

## Revision of the Construction Products Regulation

*A well-guided proposal requiring adaptations to become workable and an effective driver of sustainability and digitalisation in construction*

Glass for Europe welcomes the European Commission's (EC) proposal for a revision of the Construction Products Regulation (CPR), COM (2022) 144 final.

As the EU trade association representing Europe's building glass sector, we support the proposal in so far that **it reinforces the single market principles for construction products**, maintains the European Committee for Standardisation (CEN) as the hub for developing harmonised standards and **supports the construction industry's move towards greater sustainability**.

Based on the experience of building glass manufacturers, which make hundreds of thousands of product references available to their clients, and that of the thousands of SMEs across Europe, which rely on the simplified procedures offered by the CPR to transform and deliver tailor-made glazing solutions to the construction industry, Glass for Europe calls on European decision-makers to improve the proposal on several items to make it really workable for all actors of the building glass value chain.

### FOCUS on the three most important items requiring adaptations

1. **The reintroduction of an existing simplified procedure is necessary** to cut red-tape for small and medium-sized enterprises (SMEs), and for quasi-identical references. The simplified procedure of Article 36(1)(b) of the current CPR, which allows the recognition and sharing of test results obtained by another manufacturer, and which is largely used in the building glass sector without complaint nor problem since 2005, should be re-introduced to free SMEs of unnecessary burdensome work and costs (Article 64).
2. The **concept of a newly centralised database or system must** support the construction industry's digitalisation and avoids over-prescriptive and outdated requirements (Articles 78, 17, and 19). The EU database or system described in Article 78 should be made smart and decentralised (blockchain, API) to ensure that the high amount of data asked in the proposal can be shared smoothly without over-consuming human and financial resources.
3. Utilising this regulation as a driver of sustainability in the construction sector is a good idea and one needs to ensure that **no counterproductive provision hampers the sustainability objectives of the CPR**. Glass for Europe has strong reservations on the introduction of a traffic light labelling system (Article 22(5)). The sustainability performance of building glass products depends on too many environmental parameters as well as on the building where the glass product will be installed.

*Glass for Europe is the trade association for Europe's flat glass sector. Flat glass is the material that goes into a variety of end products, primarily in windows and facades for buildings, windscreens and windows for automotive and transport as well as solar energy equipment, furniture and appliances. Glass for Europe brings together multinational firms and thousands of SMEs across Europe, to represent the entire building glass value-chain.*



## 1. Some simplified procedures need to be reintroduced to cut red-tape for SMEs and quasi-identical references

Glass for Europe welcomes the suppression of the current obligation to copy information from the Declaration of Performance (DoP) on the CE label (Regulation 305/2011 Article 9(2)) which was an unnecessarily burdensome procedure. Further simplification of the DoP template could be made however, notably by maintaining the flexibility foreseen in the provisions of Delegated Regulation 574/2014. All simplified procedures of Article 36 of Regulation 305/2011 should also be maintained to reduce the burden on SMEs.

### Art. 64 Use of appropriate technical documentation

The simplified procedure currently allowing the recognition of test results obtained by another manufacturer (Regulation 305/2011 Article 36(1)(b)), has been omitted. The numerous possible glazing configurations and the fact that identical components are used by several manufacturers make this procedure widely used by the glass sector. SMEs are the first beneficiaries since the duration and costs of tests requested by certain standards can be substantial, while repeating tests brings no added value.

- ▶ Glass for Europe suggests re-introducing Article 36(1)(b) of Regulation 305/2011 in Article 64. This procedure is being frequently used since 2005<sup>1</sup> without resulting in any issues.

Similarly, the provision of Article 36(1) of the current CPR, allowing the replacement of type calculations by technical documentation, has been suppressed. This simplified procedure permitted reducing unnecessary red-tape and substantial costs to manufacturers and most particularly SMEs.

- ▶ Glass for Europe suggests re-introducing the possibility to replace type calculation with technical documentation when specified in the harmonised technical specifications (hTS).

## 2. The EU database and system must support the construction industry's digitalisation and avoid over-prescriptive and outdated requirements.

