Article 88(2).**
- 1a. The database or system referred to in paragraph 1 shall have the following functionalities:**
- (a) enable economic operators to share or upload the following data or documents:**
- i) the declarations of performance and conformity referred to in Article 11, including the information referred to in Article 11(4) which can be included through a connection to other EU databases where it is already uploaded;**

- ii) the general information, instructions for use and safety information referred to in Article 21(6); and**
 - iii) the technical documentation referred to in Article 21(3);**
 - (b) store and ensure the protection of the data or documents referred to in point (a) for a period of time to be specified in accordance with paragraph 1b.;**
 - (c) make all data or documents referred to in point (a) accessible to competent national authorities;**
 - (d) make the data or documents referred to in point (a)(i) and (ii) publicly accessible in a machine-readable, structured, searchable and transferable format through an open interoperable data exchange network supported by a data dictionary;**
 - (e) provide the possibility for economic operators to print or create permalinks to the data or documents referred to in point (a) which can be used for the fulfilment of information obligations under this Regulation;**
 - (f) allow economic operators to:**
 - i) replace data or documents shared or uploaded by themselves with amended versions so that the amended versions can be accessed in parallel with the original version;**
 - ii) alert other economic operators or competent national authorities of incorrect data or documents within the database or system.**

- 1b. The technical design and operation of the database or system referred to in paragraph 1 shall comply with the following requirements:**
- (a) the database or system shall be compatible with the digital product passport registry developed in accordance with Regulation (EU) [ESPR] and fulfil the conditions established in [Article 8(4) of ESPR] for a product group to be exempted from the requirement to have a Digital Product Passport;**
 - (b) users of construction products, economic operators, competent national authorities and other relevant actors shall have free access to the database or system;**
 - (c) the database or system shall ensure data authentication, reliability and a high level of security and protection against fraud;**
 - (d) data or documents shared or uploaded to the database or system shall be stored therein for at least 25 years after they have been shared or uploaded.**
- 1c. The Commission is empowered to adopt delegated acts in accordance with Article 87 to supplement this Regulation by specifying the functionalities and requirements under paragraphs 1a and 1b to adapt to technical progress or to the once-only principle in relation to information requirements in other EU law.**
- 1c1. The Commission is empowered to adopt delegated acts in accordance with Article 87 to amend this Regulation to add functionalities under paragraph 1a needed to adapt to technical progress or adapt it to the once-only principle in relation to information requirements in other EU law or to establish longer periods for storage of data and documents than the storage period provided under paragraph 1b point (d), for specific product families or categories or for certain data or documents, where this is justified based on the service life span of a product or the presumptive information needs of users of used products.**

1d. After the database or system has been fully operational for at least one year, and where it has fulfilled its intended objective, including the functionalities provided under paragraph 1a, for both economic operators and market surveillance authorities in all Member States the Commission shall adopt an implementing act to provide for the mandatory use of the database or system by economic operators in accordance with Article 19(5a). This implementing act shall be adopted in accordance with the examination procedure referred to in paragraph 2 of Article 88.

2. Economic operators may access all information stored in that database or system which regards them specifically. They may request that incorrect information is corrected.

3. The Commission may, by implementing acts give access to this database or system to certain authorities of third countries that apply voluntarily this Regulation or that have regulatory systems for construction products similar to this Regulation provided that these countries:

- (a) ensure confidentiality;
- (b) are partners of a mechanism for lawful transfers of personal data compliant with the Regulation (EU) 2016/679¹⁶;
- (c) commit to engage actively by notifying facts that might trigger the need for action of market surveillance authorities, and
- (d) commit to engage against economic operators infringing this Regulation from their territory.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 88(1).

¹⁶ 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. 1–88*.

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 ~~and at any rate at least one full-time equivalence per Member State and one additional full-time equivalence per each ten millions of inhabitants~~. They shall ensure that product contact points for construction deliver their services in accordance with Regulation (EU) 2018/1724¹⁷ and that they coordinate with the contact points for mutual recognition established by Article 9(1) of Regulation (EU) No 2019/515¹⁸.
2. Product contact points for construction shall provide, at the request of an economic operator or a market surveillance 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,
 - (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.

¹⁷ 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; *OJL 295, 21.11.2018, p. 1–38*.

¹⁸ 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; *OJL 91, 29.3.2019, p. 1–18*.

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 respond within 15 working days of receiving any request under paragraph ~~23~~.
4. Product contact points for construction shall not charge any fee for the provision of the information under paragraph ~~23~~.
5. 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.
6. Paragraphs 1 to ~~56~~ apply also to products which have not yet been covered by harmonised technical specifications.
7. The Commission shall publish update a list of the national product contact points for construction.

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. ~~The Commission may, by implementing decision adopted in accordance give access to third countries that apply voluntarily this Regulation or that have regulatory systems for construction products similar to this Regulation.~~

~~Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 88(1).~~

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.

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

INTERNATIONAL COOPERATION

Article 82

International cooperation

1. The Commission may, **for the purpose of the protection of health, safety or the environment**, cooperate, ~~including through the exchange of information,~~ with **regulatory authorities of** third countries or international organisations in the field of application of this Regulation, such as:
 - (a) **exchange of information on** enforcement activities and measures related to safety and protection of the environment, including market surveillance;
 - (b) exchange of data of economic operators;
 - (c) **exchange of information on** assessment methods and product testing;

- (d) **exchange of information on** ~~coordinated~~ product recalls, requests for corrective actions and other similar actions;
- (e) scientific, technical, and regulatory matters, aiming to improve product safety or the protection of the environment;
- (f) **exchange of information on** emerging issues of significant environmental, health and safety relevance;
- (g) **exchange of information on** standardisation-related activities;
- (h) exchange of officials.

The exchange of information pursuant to this paragraph shall respect confidentiality rules and be in accordance with applicable Union law.

- 2. ~~The Commission may provide third countries or international organisations with selected information from the product database or system referred to in Article 78, to the system referred to in Article 77 and to the information exchanged amongst authorities in accordance with this Regulation and receive relevant information on products and on preventive, restrictive and corrective measures taken by these third countries or international organisations. The Commission shall share such information with national authorities, where relevant.~~
- 3. The information exchange referred to in paragraph 12 may take the form of either:
 - (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.

Where relevant for Member States, the Commission shall share information received through these exchanges with them.

4. **The Commission may, by implementing acts, give regulatory 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 77(1);

(b) the Union construction products database or system set up in accordance with Article 78;

(c) the training events organized in accordance with Article 80(2).

Access to these programmes shall be granted on the condition that the third country concerned commit to engage against economic operators infringing this Regulation from their territory and ensure confidentiality.

Full participation **in these programmes** in the database system referred to in Article 78, to the system referred to in Article 77 and to the information exchange amongst authorities set out in Article 80 may be **offered** open to applicant **candidate** countries and third countries, provided that their **third country's** legislation is aligned with this Regulation ~~or~~ **and** that ~~it~~ **they** recognises certificates issued by notified bodies or European technical assessments in accordance with this Regulation. Such participation is subject to the fulfilment of the same obligations as for EU Member States according to this Regulation, including notification and follow-up obligations. Full participation in the database or system referred to in Article 78 and to the system referred to in Article 77 shall be based on agreements between the European Union and those countries.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 88(1).

