

## Review of Construction Products Regulation (CPR)

EuroWindowor strongly supports the principles of the Construction Products Regulation (CPR) aiming at harmonized conditions for the placing or making available on the market of construction products and using a common technical language developed by ESO<sup>1</sup> to define the essential characteristics of these products.

This situation has been enabled for the window, door and façade sector by the development and the continuous revision of high-quality harmonized standards (hEN), in which EuroWindowor's members have been investing significant financial and human resources.

Additionally, EuroWindowor has been actively contributing to the review process of the CPR by submitting improvement proposals during each public consultation<sup>2,3</sup> and active participation to the technical platform meetings.

EuroWindowor would like to highlight that the effective enforcement and observation of the regulation will only be enabled through:

- 1. Competent Notified Bodies and a well-functioning market surveillance securing a level playing field**
- 2. A streamlined process for the development, the revision and the citation of hENs**

Ensuring a proper legal framework for the Union Market remains vital to ensure strong competitiveness of the European industry and a broad enforcement throughout Europe. EuroWindowor supports a smooth development of the CPR described as "Option I" (guidance or "soft law") or "Sub-option II.A" (Limited revision tackling explicitly identified issues) in the Impact Assessment Study<sup>4</sup>.

### **Competent Notified Bodies and well-functioning Market surveillance securing a level playing field**

For AVCP Systems 1+, 1 and 3, the quality of the CE Marking relies on the fact that all Notified Bodies (NB) achieve equal performance levels for essential characteristics of a construction product according to CPR Article 43. However, the notification of a NB is granted for a specific category or kind of construction product (i.e. a specific hEN) and not for a specific performance assessment<sup>5</sup>. In practice, NBs have very different experience with specific assessments methods depending on the frequency of tests conducted by the NB. This in turn gives strong reason to question the uniformity of performance assessments carried out by the NBs as experienced by EuroWindowor.

EuroWindowor therefore recommends better and more frequent interlaboratory comparisons between Notified Bodies to level assessed performances on essential characteristics. Requirements or guidelines from the European Commission (EC) on minimal expertise of NBs for individual essential characteristics, as well as minimum annual test frequency and a reporting mechanism on the overall performance of the Notified Bodies to the EC would greatly support the validity of technical documentation used for Declaration of Performance (DoP) and CE Marking across Europe.

Among other feedbacks provided by stakeholders through Public Consultations conducted in 2017 and 2018, the insufficient level of Market Surveillance on declared performances remains on top of the list.

<sup>1</sup> European Standardization Organisations, formed by the cooperation of CEN, CENELEX and ETSI.

<sup>2</sup> [Feedback from EuroWindowor to the Public Consultation on the Review of CPR](#), July 2017

<sup>3</sup> [Feedback from EuroWindowor to the Public Consultation on EU Legislation on Construction Products](#), April 2018

<sup>4</sup> [Supporting study for the review of the Construction Products Regulation](#), 2018-11-28.

<sup>5</sup> Designation of Notified Bodies available on the [NANDO Database](#)

Therefore, and following the clear statement of the supporting external study published by the Commission in 2018<sup>6</sup>, EuroWindoor strongly believes that the provisions of CPR need to be better enforced by Member State authorities and require a significant improve in Market Surveillance at national level.

An efficient market surveillance is fundamental in securing fair competition and conformity with declared performance for construction products brought to the market – as stated in Article 4 of CPR<sup>7</sup>. This efficiency requires that Member States resources available for controls at national level are better balanced with their obligations on market surveillance and that the tools of the CPR are utilised to target also the needs of the Market Surveillance.

EuroWindoor recommends guidance to be developed creating synergy between the instruments already existing in the CPR: Assessment reports from NBs must be fully traceable to the product assessed, including critical product parameters for the specific characteristic's performance. These critical parameters should be agreed upon in the respective Group of Notified Bodies and subsequently form the basis of the manufacturers FPC, allowing market surveillance and manufacturers to know what to focus on in the FPC.

### **Development, revision and citation of harmonized European Standards**

Following the improvement suggestions on Standardization for CPR published by EuroWindoor in October 2016<sup>8</sup>, the association would like to reaffirm the responsibility of the EC in drafting Standardization Request ( $S_{req}$ ) in a way that secures a lean process. This includes:

- To clarify the task for CEN in details by releasing – before the hEN's drafting process starts – a  $S_{req}$  that includes clear and well described characteristics with examples of legal requirements in Member States, as well as fixed templates and associated delegated acts.  
This will prevent a costly and time-consuming rejection in the late stage of the drafting process, as well as a blockage in the citation to OJEU after the publication of the EN by National Standardization Bodies as reported several times<sup>9 10</sup>.
- To improve the flexibility and speed of drafting hENs under  $S_{req}$  (see procedure in the included [Annex](#)) by developing lean and transparent procedures with clear responsibilities and with adequate resources for all involved stakeholders, ensuring the timely process of hENs from  $S_{req}$  to citation in the OJEU. The  $S_{req}$  should be based on existing legal requirements of Member States and a lean updating process (both for the  $S_{req}$  and the hENs) shall ensure the dynamics of the legal system.