Glass for Europe welcomes the use of an EU database or system (Article 78). This corresponds to flat glass manufacturers' continuous work on digitalisation. Yet, this EU system should be adapted to the reality of the construction products field. Instead of a classic centralised database, it should be a smart system, that can handle fully digitised and automated interactions for sharing and retrieving information from decentralised manufacturers' systems. Indeed, all together, the glass sector represents several millions of active DoPs, and uploading data manually would increase the risk of mistakes and necessitate prohibitive human, financial, and technical resources for glass manufacturers and SMEs.

### Art. 17 Rules and conditions for the affixing of CE marking

- ▶ It will be extremely difficult for manufacturers to generate the permalink to the products registration in the EU system (see Article 17(2)(d)) during production, with their own IT system, and without interference from maintenance on, or dysfunction of, the EU system. This implies that the manufacturer shall register the DoP in the EU system at the reception of the order from their client. Otherwise, unnecessary delivery delays and production interruptions will be inflicted

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<sup>1</sup> Guidance Paper M - CONFORMITY ASSESSMENT UNDER THE CPD: Initial type-testing and Factory production control. [https://ec.europa.eu/growth/tools-databases/nando/index.cfm?fuseaction=cp.pdf&rfb\\_id=108135](https://ec.europa.eu/growth/tools-databases/nando/index.cfm?fuseaction=cp.pdf&rfb_id=108135)

on all stakeholders, including SMEs which are often dependent on bigger manufacturers' IT systems to produce their own DoPs.

#### Art. 19 Obligations of all economic operators

- ▶ The EU system will need to be capable of handling gigantic amounts of data in a very short time. One single glass manufacturer can have more than 100'000 DoPs for products that are already on the market and tens of new ones may be created each day. The two-month delay to register all currently active DoPs, which seems overly ambitious, needs to be extended.

#### Annex II Declaration of Performance and of Conformity

- ▶ The content of the DoP includes items that are not relevant to certain product types (see technical comment on Annex II, p. 5). Unnecessary data multiplied by all DoPs will demand large storage capacities, leading to high financial and environmental costs.
- ▶ The possibility to use "NPD" when no performance is declared has been omitted (currently, it is specified in Article 6(2)(6) of Regulation 305/2011). When no performance is declared for a specific characteristic, its denomination should be kept in the DoP and the line remains empty to enable simple interactions with Smart CE-marking and Building Information Modelling. Numbering items is also not adapted to modern IT systems and should not be mandatory.

### 3. Utilise the CPR as a driver of sustainability in the construction sector

Glass for Europe welcomes the focus of the CPR on sustainability issues. This is in line with flat glass manufacturers' continuous efforts on improving the industry's environmental performance and the sustainability of its products.

#### Art. 22 (2)(b) Materials gained from recycling and minimum recycled content

Glass for Europe welcomes the request for manufacturers to give preference to recyclable materials. It shall give momentum to enhance the collection of end-of-life flat glass, boost recycling and allow the production of glass with less raw materials, energy, and CO<sub>2</sub> emissions.

The introduction of minimum recycled content could be problematic in practice. It would render glass production dependent on waste availability, which is out of glass manufacturers' control and can fluctuate in time, thus rendering planning uncertain. It could lead to glass production being disrupted with some products becoming temporarily unavailable.

- ▶ If minimum recycled content is introduced, it should be determined in collaboration with manufacturers to consider industrial, local, and recycling infrastructure realities.

#### Art. 22 (5) Traffic light labelling systems

A traffic-light labelling system is irrelevant for glass products since glass environmental impacts depend on external factors like building design or climate. Products improving the performance of an office building in Northern Italy may be ineffective in a residential home in Southern Italy. Giving a unique indicator per product, that notably ignores other important aspects subjected to national regulation (e.g., safety in use, reaction to fire, noise reduction, etc.), would also mislead users. Over-simplification by way of a label also makes little sense for business-to-business products, as is the case of glass. The choice of glass in buildings is usually informed by professionals.