- ~~5. Where agreements with third countries permit the mutual support in terms of enforcement, Member States may, after consultation of the Commission, use the empowerments set out in Chapter VIII also for action against economic operators acting unlawful in or with respect to third countries, provided that the third countries respect the fundamental values referred to in Article 2 TEU, including the rule of law. Member States may request via the Commission third countries to enforce measures adopted in accordance with Chapter VIII. No cooperation under this Paragraph shall happen where there is no de facto reciprocity or where the Commission raises other concerns, namely with regard to the legal conditions set out in this Article or confidentiality of data.~~
6. Any information exchange under this article, to the extent it involves personal data, shall be carried out in accordance with EU 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 and only to the extent that such exchange is necessary for the sole purpose of the protection of health, safety or the environment.
- ~~7. The information exchanged pursuant to this Article shall be used for the sole purpose of the protection of health, safety or the environment and respect confidentiality rules.~~

CHAPTER XI
INCENTIVES AND PUBLIC PROCUREMENT

Article 83

Member State incentives for construction products

1. Where Member States provide incentives for a product ~~category~~ covered by a delegated act establishing ~~performance~~ classes **of performance** in accordance with Article 4**(2b) or 4a(2)(ii) to promote environmentally sustainable products** ~~(4), point (a) or a “traffic-light labelling” in accordance with Article 22(5)~~, those incentives shall aim at the highest two ~~populated~~ classes **of performance that are populated at Union level** ~~/ colour codes, or at higher classes / better colour codes.~~
- 1a.** Where a delegated act ~~defines~~ **determines** classes of performance in relation to more than one sustainability parameter **essential characteristic, the Commission may in order to boost demand of environmentally sustainable products, in implementing acts specify the essential characteristics that Member States incentives, as a minimum, shall concern and that the highest two classes of performance can be incentivised** ~~it shall be indicated therein in relation to which parameter this Article should be implemented. **These implementing acts shall be adopted in accordance with the examination procedure referred to in Article 88(2).**~~

2. ~~Where no delegated act is adopted pursuant to Article 4(4), the Commission may specify in the delegated acts adopted pursuant to Article 4(3), which levels of performance related to product parameters the Member States incentives shall concern.~~

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

- ~~(a) the relative affordability of the products depending on their level of performance;~~
- ~~(b) the need to ensure sufficient demand for more environmentally sustainable products.~~

3. When preparing the implementing acts referred to in paragraph 1a, the Commission shall take into account the following criteria:

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

Article 84

Green public procurement of construction products

1. The Commission is empowered to **adopt implementing acts** supplement this Regulation by delegated acts according to Article 87 by establishing sustainability **specifying minimum mandatory environmental sustainability** requirements applicable to **for** public contracts, including implementation, monitoring and reporting of those requirements by Member States **procurement of construction products, in order to incentivise the supply and demand for environmentally sustainable products. These requirements shall be set on products covered by harmonised technical specifications and shall not apply to the procurement of construction works. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 88(2).**

2. Requirements adopted pursuant to paragraph 1 for public contracts awarded by contracting authorities, as defined in Article 2(1) of Directive 2014/24/EU or Article 3, point (1) of Directive 2014/25/EU, or contracting entities, as defined in Article 4(1) of Directive 2014/25/EU, ~~may~~ **shall, as appropriate to the product family of category concerned,** take the form of

- (i) ~~mandatory~~ technical specifications **within the meaning of paragraph 1 of Annex VII of Directive 2014/24/EU and of Article 60 of Directive 2014/25/EU,**
- (ii) selection criteria **within the meaning of Article 58 of Directive 2014/24/EU and of Article 80 of Directive 2014/25/EU,** ~~award criteria,~~
- (iii) contract performance clauses **within the meaning of Article 70 of Directive 2014/24/EU and of Article 87 of Directive 2014/25/EU,** ~~or~~
targets as appropriate.

2a. The environmental sustainability requirements referred to in paragraph 1 shall be set as appropriate in view of the specificities of to the product family of category concerned and may:

- (a) **include requirements based on the essential characteristics specified in harmonised technical specifications.**
- (b) **where classes of performance have been defined in accordance with Article 4(2b) or 4a(2ii), require products to fulfil one of the highest two classes of performance that are populated at Union level.**

3. When establishing requirements pursuant to paragraph 1 for public contracts, the Commission shall take into account the following criteria:
- (a) the value and volume of public contracts awarded for that given **the relevant** product family or category ~~or for the services or works using the given product family or category;~~
 - (b) ~~the need to ensure sufficient demand for more environmentally sustainable products;~~
 - (c) the economic feasibility for contracting authorities or contracting entities to buy more environmentally sustainable products, without entailing disproportionate costs.
 - (d) the market situation at Union level of the relevant product family or category;**
 - (e) the effects of the requirements on competition.**
- 4. Contracting authorities and contracting entities referred to in paragraph 2 may, in duly justified cases, derogate from the mandatory requirements specified in an implementing act referred to in paragraph 1 on the grounds of public security and public health. Contracting authorities may also, in duly justified cases, derogate from these mandatory requirements, when those would lead to disproportionate technical difficulties.**

CHAPTER XII

REGULATORY STATUS OF PRODUCTS

Article 85

Regulatory status of products

Upon a duly substantiated request of a Member State or on its own initiative, the Commission may, by means of implementing acts, determine whether or not a specific item, or category of items, falls within the definition of ‘construction product’ **as referred to in Article 3(1)** ~~or constitute an item referred to in Article 2(1).~~

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 88(2) of this Regulation.

CHAPTER XIII

AMENDMENTS

Article 86

Amendments to Regulation (EU) 2019/1020

Regulation (EU) 2019/1020 is amended as follows:

- (1) ~~in Article 4(5), the following text is added: “[EU] 2020/...(*¹⁹)”~~
- (2) ~~in Annex I, the following point 72 is added to the List of Union harmonisation legislation:~~

~~“72. 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 (the Publications Office to fill in the OJ publication details);”.~~

¹⁹ ~~*[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 (For the Publications Office to fill in the OJ publication details)]².~~

CHAPTER XIV

FINAL PROVISIONS

Article 87

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 **3a(6), Article 4(2g), Article 4a(2), (3), (4) and (5), Article 5(12) and (3), Article 6(1) to and (3), Article 8, Article 11(3), Article 22(4) and (5), Article 365(45), Article 44(1), Article 73(1) and (2), and Article 78(1c) and (1c1), Article 84(1) and Article 90(4)** 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-Making²⁰.

²⁰ 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. 1–14.*

4. The delegation of powers referred to in Article **3a(6), Article 4(2g), Article 4a(2)**, (3),~~(4)~~ and (5), Article 5(~~12~~) and (3), Article 6(1) ~~to~~ **and** (3), Article 8, Article 11(3), ~~Article 22(4) and (5)~~, Article 3~~65(45)~~, Article 44(1), Article 73(1) and (2), **and** Article 78(1**c**) **and** (**1c1**), ~~Article 84(1) and Article 90(4)~~ 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.
6. A delegated act adopted pursuant to Article **3a(6), Article 4(2g), Article 4a(2)**, (3),~~(4)~~ and (5), Article 5(~~12~~) and (3), Article 6(1) ~~to~~ **and** (3), Article 8, Article 11(3), ~~Article 22(4) and (5)~~, Article 3~~65(45)~~, Article 44(1), Article 73(1) and (2), **and** Article 78(1**c**) **and** (**1c1**), ~~Article 84(1) and Article 90(4)~~ 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 88

Committee

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. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply (advisory procedure).
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply (examination procedure).

Where the committee delivers no opinion, the Commission shall not adopt draft implementing acts in respect of the implementing powers referred to in Articles 33, 62 and 85 of this Regulation, and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply (urgent examination procedure).

Article 89

Electronic applications, decisions, documentation and information

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

2. All documentation required by Article 19(7), Article 21(3), Articles 64 to 66 and Annex V can be provided on paper or in a commonly used electronic format and in a way that permits downloads via unmodifiable links (permalinks).

All information obligations **under this Regulation** set up by Article 7(3), (4) and (6), Article 19(1), (3), (5) and (6), Article 20(2) and (3), Article 21(6) to (9), Article 22(2), points (f) and (i), Article 23(5), Article 24(6), Article 25(2), Article 26(4), Article 27(2), Articles 28 to 39, Article 41(3), Article 44(3), (4), (6) and (7), Article 45(3), Article 46(2), Article 47, article 49(5), Article 50(11), Article 53(1), Article 58(1), Article 59(2), Article 61, Article 70(1), (2), (4) and (6), Article 71(2), Article 72(1), (3) and (5), Article 76, Article 77, Article 78(3), Article 79(2), Article 79(3), Article 80(2), Article 82(1) to (3), (6) and (7) and Article 91 can, **unless otherwise stated**, be satisfied by electronic means.