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<sup>6</sup> "A number of issues remain impacting effectiveness negatively. These factors are mainly related to the implementation of the CPR, especially insufficient market surveillance"

[Supporting study for the review of the Construction Products Regulation](#), 2019-11-20.

<sup>7</sup> "By drawing up the declaration of performance, the manufacturer shall assume responsibility for the conformity of the construction product with such declared performance", [Regulation \(EU\) No 305/2011](#), 2011-03-09.

<sup>8</sup> [EuroWindoor position on principles of good cooperation and improvement of effectiveness of standardization for CPR](#), 2016-10-07.

<sup>9</sup> "Many feedbacks raise the issue of (non-)citation of harmonised standards in the Official Journal of the European Union and/or standstill in revisions of standards"

[Review of the Construction Products Regulation - Summary of the Public feedback to the Inception Impact Assessment](#), 2017-11-16.

<sup>10</sup> "A significant number of respondents express frustration about the slowness of the harmonisation procedure and about the fact that the hENs are not (promptly) cited in the OJEU"

[Open public consultation on EU rules for products used in the construction of buildings and infrastructure works – Results](#), 2018-10-22.

Any increase in the amount of essential characteristics would introduce a significant and unnecessary cost increase for manufacturers and especially SMEs.

- To secure that, in future releases of  $S_{req}$ , the AVCP level is defined per characteristic – not per intended use. This will allow a better clarity and flexibility.

Furthermore, following widely acknowledged comments from stakeholders on non-citation and slowness of harmonisation procedure, EuroWindoor recommends:

- To ensure that HAS consultants are already involved at drafting stage level and therefore secure that all major changes to the candidate hEN are performed before being sent out for Formal Vote<sup>11</sup>.
- To encourage Member States and European Commission to provide detailed comments on the content of candidate hEN (including Annex ZA) at Enquiry level, and therefore allow CEN to adjust the draft in this stage of the process.

Additionally, due to the broad variety of construction products, CPR's provisions on Factory Production Control (FPC) are expressed in broad qualitative terms and do not specify measurable tolerance indicators on declared performances. Besides, the specifications on FPC in hENs (clause 6 of each harmonized standard) are based on the same template for all construction products. These specifications are not taking into account the specific conditions of the manufacturing process (contrary to CPR Art. 17) leaving both Market Surveillance and manufacturers in an unclear position of what can be deemed right or wrong for a given construction product.

EuroWindoor recommends further and clear adaptation of the requirements for FPC to be developed in hENs beyond the template for clause 6 of hENs for the specific construction products (recommendations on traceability, on control systems etc.).

Furthermore, various comments have been raising the issue of dated vs non-dated hEN references in legislations. Although EuroWindoor acknowledges this recurrent issue, we recommend addressing this challenge in a pragmatic manner, balancing the practical feasibility with the needs for legal certainty. This may include different or renewed views on current EU legislation such as the Standardisation Regulation and the CPR along with dedicated IT systems to monitor and keep track of the revisions of supporting standards and their links to hENs.

EuroWindoor concludes and recommends the Commission to secure the stability of CPR and smoothen its revision process – should it happen under “Sub-option II.A” from the abovementioned Impact Assessment Study<sup>4</sup> – by ensuring that modifications, especially those related to the development of hENs, do not affect already existing product standards retroactively. Development of hENs and citation to the Official Journal have indeed been identified as one of the primal obstacles to CPR enforcement, and a revision of the text should therefore secure that all ongoing activities will reach their objectives. Consequently, EuroWindoor recommends that a revision of CPR should only be enforced for newly developed or revised hENs and that any “soft law” or potential revision will be carried through to support an agile and transparent system based on market needs and with duly consideration of industry stakeholder's input.

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<sup>11</sup> The situation was already noted by the Commission in 2016 and guidance was given to CEN in a [report on CPR's implementation](#), 7th July 2016, “Consequently, a significant number of candidate harmonised standards are not cited in the OJEU [...]. Continuous cooperation with European Committee for Standardization (CEN) consultants will be essential to improving the situation before the harmonised standards are presented to the Commission for publication of their references in the OJEU”.

## History of investigation on CPR implementation and review

2016-07: Commission's report on the implementation of CPR ([link](#))

2017-06: Roadmap published by the EC ([link](#))

2017-07: Public Consultation and Feedbacks on the Roadmap (121 feedbacks) ([link](#))

2018-04: Public Consultation on CPR revision (641 feedbacks) ([link](#))

2018-09: Publication of external report on [Evaluation](#) + [Impact Assessment](#) of CPR revision

2018-10: Survey on Member States' regulatory Practices ([link](#))

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**About EuroWindoor AISBL** – EuroWindoor AISBL was founded as an international non-profit Association, in order to represent the interests of the European window, door and facade (curtain walling) sector. Our 18 national associations speak for European window, door and facade manufacturers that are in direct contact with consumers, and thereby having large insights on consumers' demands and expectations. We are at the forefront interacting with dealers, installers and consumers buying windows and doors, and the companies behind the associations cover selling all over Europe.

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### Process for new/revised harmonised standards under the CPR following the Standardisation Request procedure