- ▶ Glass for Europe suggests specifying that the traffic-light labelling system applies only to products that can be purchased off-the-shelf and whose sustainability characteristics do not depend on the product's final application.
- ▶ To promote the use of sustainable construction products whose performance depends on the final application in buildings, assessments at building levels, such as the Level(s) methodology developed by the European Commission, are more appropriate.

#### Art. 22 (2)(j) Recuperation of surplus

Glass for Europe welcomes the possibility for manufacturers to regain ownership of surplus or unsold products. Yet, conditions shall be set to avoid this measure being counterproductive. Returned glass products will always demand new transportation, logistical operations, and storage capacity. Besides, its reuse is most often impossible. For building glass products, which are highly personalised bespoke products, recycling is often the most appropriate option.

- ▶ Glass for Europe suggests that bespoke products, which cannot be resold without unreasonable environmental and financial costs, may not be reimbursed by manufacturers.

#### Art. 22 (2)(g) Spare parts

The demand for spare parts to remain available on the market for 10 years after the production of a product has stopped could lead to an overly expensive obligation of maintaining production lines, trained personnel, and certification process. SMEs would be especially affected by such long-lasting provisions.

- ▶ Glass for Europe suggests more flexibility is given to manufacturers for managing spare parts and to allow 'equivalent or improved<sup>2</sup> parts' rather than identical ones, when relevant.

## 4. Strengthen CPR's single market principles and maintain the structuring role of the European Committee for Standardisation (CEN)

Glass for Europe welcomes the continuous linkage of the CPR to European Single Market principles. Articles 7 and 8 will reduce the risks of local interferences while the demand for Member States to establish a national information system (Article 77) to share the correct interpretation of the CPR rules should guarantee all actors' comprehension. The provisions of Article 34 will also ensure that the complexity of the numerous glass products marketed in the EU is dealt with adequately by maintaining the major role of the European Committee for Standardisation (CEN) in developing harmonised standards and allowing experts to be involved through technical committees.

#### Art. 18 Other markings

- ▶ Glass for Europe welcomes the primacy given to the CE marking. This will reduce the risk that local trade barriers penalise manufacturers from other Member States.

#### Art. 87 Delegated acts

- ▶ Using delegated acts to give momentum to some standardisation processes should be done wisely; certain technical difficulties, or the need for additional tests, may only be manageable with supplementary time.

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<sup>2</sup> 'Improved' in terms of functionality and Basic Requirements for Construction Works (Annex I Part A)



## Annex – Technical issues in the proposal

### 1. Issues of special relevance for the glass industry

#### Transition to the new CPR

Glass for Europe wants to point out that how the transition period between the current CPR and the new CPR will take place is unclear from a glass products standardisation perspective. Glass being priority 28, the sector doesn't expect having its new standardisation request before about 15 years. Stakeholders shall be able to update standards to follow the technological evolution of construction products and solutions shall be found for the backlog of uncited standards. For instance, it should be clarified if answers to current mandates is still a valid procedure (e.g., the 6<sup>th</sup> answer to mandate M/135 sent in August 2021).

#### Annex II Declaration of Performance and Conformity

As indicated in the comment on Annex II, in section 2 of this paper, the content given in Annex II includes unnecessary items that can be burdensome to manage:

- “Product description” contains items that are not always relevant for certain products, it would be more adequate to define these items per product type (in the standardisation requests). The “estimated average and minimum service lifetime [...]” is not relevant for glass for instance, since this depends on product application and on the quality of the installation. The “dimension of the products” is also not relevant in the case of glass since, except for the thickness, the dimensions vary for almost every product sold without changing the performance. **Keeping these provisions as an obligation would mean de facto creating a Declarations of Performance (DoP) for each product sold. The list shall be indicative.**
- Requesting the environmental sustainability data listed in Annex I Part A to be declared may be redundant with what is declared in other schemes, such as Environmental Products Declaration, Life-cycle analysis, or Product Category Rules. Besides, giving the numerous data related to environmental sustainability comprehensively to the users may be complex. The CPR could allow for, or even encourage, providing permalinks towards already existing documents giving the same information.
- The number of items asked in Annex II (3) to (6) could be reduced. This information is currently given following Delegated Regulation 574/2014 with satisfying results. Alternatively, providing the identification number of the notified Bodies and a permalink to NANDO website could inform users effectively and decrease the size of each DoP. Indeed, in the glass sector, up to 20 different notified bodies may be involved for a single DoP.
- Some items offer redundant information, e.g., “Declaration No...” and “Unique identification code [...]” or “Version No ...” and “Date of that version ...”. In particular, numbering the version is burdensome as doesn't provide any useful information about its validity. Its issuance date shall suffice.