However, information to be provided in accordance with Annex I Part D and harmonised technical specifications specifying it shall be provided on paper for products not labelled “not for consumers” or “only for professional use”. Moreover, consumers may request any other information to be provided on paper. **Where the information is provided by electronic means, the information shall be issued in a commonly readable electronic format that makes it possible for the recipient to download and print the information.**

Economic operators may fulfil information obligations under this Regulation by providing permalinks to documents which are accessible via an online interface, including documents that can be accessed via the database or system referred to in Article 78. Where a permalink is provided to a document which has not been shared or uploaded to the database or system, the economic operator shall ensure that the information remain accessible for at least 10 years after the placing on the market of the product concerned.

Article 90

Penalties

1. Member States shall lay down the rules on penalties applicable to non-compliances 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 - ~~13~~ months ~~after~~ **before** ~~to the date of application~~ **entry into force of this Regulation**], notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.
- ~~2. Member States shall especially lay down rules on penalties for the following non-compliances of economic operators:~~
 - ~~(a) placing on the market or making available on the market of a product which is not CE marked whilst an CE marking is mandatory;~~
 - ~~(b) affixing the CE marking in violation of Article 17(1) or without the correct information to be provided together with the CE marking in accordance with Article 17(2);~~
 - ~~(c) affixing of the CE marking without prior issuing of a declaration of performance;~~
 - ~~(d) issuing of a declaration of performance or declaration of conformity where the conditions therefore have not been met;~~
 - ~~(e) the declaration of performance or the declaration of conformity is incomplete or incorrect;~~
 - ~~(f) the technical documentation is missing, incomplete or incorrect;~~

- (g) information to be provided in accordance with Annex I Part D and harmonised technical specifications is missing, incomplete or incorrect;
- (h) the information referred to in paragraph Article 21(4), Article 22(2), points (f) and (i) or Article 21(7) and Article 24 is missing, incomplete or incorrect;
- (i) any other administrative requirement provided for in Articles 21, 22 or 24 is not fulfilled;
- (j) information due to notified bodies, TABs or authorities is not provided or is incorrect;
- (k) measures requested in case of non-compliance or risk, mandatory according to Article 21(8) and (9), Article 23(3), points (d) and (e), Article 24(5), Article 25(2) in conjunction with Article 24(5), Article 27(2), point (c) in conjunction with Article 24(5) and Article 27(2), points (d), (e) and (g) are not taken;
- (l) the product and documentation verification obligations incumbent on economic operators according to Articles 23 to 27 are not fulfilled; and
- (m) 3D printing services are provided under infringement of Article 28.

3. Member States shall also lay down rules on penalties for the following non-compliances of TABs and notified bodies:

- (a) issuing of certificates, test reports, or European technical assessments whilst the conditions therefore are not fulfilled;
- (b) non withdrawal of certificates, test reports, or European technical assessments where the withdrawal is mandatory;

(c) ~~information to be provided to notified bodies, TABs or authorities is not provided, incomplete or is incorrect; and~~

(d) ~~instructions of authorities are not followed.~~

4. ~~The Commission is empowered to supplement this Regulation by delegated act adopted in accordance with Article 87 in order to establish proportionate minimum penalties, targeting all economic operators, TABs and notified bodies directly or indirectly involved in the infringement of obligations of this Regulation.~~

Article 91

Evaluation

No ~~sooner~~ **later** than 8 years after the date of application of this **Regulation and at least every eight 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. 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. **The reports shall also evaluate the effect of the application of this Regulation on the state of the market for different categories of used products.**

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

Article 92

Repeal

- 1.** Regulation (EU) 305/2011 is repealed with effect **from [date of application] 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 and Articles 60 to 64 as well as annexes III and V which are repealed with effect** from 1 January 2045.
- 2.** References to **the repealed** Regulation (EU) 305/2011 shall be construed as references to this Regulation **and shall be read** in accordance with the correlation table in Annex VII.

Article 93

Derogations and transitional provisions

1. Product contact points for construction designated under Regulation (EU) 305/2011 shall be deemed to be designated under this Regulation as well.
2. TABs and notified bodies **that are** designated **and notified** under Regulation (EU) 305/2011 shall be deemed to be designated **and 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 [5 years after entry into force]. The objection procedure set-out in Article 56(5) **of this Regulation**, ~~also applicable to TABs in accordance with Article 43(2)~~, shall apply.

3. The following standards remain valid under this Regulation, as standards referred to in the first subparagraph of Article 4(2):
- (a)
 - (b)
 - (c) ~~[to be inserted during the negotiations of the legislators].~~
4. European assessment documents, **the references of which are included in the list published in accordance with Article 22 of Regulation (EU) 305/2011** issued before ~~by~~ ~~[1 year after **date of** entry into force], **shall** remain valid until ~~[53 years after entry into force], 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 entry into force]** may be further made available on the market for another five years.~~~~
5. Notified bodies' certificates or test reports and European technical assessments issued under Regulation (EU) 305/2011 **shall, unless they have expired for other reasons,** remain valid. **Certificates and test reports issued under Regulation (EU) 305/2011 may be used to demonstrate a product's compliance with this Regulation in cases where the product type is corresponding and the requirements and assessment methods are identical. The sharing of such documents shall be possible under the conditions set out in Article 67** for five years after the entry into force of harmonised technical specifications for the respective product family or category adopted in accordance with Article 4(2), unless these documents have expired for other reasons. Products placed on the market on the basis of these documents may be further made available on the market for another five years.

5a. Articles 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) 305/2011 shall only apply to products covered by harmonised standards referenced in the list published in accordance with Article 17(5) of Regulation (EU) 305/2011 which have not been withdrawn or to products covered by European assessment documents referred to in paragraph 4.

For the purposes of Articles 4(2c), 4a(1), and 7a(1), harmonised standards referenced in the list published in accordance with Article 17(5) of Regulation (EU) 305/2011 which have not been withdrawn shall be treated as construction product performance standards.

6. The requirements **and obligations of economic operators** set out in Chapters I, II and III **shall only be** applicable to economic operators with regard to a certain product **family** or **a category of** products **within such a** family shall apply as from one year after the **publication of a reference to a construction product performance standard in the Official Journal in accordance with Article 4(2d) or the** entry into force of **an implementing act in accordance with Article 4a(1)** the harmonised technical specification covering that product ~~group or family~~ **or category, unless a later application date has been specified as part of the publication of the reference in the Official Journal or set out 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** ~~or of~~ conformity.

7. Within ~~two~~ **one** years following the **date of application of requirements and obligations** entry into force of a harmonised technical specification covering **in relation to** a certain product group or family **or category as set out in paragraph 6**, the Commission shall withdraw from the Official Journal references of harmonised standards and EADs **European assessment documents published there in accordance with Articles 17(5) and 22 of Regulation (EU) 305/2011 when they are** covering the **same** respective product group or family **or category**.

Four years after the withdrawal of a European assessment document referred to in the first subparagraph, products may no longer be placed on the market on the basis of European technical assessments issued under that document.

Article 94

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 [~~± 24 months~~ after entry into force], **with the exception of Articles 2, 3, 3a and 4(2a) and (2b) and Annex I-A which shall apply from [date of entry into force]**.

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President

PART A: Basic requirements for construction works and essential predetermined environmental characteristics to be covered

1. 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, and harmonised technical specifications **and European assessment documents**.

These 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 impacts of the changing climate.

1.1. Structural integrity 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 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) be durable for their intended life span (durability requirement);
- (b) be able to sustain all actions and influences likely to occur during construction, use and **deconstruction or** demolition with an appropriate degree of reliability and in an cost-effective way (structural resistance requirement). They 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) remain within their specified service requirements during the intended life span with appropriate degrees of reliability and in an economic way (serviceability requirement);
- (d) maintain appropriately their integrity in adverse events, including earthquake, explosion, fire, impact or consequences of human errors, to an extent disproportionate to the original cause (robustness requirement).

1.2. Fire safety 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 an event of fire is appropriately prevented, **including through adequate usage of detectors and alarms**. ~~In case of a fire, the fire shall be detected and an alarm or alert shall be triggered without a delay.~~ The fire and smoke shall be contained and controlled, and the occupants of the construction works shall be protected against fire and smoke. There shall be appropriate arrangements to ensure safe escape 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.

1.3. ~~Workers, consumer and occupant p~~**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 present acute or chronic threat to the health and safety of **construction** workers, occupants, **visitors** or neighbors as a result of any of the following:

- (a) the emissions of hazardous substances, volatile organic compounds or hazardous particles 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 to the indoor environment.

1.4. ~~Workers, consumers and occupants protection against physical injuries~~ **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, **burglaries** 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.

1.5. 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 it:

- (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.

1.6. 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, ~~throughout their life cycle~~, the amount of energy they require ~~in~~ **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.

1.7. Hazardous 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 ~~threat~~ **risk** to the outdoor environment, as a result of any of the following:

- (a) the release of hazardous substances or radiation into 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 net~~ greenhouse gas emissions into the atmosphere.

1.8. 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) use of raw and secondary materials of high environmental sustainability ~~and thus with a low environmental footprint~~;
- (b) minimizing the overall amount of raw materials used;
- (c) minimizing the overall amount of embodied energy;
- (d) minimizing the overall use of drinking and brown water;
- (e) **maximising the** reuse or recyclability of the construction works, **in parts or in whole, and** of ~~them and~~ their materials after **deconstruction or** demolition.

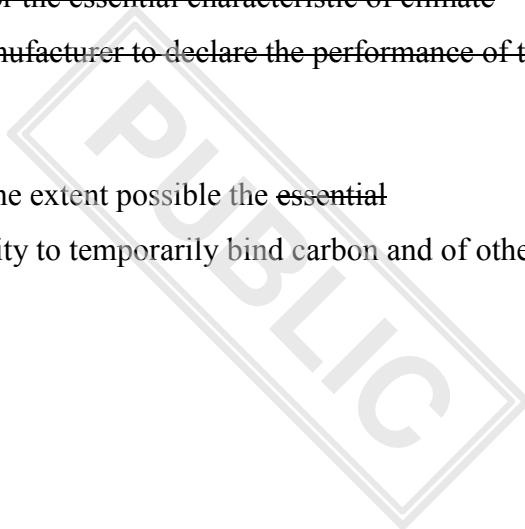
2. **Predetermined environmental** ~~Essential characteristics to be covered~~

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

- (a) climate change effects (mandatory **in accordance with Article 11(2)**);
- (b) ozone depletion;
- (c) acidification potential;
- (d) eutrophication aquatic freshwater;
- (e) eutrophication aquatic marine;
- (f) eutrophication terrestrial;
- (g) photochemical ozone;
- (h) abiotic depletion – minerals, metals;
- (i) abiotic depletion – fossil fuels;
- (j) water use;
- (k) particulate matter;
- (l) ionizing radiation, human health;
- (m) eco-toxicity, freshwater;
- (n) human toxicity, cancer;
- (o) human toxicity, non-cancer;
- (p) land use related impacts.

Harmonised technical specifications shall indicate that for the essential characteristic of climate change effects under point (a) it is mandatory for the manufacturer to declare the performance of the product as set out in Articles 11(2) and 22(1).

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



PART B: Inherent product Rrequirements ensuring the appropriate functioning and performance of products

1. Products shall be designed and manufactured in such a way that:
- (a) they fulfil well their intended purpose;
 - (b) the fulfilment of the declared performance is not impaired;
 - (c) the fulfilment of the environmental and safety requirements set out in Part C is not impaired;
 - (d) they work well when being used.
2. The product requirements referred to in point 1 shall be specified in harmonised technical specifications, including by specifying where necessary:
- (a) the use of specific materials which can be specified also in terms of their chemical composition;
 - (b) 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) a specific way of installation;
 - (f) a specific way of maintenance;
 - (g) periodic inspections.

3. ~~Where these product requirements are necessary to ensure the performance with regard to a certain essential characteristic or the compliance with regard to a certain safety or environmental product requirement, this shall be specified in the harmonised technical specifications.~~

PART C: Inherent product requirements

12. 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.~~

- 12.1. Harmonised technical specifications adopted in accordance with Article 5(1) may, as appropriate for the products it covers, specify that Pproducts 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 EU legislation:**

- (a) chemical risks due to leaking or leaching;
- (b) 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) risk of not performing as intended, whilst the performance is safety relevant;
- (n) risk of misunderstanding instructions for use in a field affecting health and safety;
- (o) risk of unintended inappropriate installation or use;
- (p) risk of intended inappropriate use.

~~2.2.~~ ~~Harmonised technical specifications shall, as appropriate, specify these inherent product safety requirements, which might relate to but are in essence independent from the phase of the installation of the product into construction works. When specifying the inherent product safety requirements, **Voluntary** harmonised **standards, requested in accordance with article 5a(1)**, technical specifications shall at least cover the following elements set out how any requirements in accordance with Point 2.1 can be fulfilled, by for instance:~~

- (a) ~~defin~~inge 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) ~~provid~~inge technical solutions that avoid safety-related risks, or;
- (e) where risk avoidance is not possible, **reduce and mitigate** risks ~~shall be reduced, mitigated and~~ **by** ~~address~~inge ~~by~~ **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 in accordance with performance classes.

23. Inherent product environmental requirements

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

23.1. Harmonised technical specifications adopted in accordance with Article 5(1) may, as appropriate for the products it covers, specify that Pproducts 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 in accordance with the state of the art **and to the extent not covered by other EU legislation**:

- (a) maximising durability in terms of the expected average life span, the expected minimum life span under worst but still realistic conditions, and in terms of the minimum life span requirements;
- (b) minimising ~~whole~~-life-cycle greenhouse gas emissions;
- (c) maximising recycled content wherever possible without safety loss or outweighing negative environmental impact;
- (d) selection of safe, environmentally benign substances;
- (e) energy use and energy efficiency;
- (f) resource efficiency;
- (g) identification which product or parts thereof and in what quantity can be reused after de-installation (reusability);

- (h) upgradability;
- (i) reparability during the expected life span, **including compatibility with commonly available spare parts;**
- (j) possibility of maintenance and refurbishment during the expected life span;
- (k) recyclability and the capability to be remanufactured;
- (l) capability of different materials or substances to be separated and recovered during dismantling or recycling procedures.

23.2. ~~Harmonised technical specifications shall, as appropriate, specify these inherent product environmental requirements, which might relate to but are in essence independent from the phase of the installation of the product into construction works. When specifying the inherent product environmental requirements,~~ **Voluntary** harmonised **standards, requested in accordance with article 5a(1),** technical specifications shall at least cover the following elements **set out how any requirements in accordance with Point 3.1 can be fulfilled, by for instance:**

- (a) ~~if possible, define~~ the state of the art of addressing the environmental aspects with regard to the respective product category, including the minimum recycled content;
- (b) ~~providing~~ technical solutions which avoid negative environmental effects and risks, including the generation of waste materials, ~~or;~~
- (e) where avoidance is not possible, **reduce and mitigate** negative effects and risks ~~shall be reduced, mitigated and~~ **by** ~~addressing~~ **by 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 these in accordance with performance classes.