Furthermore, it should be outlined that requesting the inherent product environmental requirements to be declared in the DoP will be burdensome. Defining how to measure and report on these requirements is complex, and this may demand glass manufacturers to give sensitive information on the efficiency of their processes, leading external stakeholders to potentially gain knowledge about production costs. Access to such information could be restricted to certain stakeholders and not appear directly in the DoP.



### Annex V Assessment and verification systems (AVS)

For AVS 3, numerous Notified Bodies (up to 20) may be mandated for different characteristics of a same product type. Requesting all bodies to check 20 random points of the technical documentation is an unnecessarily heavy procedure and is at odds with the fact no continuous surveillance, assessment, and evaluation of the factory production control is foreseen with this AVS.

- ▶ Glass for Europe suggests deleting the request to check 20 random points in Annex V(5)(b)(ii).

Currently, for AVS 3, no audits take place, and no certificate is issued by Notified Bodies, but only test reports. The “certificate” discussed in Annex V (5)(b)(iii) is thus a novelty but it has the same name as the certificate demanded in AVS 1+, 1, and 2+.

- ▶ Glass for Europe suggests defining the term “certificate” newly introduced in AVS 3 and keeping the distinction between certificates and test reports.

Since the test reports remain valid until neither the product nor the standards are modified, the mention of a “validity” for certificates, implied in Article 67 (1), is confusing. Therefore, the difference between “test report” and “certificate” should be made explicit.

- ▶ Glass for Europe suggests generally clarifying Annex V to ensure that no unnecessary burdens and costs emerge from new requests. SMEs, which have little legal support would be the first to suffer from legal confusion and lack of simple procedures.

### Art. 34 Construction products standards

Glass for Europe would like to raise awareness about the delay of 6 months before a new construction products standard becomes of mandatory application (planned in Article 34 (2)). Such a delay may not necessarily be adequate to all products. Depending on the standard, each glass manufacturer will need to mandate third parties to do or redo tests. Due to the duration of certain tests and the limited test capacity of these third parties, it is expected that some manufacturers will need to wait several months before commissioning their tests.

- ▶ Glass for Europe suggests not specifying this delay or keeping it indicative (e.g., one year). The appropriate delay will highly depend on the type of tests and should not be rigidly fixed, but should be not less than 12 months.

## 1. General issues

### Art. 19 Obligations of all economic operators

Supplying the numerous information asked by the proposal concerning clients or suppliers up to 10 years after delivery will be time-consuming and may not be doable in 10 days (delay specified in Article 19(4)), especially if the information relates to archives that are complex to access (e.g., when it concerns production plants that have been closed).

- ▶ Glass for Europe suggests increasing the delay to 1 month instead of the 10 days

In Article 19 (5), the article demands that “[an] economic operator shall make available [...] communication channels, including telephone numbers, e-mail or dedicated sections of its website and social media page”, the term “including” shall mean that at least one of the communication channels proposed but not all of them.



### Art. 21 Obligations of manufacturers

Glass for Europe acknowledges that alerting the media (Article 21(9)) is necessary when consumer products are broadly sold and hardly traceable. Yet, alerting the media about any risk seems exaggerated if final users can be traced and immediately informed, especially for risks that do not impact users' health and safety, e.g., defect to fulfil the durability requirement.

- ▶ A communication flow could be developed considering whether the user is identified (Business to Business) or not (Business to Customer). Glass for Europe suggests that alerting the media should be done only when final users are not traceable or at the request of authorities.

Glass products are almost always “only for professional use” and are very rarely sold through Business to Customer operations.