PART-D: Product information requirements

1. **General information** ~~Products shall be accompanied by~~ **General information referred to in article 21(6) cover** the following information:
- 1.1. Product identification: ~~unequivocal~~ **unique identification code of the product** type number on the basis of the determination of product type pursuant to **as indicated in accordance with** Article **21(5)** ~~3, point 31~~.
- 1.2. Product description:
- (a) **declared** ~~intended~~ uses;
 - (b) intended users;
 - (c) conditions of uses;
 - (d) estimated average and minimum service life span for **declared** ~~intended~~ use (durability);
 - (e) ~~nominal dimensions (drawings);~~
 - (f) main materials used;
 - (g) ~~key parts.~~

1.4. Contact details of the manufacturer or the authorised representative:

- (a) name;**
- (b) postal address;**
- (c) telephone;**
- (d) email address;**
- (e) website, where available;**

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

1.32.1. Instructions for use and safety information referred to in article 21(6) cover the following elements where deemed relevant for the product type in question ~~Transport, installation, maintenance, deconstruction and demolition rules:~~

- (a) Safety during transport, installation, maintenance, ~~deconstruction~~ and de-installation ~~demolition~~:**
 - (i) potential risks of the product and any reasonably foreseeable misuse thereof;
 - (ii) 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;
 - (iii) instructions for operation and maintenance to be carried out safely, including the protective measures that should be taken during these operations;
 - (iv) if necessary, instructions for the training of the installers or operators;
 - (v) information on what to do in case of failure or accidents;

- (b) Compatibility and integration into systems or kits:
- (i) compatibility with other materials or products, regardless of whether they are covered by this Regulation or not;
 - (ii) electric and electro-magnetic compatibility;
 - (iii) software compatibility;
 - (iv) integration into systems or kits;
- (c) Maintenance needs with a view to maintaining the performance of the product during its service life span:
- (i) description of the adjustment and maintenance operations that should be carried out by the users and the preventive maintenance measures that should be observed;
 - (ii) the type and frequency of inspections and maintenance required for safety reasons and, where appropriate, the parts subject to wear and the criteria for replacement;
 - (iii) information on what to do in case of failure or accident;
- (d) Safety during use:
- (i) instructions on the protective measures to be taken by the user, including, where appropriate, the personal protective equipment to be provided;
 - (ii) instructions designed for the safe use of the product, including the protective measures that should be taken during its use;
 - (iii) information on what to do in case of failure or accident during use;

- (e) Training and other requirements necessarily to be fulfilled for safe use;
- (f) Risk mitigation possibilities going beyond points 1.2 to 1.3.

1.4. ~~Contact details of the manufacturer or the representative:~~

- (a) ~~address/website/telephone number/email address;~~
- (b) ~~if possible, specific contact details should be given for:~~
 - (i) ~~information on installation, maintenance, use, deconstruction and demolition,~~
 - (ii) ~~information on risks,~~
 - (iii) ~~information in case of failure;~~

1.5. ~~Contact details of relevant authorities in case of risky or faulty products.~~

1.6.2.2. **Instructions for use referred to in article 21(6) provide, where deemed relevant for the product type in question, rules or recommendations for a product's:**

- (a)** repair,
- (b)** ~~deconstruction~~ **de-installation**,
- (c)** reuse,
- (d)** remanufacturing,
- (e)** recycling,
- (f)** ~~or~~ safe deposit.

- ~~3. Product **The** information **provided** on these **elements listed in points 2.1 and 2.2** items shall, both in terms of quantity and quality, suffice to make knowledgeable decisions on purchase, including the respective needed quantity, installation, use, maintenance, dismantling, reuse and recycling of the product. It shall include all the drawings, diagrams, descriptions and explanations necessary to understand it.~~
- ~~2. Harmonised technical specifications may specify that a certain product information requirement is not relevant for a certain product category.~~
- ~~3. Harmonised technical specifications **The information** shall, as appropriate, **strive to** specify the product information requirements set out in point 1 that may relate both to the product itself and to its installation into construction works. Thereby, they shall take into account the needs of designers, building authorities, construction professionals, building control authorities, consumers and other users, occupants, use managers, and of maintenance professionals.~~

3a. The Commission may, in accordance with Article 4(2b), request that a European standardisation organisation propose non-binding elements amongst those set out in points 2.1 and 2.2 that might need to be addressed for a certain product family, product category or product type, in order to fulfil the obligations in Article 21(6).

~~When specifying the product information requirements, harmonised technical specifications shall at least cover the following elements:~~

- ~~(a) address safety and environmental aspects relevant for the respective product category;~~

- (b) ~~specify where the respective information is to be provided, aiming, by choice of the location, at the utmost likelihood for information not be overlooked. If possible, several of the following places shall be selected: on the product, on its label, on its packaging, on its outer (sales) packaging, in paper instructions for use, in electronic instructions for use, on the website of the manufacturer or in the product database established in accordance with Article 78;~~
- (c) ~~in cases where information may or shall be provided on the website of the manufacturer or in the product database, the harmonised technical specifications shall require a link to be placed on the product, on its packaging, and on its outer (sales) packaging;~~

4. ~~Harmonised technical specifications may permit manufacturers to provide certain information items relevant for Member States, users or occupants, under the condition that:~~

- (a) ~~the respective Member States' regulation is compatible with Union law;~~
- (b) ~~it is made clear that the respective information items permitted by the harmonised technical specifications do not relate to Union law and are not mandatory.~~

Declaration of Performance and Conformity as referred to in Article 11¹

Model for the declaration of performance and conformity

Name of the Manufacturer

Declaration No Code ...²

Version No ...³

Date of that version ...

1. Product description

- (a) unique identification code of the product type **as indicated in accordance with Article 21(5)**, ~~and the ranges of batch numbers and serial numbers covered if already determined for the respective product type;~~
- (b) product category as defined by harmonised technical specifications or European Assessment Documents;
- (c) **declared** ~~intended~~ uses of the product, **within the scope of** ~~necessarily falling under those intended uses for which the applicable harmonised technical specification or European Assessment Document has been developed, with facultative additional information on the intended users, or the conditions for safe and good use;~~

¹ ~~When~~ a Declaration of Performance **and Conformity** is issued **in relation to a product not subject to product requirements specified in accordance with Article 5(1)** ~~without parallel issuing of a Declaration of Conformity~~, the points 12., **12a.** and 13c. **may** be omitted.

² Only one unique, unequivocal declaration number 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.

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

- (d) dimensions **or grading** of the product, **where applicable**;
- (e) ~~main materials or substances used;~~
- (f) information to be provided in accordance with Regulation (EC) 1907/2006;
- (g) key parts of the product, **including traceability information on the key part if it has previously been placed separately on the market, where applicable**;
- (h) estimated average and minimum service life **span** time for the **declared** ~~intended~~ use ~~foreseen for the product~~ (durability);
- (i) variants, if any, and their descriptions;
- (i1) in cases where the product has been previously installed in a construction work, the date and place of the latest de-installation;**
- (j) ~~information falling under Annex I Part D.~~

2. Permalinks as regards the following:

- (a) the manufacturer's products registration(s) in EU databases, and the precise location therein where the product can be found, **where applicable** ~~and to his own product presentation website;~~
- (b) ~~any voluntarily or mandatorily used products registration database or website, and the precise location therein where the product can be found;~~
- (e) ~~instructions for use in accordance with Annex I Part D point 1.3.~~

3. Manufacturer:

- (a) name;
- (b) **registered** trade name **or registered trade mark**;

- (c) **registered** place of business;
- (d) postal address;
- (e) telephone;
- (f) email address;
- (g) website;
- (h) social media contact details;
- (i) ~~where available, specific contact details for providing information on installation, maintenance, use, de-construction, and on the handling of risks or product failure.~~



4. Authorised representative, **where available**:

- (a) name;
- (b) **registered** trade name **or registered trade mark**;
- (c) **registered** place of business;
- (d) postal address;
- (e) telephone;
- (f) email address;
- (g) website, **where available**;
- (h) social media contact details;
- (i) ~~where available, specific contact details for information on installation, maintenance, use, de-construction, on the handling of risks and on actions in case of product failure.~~

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

(a) name;

(a1) identification number;

(b) **registered** trade name, **where available**;

(c) ~~place of business;~~

(d) ~~postal address;~~

(e) ~~telephone;~~

(f) ~~email address;~~

(g) ~~website;~~

(h) ~~social media contact details.~~

6. Technical Assessment Body, **where applicable**:

(a) name;

(a1) identification number;

(b) **registered** trade name, **where available**;

(c) ~~place of business;~~

(d) ~~postal address;~~



- (e) telephone;
- (f) email address;
- (g) website;
- (h) social media contact details.

7. Assessment and verification system(s) applied **and reference to certificate(s) or validation report(s) issued.**

8. **Technical reference documents:**

(a) Harmonised technical specifications **laying down essential characteristics** applied (reference number and date of issue), **or**:

9. (b) European Assessment Document applied (reference number and date of issue): **and**
10. European Technical Assessment issued: (technical assessment body, reference number and date of issue)

11. 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.~~

(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. However, the performance of structural behaviour of a product may be expressed by referring to attached production documentation or structural design calculations. **For essential characteristics where no performance is declared, in the place for the declaration of the value NULL shall be inserted.**

(c) the environmental sustainability **performance data and the version of the software used** calculated in accordance with Article **11(2a)** 22(1), in particular where they fit under the essential characteristics listed in Annex I Part A, point 2, in case the respective rules covering the product category have become applicable at the time of placing on the market or direct installation.

12. The product identified above is in conformity with the following **Applicable product requirements of Annex I Part B and C as specified by the following harmonised technical specifications adopted in accordance with Article 5¹:**

(reference number and date of issue)

12a. References to the harmonised standards referred to in Article 5a(1) that have been applied, including the date of the standard, or references to the other technical specifications, including their date, in relation to which conformity is declared. In the event of partial application of harmonised standards, the declaration shall specify the parts which have been applied.

13. Declarations:

(a) the performance of the product identified above is in conformity with the set of declared performances under point 11;

(b) the sustainability data of the product identified above have been correctly calculated on the basis of the product category rules applicable to it;

¹— Cite the respective harmonised technical specifications.

- (c) the product identified above is in conformity with the requirements listed under point 12.

Signed for and on behalf of the manufacturer by:

[name, function¹]

At [place]

on [date of issue]

[signature]



¹ The person signing shall be empowered by virtue of national law to represent the manufacturer, be it on the basis of a mandate, be it due to her/his role as legal representative.

Procedure for adopting a European Assessment Document

1. Request for a European Technical Assessment
 - (a) When a manufacturer makes a request for a European Technical Assessment to any TAB for a product, and after the manufacturer and the TAB (hereinafter referred to as the '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.
 - (b) When a group of manufacturers or a manufacturers' association (hereinafter referred to as 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 an agreement of commercial secrecy and confidentiality with this 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 the members of the Group intend to apply.
 - (c) 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 of the factory production control to become applicable. The **organisation of TABs shall together with the** Commission ~~selects the~~ **agree on a** TAB to act as the responsible TAB; ~~after consulting the organisation of TABs.~~

2. Contract

For products referred to in Article 37(1)(c), within 1 month from the reception of the technical file, in cases foreseen in points 1(a) and 1(b), 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** ~~area~~ in question, and
- (c) the coordination of TABs.

In the case foreseen in point 1(c), 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. After that, the Commission shall have 30 working days to communicate to the responsible TAB its observations on it, and the responsible TAB shall amend the work programme accordingly.

3. **Communication of** ~~W~~work programme

After the conclusion of the contract with the manufacturer or the Group, the organisation of TABs shall inform the Commission of the work programme for drawing up the European Assessment Document, the schedule for its execution and indicating the assessment programme. This communication shall take place within 3 months of the receipt of the request for a European Technical Assessment.

4. The draft European Assessment Document

The organisation of TABs shall finalise a draft European Assessment Document by means of the working group coordinated by the responsible TAB and shall communicate such draft to the parties concerned within 6 months of the date the Commission was informed of the work programme in cases foreseen in points 1(a) and 1(b) or the date the Commission communicated to the responsible TAB its observations on the work programme in the case foreseen in point 1(c).

5. Commission Participation

A Commission representative may participate, as observer, to 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, ~~including merging or splitting thereof~~ **when the development is not in line with this Regulation or in case 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, to increase clarity or ensure efficiency in the development process or in the future application of the assessment document under consideration.**

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

6. Member States consultation

In the case foreseen in point 1(c), 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 participate where appropriate in its execution.

7. Extension and delay

Any delay in relation to the time limits set in points 1 to 4 in 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 cases foreseen in points 1.(a) and 1.(b), the responsible TAB shall communicate the draft European Assessment Document to the manufacturer or the Group, respectively, who shall have 20 ~~15~~ working days to react thereto. Thereafter, the organization 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 foreseen in point 1.(c), the responsible TAB shall:

- (a) adopt the draft European Assessment Document;
- (b) send a copy of it to the Commission.

8a. Commission assessment of draft European Assessment Documents

The Commission shall assess the submitted draft European Assessment Document and, within 30 working days of receipt, ~~the Commission~~ communicates **its observations** to the organisation of TABs ~~its observations on the draft European Assessment Document.~~ **T**he organisation of TABs, after having been given the opportunity to comment, shall amend the draft accordingly and ~~shall~~ **resend a copyies** of the adopted **amended draft** European Assessment Document in ~~cases foreseen in~~ **accordance with** points **8.1.(b) and (ca)** and 8.24.(b) ~~to the manufacturer or the Group,~~ respectively, and in all cases to the Commission.

9. **Adoption of F**final European Assessment Document ~~to be~~ **and** publication~~shed~~

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 ~~the~~ publication of its reference in the *Official Journal of the European Union* **without delay.**

The organisation of TABs shall publish the European Assessment Document **in one or more languages of the Union and, as a minimum, keep it accessible until no European technical assessments based on it remain valid.**

List of product families**Table 1—Product areas**

AREA CODE	PRODUCT FAMILY AREA
1	PRECAST NORMAL/LIGHTWEIGHT/AUTOCLAVED 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/STRUCTURAL SEALANT GLAZING.
10	FIXED FIRE FIGHTING EQUIPMENT (FIRE ALARM/DETECTION, FIXED FIREFIGHTING, FIRE AND SMOKE CONTROL AND EXPLOSION SUPPRESSION PRODUCT).
<u>11</u>	<u>SANITARY APPLIANCES.</u>
<u>12</u>	<u>CIRCULAITON FIXTURES: ROAD EQUIPMENT</u>

11 <u>13</u>	STRUCTURAL TIMBER PRODUCTS/ELEMENTS AND ANCILLARIES.
12 <u>14</u>	WOOD BASED PANELS AND ELEMENTS.
13 <u>15</u>	CEMENT, BUILDING LIMES AND OTHER HYDRAULIC BINDERS.
14 <u>16</u>	REINFORCING AND PRESTRESSING STEEL FOR CONCRETE (AND ANCILLARIES). POST TENSIONING KITS.
15 <u>17</u>	MASONRY AND RELATED PRODUCTS. MASONRY UNITS, MORTARS, AND ANCILLARIES.
16 <u>18</u>	WASTE WATER ENGINEERING PRODUCTS.
17 <u>19</u>	FLOORINGS.
18 <u>20</u>	STRUCTURAL METALLIC PRODUCTS AND ANCILLARIES.
19 <u>21</u>	INTERNAL & EXTERNAL WALL AND CEILING FINISHES. INTERNAL PARTITION KITS.
20 <u>22</u>	ROOF COVERINGS, ROOF LIGHTS, ROOF WINDOWS, AND ANCILLARY PRODUCTS. ROOF KITS.
21 <u>23</u>	ROAD CONSTRUCTION PRODUCTS.
22 <u>24</u>	AGGREGATES.
23 <u>25</u>	CONSTRUCTION ADHESIVES.
24 <u>26</u>	PRODUCTS RELATED TO CONCRETE, MORTAR AND GROUT.
25 <u>27</u>	SPACE HEATING APPLIANCES.
26 <u>28</u>	PIPES, TANKS AND ANCILLARIES NOT IN CONTACT WITH WATER INTENDED FOR HUMAN CONSUMPTION.
<u>29</u>	<u>CONSTRUCTION PRODUCTS IN CONTACT WITH WATER INTENDED FOR HUMAN CONSUMPTION.</u>
27 <u>30</u>	FLAT GLASS, PROFILED GLASS AND GLASS BLOCK PRODUCTS.

28 <u>31</u>	POWER, CONTROL AND COMMUNICATION CABLES.
29 <u>32</u>	SEALANTS FOR JOINTS.
30 <u>33</u>	FIXINGS.
31 <u>34</u>	BUILDING KITS, UNITS, AND PREFABRICATED ELEMENTS.
32 <u>35</u>	FIRE STOPPING, FIRE SEALING AND FIRE PROTECTIVE PRODUCTS. FIRE RETARDANT PRODUCTS.
33	CONSTRUCTION PRODUCTS NOT INCLUDED IN THE PRODUCT AREAS ABOVE.