- ▶ Glass for Europe suggests that, in the case of Business to Business operations, where such information is redundant, the label “Only for professional use” should not be mandatory.
- ▶ Glass for Europe suggests allowing or encouraging the use of a single pictogram instead of a written label “Only for professional use” to avoid the need to translate it into all EU languages.

### Art. 87 Delegated acts

- ▶ Glass for Europe acknowledges the EC's numerous rights to ‘add’ or ‘implement new demands’ related to the CPR but wants to stress that the possibility to ‘correct, suppress, or modify’ certain details of the regulation and its annexes may also be needed.

### Art. 68 Complaint Portal

- ▶ Glass for Europe welcomes the EC's role in selecting complaints sent to market surveillance authorities. This shall ensure that irrelevant complaints do not create burdensome procedures.
- ▶ To be effective, the portal shall give up-to-date information to avoid misleading users and misrepresenting operators, e.g., closed cases shall disappear, or contentious cases should either not be published or be tagged as such.

### Art. 75 Retrieval of costs

- ▶ Glass for Europe suggests that the costs retrieved by market authorities should be justified to the manufacturers to ensure transparency. Besides, manufacturers should be offered a possibility to appeal against unjustified tests or excessive costs.

### Art. 3 Definitions

Several definitions would deserve to be added to clarify the proposal:

- ▶ **Certificate and test report** (see technical comment on Annex V, AVS 3).
- ▶ **Pseudo product** to clarify Article 31.
- ▶ **Key parts** should be defined as parts that can be disassembled from a product, removed, and replaced, without changing the performance of the product.
- ▶ **Spare parts** to clarify Article 22
- ▶ Article 22 demands to “**design products in such a way that re-use, remanufacturing and recycling are facilitated**”. What this means and implies should be specified, considering situations where such a design is not technically feasible.





- ▶ Article 22 (2) (f) and (i) mention **product databases** without defining them or mentioning which databases are these. This should be clarified.

#### Art. 7 Harmonised zone and national measure

The denomination harmonized "zone" seems to refer to a geographic or geometric area while it is not. This may render that term difficult to explain to some stakeholders during standardisation work.

- ▶ Glass for Europe suggests using the term "harmonized sphere" or any other that increase the understanding of stakeholders less familiar with the topic

#### Art. 13 Declaration of conformity

While Article 13 (1) seems to indicate that only products exempted from the declaration of performance may be exempted from the declaration of conformity, the 1<sup>st</sup> footnote of Annex II mentions that "where a Declaration of Performance is issued without parallel issuing of a Declaration of Conformity, the points 12. and 13c. shall be omitted." Then, in Article 15, it is mentioned that manufacturers shall supply both declarations by electronic means for each product made available on the market without mentioning the possibility that none may be issued (in cases defined in Article 10).

- ▶ Glass for Europe suggests clarifying the exemptions to emit declarations.

#### Article 22 Additional environmental obligations of manufacturers

- ▶ Glass for Europe suggests adding (to the current conditions) that the manufacturer's obligations list of Article 22(2) should be applied unless it compromises the functionality and basic requirements (Annex I Part A) of the product for its primary intended use.

#### Annex I Requirements

The points addressed in Annex I Part A Point 1.7 and 1.8 (characteristics at building level) overlap some points of Annex I Part A Point 2 (characteristics at products level), it would be necessary to clarify how both sets of essential characteristics should be articulated with one another.

In addition, Annex I Part D contains requests at odds with other parts of the proposal. For instance:

- Annex I Part D (3)(b) indicates that a harmonised technical specification (hTS) shall specify where the information mentioned in Annex I Part D may be located and then offer numerous possibilities. Yet, Article 21 specifically asks that the information set out in the hTS, Annex I Part D, the DoP, and the DoC, shall all be uploaded to the EU database or system.
  - Annex I Part D says that hTS may specify that some product information requirements are not relevant for a certain product type. Then, Annex II does include numerous items that are identical to the ones of Annex I Part D and mentions that "information falling under Annex I Part D" shall be given in the declaration. Yet, Annex II does not mention the possibility that hTS may specify information irrelevant for certain products.
- ▶ The consistency between Annexes should be ensured by thoroughly analysing the different obligations and making sure all pieces of information are consistent with one another.

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