Table 2– 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 families areas for which it is to be designated; (c) general understanding of construction practice and detailed technical knowledge, concerning product families areas 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

		<p>methods within the product families areas for which it is to be designated;</p> <p>(f) detailed knowledge of this Regulation;</p> <p>(g) appropriate linguistic skills.</p> <p>The remuneration of the TAB personnel shall not depend on the number of the assessments carried out or on the results of such assessments.</p>
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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 the product families areas 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"> (a) a proven record of respect of good administrative behaviour; (b) a policy and the supporting procedures to ensure confidentiality and protection of sensitive information within the TAB and all its partners; (c) a document control system to ensure registration, traceability, maintenance, protection and archiving of all relevant documents; (d) a mechanism for internal audit and management review to ensure the regular monitoring of the compliance with appropriate management methods;

		(e) a procedure to manage objectively appeals and complaints.
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Assessment and verification systems (AVS)

The manufacturer shall, in accordance with Article 21(1), correctly determine the product type pursuant to Article 3, point 31, and 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 60(1), verify these determinations, including the verification that no identical products items are declared to be of a different type.

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) ~~verification whether~~ the drawing up of technical documentation containings full proof of the correct application of this Regulation with regard to the assessment of performance;
 - (iv) ~~verification whether~~ the drawing up of technical documentation containings full proof of conformity with the applicable product requirements under this Regulation.

- (b) The notified **product certification** body shall **decide on the issuing, restriction, suspension, or withdrawal of** issue the certificate of performance and of conformity **of the product** on the basis of:
- (i) confirmation of the correct determination of the product type and of the product category;
 - (ii) an assessment of the performance of the product on the basis of type testing (including sampling of the item(s) to be taken as representative of the type), type calculation or tabulated values ~~and, in all these cases, review of the documentation of the product;~~
 - (iii) initial inspection of the manufacturing plant and of factory production control;
- (iii.a) continuing surveillance, assessment and evaluation of factory production control including periodic inspections to the manufacturing plant;**
- (iv) audit-testing of samples taken before placing the product on the market;
 - (v) ~~full~~ verification of the tasks under paragraphs (a) (iii) and (iv).
- (c) ~~The notified body shall provide continuous surveillance, assessment and evaluation of factory production control. On this occasion, it shall undertake a check of 50 random points falling under the paragraphs (a) (ii) to (iv) and withdraw the certificate in case it detects more than 2 non-compliances or one particularly grave non-compliance, amongst these 50 points and the other verifications to be made in accordance with this paragraph.~~

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) ~~verification whether~~ the **drawing up of** technical documentation contains ~~full~~ proof of the correct application of this Regulation with regard to the assessment of performance;
 - (iv) ~~verification whether~~ the **drawing up of** technical documentation contains ~~full~~ proof of conformity with **the applicable** product requirements ~~of~~ **under** this Regulation.
- (b) The notified **product certification** body shall **decide on the issuing, restriction, suspension, or withdrawal of** issue the certificate of performance and of conformity **of the product** on the basis of:
- (a) confirmation of the correct determination of the product type and of the product category;
 - (ii) an assessment of the performance of the product on the basis of type testing (including sampling of the item(s) to be taken as representative of the type), type calculation or tabulated values ~~and, in all these cases, review of the documentation of the product;~~
 - (iii) initial inspection of the manufacturing plant and of factory production control;
 - (iii.a) continuing surveillance, assessment and evaluation of factory production control including periodic inspections to the manufacturing plant;**
 - (iv) ~~full~~ verification of the tasks under paragraphs (a) (iii) and (iv).

~~(e) The notified body shall provide continuous surveillance, assessment and evaluation of factory production control. On this occasion, it shall undertake a check of 40 random points falling under the items (a) (ii) to (iv) and withdraw the report or certificate in case it detects more than 2 non-compliances or one particularly grave non-compliance, amongst these 40 points and the other verifications to be made in accordance with this paragraph.~~

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(s) 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) ~~verification whether~~ the **drawing up of** technical documentation contains ~~full~~ proof of the correct application of this Regulation with regard to the assessment of performance;
- (v) ~~verification whether~~ the **drawing up of** technical documentation contains ~~full~~ proof of conformity with **the applicable** product requirements of **under** this Regulation.

(b) The notified **factory production control certification** body shall **decide on the issuing, restriction, suspension or withdrawal of** issue the certificate of conformity of the factory production control on the basis of:

(i) confirmation of the correct determination of the product type and of the product category and confirmation of the correct assessment of the performance of the product on the basis of the review of the documentation of the product;

(ii) initial inspection of the manufacturing plant and of factory production control;

(ii.a) continuing surveillance, assessment and evaluation of factory production control including periodic inspections to the manufacturing plant;

(iii) ~~full~~ verification of the tasks under paragraphs (a) (iv) and (v).

~~(e) The notified body shall provide continuous surveillance, assessment and evaluation of factory production control. On this occasion, it shall undertake a check of 30 random points falling under the paragraphs (a) (iii) to (v) and withdraw the certificate in case it detects more than 2 non-compliances or one particularly grave non-compliance, amongst these 30 points and the other verifications to be made in accordance with this paragraph.~~

4. System 3+ – Notified body’s control of environmental sustainability assessments **based on data models**

(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** ~~in relation to essential characteristics or product requirements related to environmental sustainability and keep it updated;~~

(ii) **factory production control.**

(b) The notified **assessment validation** body shall **decide on the issuing, restriction, suspension or withdrawal of the validation report**, in particular in view **on the basis of:**

(0) validation of the input values, assumptions made and compliance with applicable generic or product category specific rules:

(i) **validation of** ~~verify~~ the manufacturer's ~~initial and updated~~ assessment;

(ii) ~~validation~~**one of** the process applied to generate that assessment;

(iii) validation of the correct usage of software appropriate for the assessment;

(iv) initial inspection of the manufacturing plant to validate any company-specific data.

5. System 3 – Notified body focusing on the product type determination

(a) The manufacturer shall carry out:

(i) ~~an~~ **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) ~~verification whether~~ the **drawing up of** technical documentation ~~contains full~~ proof of the correct application of this Regulation with regard to the assessment of performance;

(iv) ~~verification whether the~~ **drawing up of** technical documentation contains ~~full~~ **ings** full proof of conformity with **the applicable** product requirements of **under** this Regulation.

(b) The notified **product certification** body shall **decide on the issuing, restriction, suspension or withdrawal of** ~~issue~~ the certificate of performance and of conformity **of the construction product** on the basis of:

(i) confirmation of the correct determination of the product type and of the product category;

(i.a) ~~and confirmation of the correct~~ **an** assessment of the performance of the product on the basis of type testing (based on sampling carried out by the manufacturer), type calculation or tabulated values ~~and, in all these cases, review of the documentation of the product;~~

~~(ii) undertaking a check of 20 random points falling under the paragraphs (a) (iii) and (iv) and refuse the issuing of a certificate in case it detects more than 2 non-compliance or one particularly grave non-compliance, amongst these 20 points and the other verifications to be made in accordance with this paragraph.~~

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) confirmation of the correct determination of the product type and of the product category on the basis of type testing, type calculation or tabulated values and, in all these cases, review of the documentation of the product;~~

- (iii) factory production control;
- (iv) ~~verification whether the~~ **drawing up of** technical documentation containings full proof of the correct application of this Regulation with regard to the assessment of performance;
- (v) ~~verification whether the~~ **drawing up of** technical documentation containings full proof of conformity with **the applicable** product requirements of **under** this Regulation.

(b) There is no task for the notified body.

7. **Horizontal rules pertaining to some** For all **of** the systems above, **System 3+ will apply to all products alone or in parallel with another system.** ~~the following shall apply:~~

(a) **When a system includes an i**nspection of the manufacturing plant **by a notified body,** **those inspections** shall **be carried out as on-site audits,** ~~cover the entire technical part of the plant~~ **all locations at which significant manufacturing processes take place and,** at least, **verify** ~~with regard to the following elements, which shall ensure a continuous orderly manufacturing process:~~

- (i) appropriate competence of the personnel;
- (ii) appropriateness of the technical equipment;
- (iii) appropriateness of the facilities and other conditions influencing the manufacturing;
- (iv) outline of the intended factory production control.

- (b) **When a system includes** ~~f~~Factory production control, **those controls** shall cover the **production** process from receipt of the raw materials and components to the dispatch of the product ~~once the production has started~~ ('gate to gate' approach) **once that production has started, and at least include the following elements:** ~~It shall assess whether this process is designed and optimised in view of the goal~~
- (i) **ensuring** that the products conform with the product type and therefore reach the performances declared in the declaration of performance **and conformity** and are compliant with the requirements set out in or under 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 the relevant factory production control checks.**
- (c) **When a system includes** ~~f~~Further testing of samples, **the following applies:**
- (i) **tests** shall **include** ~~constitute~~ of 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, ~~with zero tolerance for non-conformity, unless another tolerance is defined in the harmonised technical specifications;~~
- (ii) **in case 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. Notified bodies confirming the correct determination of the product type shall also confirm the correct application of the relevant extended application rules;**

(iii) results from tests undertaken by another manufacturer or notified body may be used in accordance with Article 67.

- (d) Verification of items shall, to 50 %, target items which are most likely to contain deficiencies and, to another 50 %, target items chosen at random.
- (e) Verification of environmental sustainability shall constitute of the verification of all calculations and verification of 10 samples of company specific or secondary data factored in, with zero tolerance for incorrectness. In that context, the notified body shall verify whether the applicable rules on modelling and calculation laid down in the applicable harmonised technical specification or methodology provided by the Commission are followed.

In case an IT tool provided by the Commission is used, the verification focuses on the correct use of the tool. Where secondary data is used, the notified body shall check whether the correct data sets, prescribed by applicable product specific calculation rules contained in the applicable harmonised technical specification or methodology provided by the Commission, are used. Where company specific data is used, the reliability of that data needs to be verified. To that end, the notified body shall undertake an audit of the manufacturing plant to which they refer and shall examine all data relating to suppliers and service providers. Notified bodies may extend their audit to suppliers and service providers who are obliged to cooperate in accordance with Article 30.

- (f) Where the above mentioned failure rates have been trespassed or where a grave error or the intention to cheat has been detected, the notified body shall refuse issuing a certificate for at least one year or withdraw the certificate whilst permitting issuing a new one only after one year.

- (g) Notified bodies ~~that are undertaking tasks under Systems 1+, 1, and 3~~ as well as manufacturers ~~that are undertaking tasks under Systems 2+ and 4~~ shall consider the European Technical Assessment issued for the product in question as the assessment **and validation** of the performance of that product. ~~Notified bodies and m~~Manufacturers **finding evidence or informed by the notified body that shall therefore undertake the performance of the product is not in conformity with the European Technical Assessment shall bring that product into conformity including, when relevant the fulfilment of obligations set out in Article 21(8)** tasks referred to in points 1.(b)(ii), 2.(b)(ii), 3.(a)(i), 5.(a)(i) and 6(a)(i), respectively, only where there is evidence that these have not or not appropriately been executed by the TAB.
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List of the legal acts referred to in Article 8

- 1. Council Directive 75/324/EEC of 20 May 1975 on the approximation of the laws of the Member States relating to aerosol dispensers**
- 2. Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC**
- 3. 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**
- 4. Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives**
- 5. Regulation (EC) No 1272/ of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006**
- 6. Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment**

- 7. Council Directive 2013/59/Euratom of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom**
- 8. Directive 2014/29/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 simple pressure vessels**
- 9. 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**
- 10. Directive 2014/32/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 measuring instruments**
- 11. 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**
- 12. 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**
- 13. Directive 2014/68/EU of the European Parliament and of the Council of 15 May 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of pressure equipment**

- 14. Regulation (EU) 2016/424 of the European Parliament and of the Council of 9 March 2016 on cableway installations and repealing Directive 2000/9/EC**
- 15. Regulation (EU) 2016/426 of the European Parliament and of the Council of 9 March 2016 on appliances burning gaseous fuels and repealing Directive 2009/142/EC**
- 16. Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union**
- 17. Regulation (EU) 2023/[XX] of the European Parliament and of the Council of [Day Month] 2023 on Machinery**
- 18. Proposal for a Regulation of the European Parliament and of the Council establishing a framework for setting ecodesign requirements for sustainable products and repealing Directive 2009/125/EC [COM(2022) 142]**
- 19. Proposal for a Regulation of the European Parliament and of the Council on horizontal cybersecurity requirements for products with digital elements and amending Regulation (EU) 2019/1020 [COM(2022) 454]**
- 20. Proposal for a Directive of the European Parliament and of the Council on adapting non-contractual civil liability rules to artificial intelligence [COM(2022) 496]**
- 21. Proposal for a Regulation of the European Parliament and of the Council establishing a Union certification framework for carbon removals [COM(2022) 672]**
- 22. Proposal for a Regulation of the European Parliament and of the Council establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) 168/2013, (EU) 2018/858, 2018/1724 and (EU) 2019/1020 [COM(2023) 160]**
- 23. Proposal for a Directive of the European Parliament and of the Council on substantiation and communication of explicit environmental claims [COM(2023) 166]**

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 Annex I-A, for the application of this Regulation.

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

Table 1: Regulation (EU) 305/2011 > this Regulation

Regulation (EU) 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
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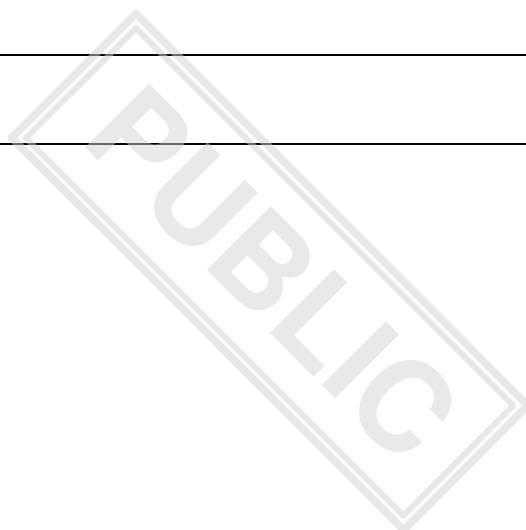
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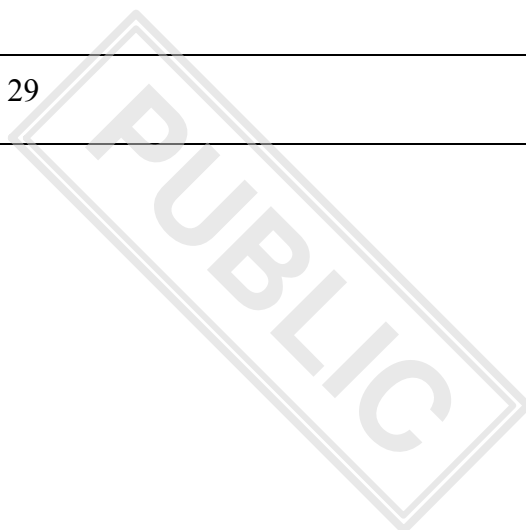
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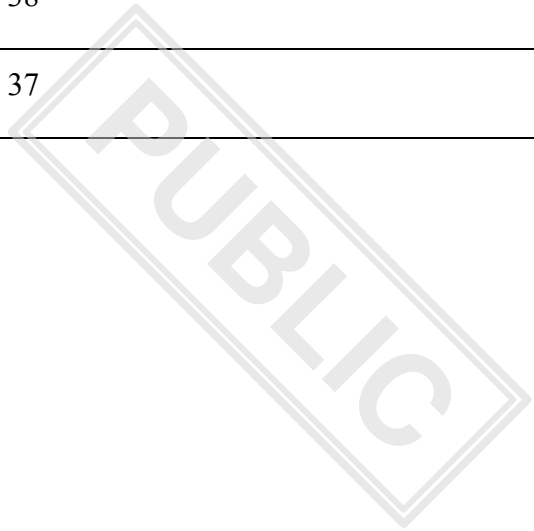
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