

On 28 June 2024, the [Ecodesign for Sustainable Products Regulation \(ESPR\)](#) – was published in the Official Journal of the EU. Future ecodesign requirements stemming from the ESPR will impact global clients’ supply chains by requiring compliance with new sustainability standards. The standards once adopted, will be directly applicable in all the EU Member States, with an entry into force of the first set foreseen by 2027 or 2028.

This article describes the scope of the ESPR in terms of products to be covered and requirements, highlighting the role that the industry may play in its implementation through the Eco-design Forum. It also focuses on the key concept of Substances of Concern, which has spread over various pieces of EU regulations recently.

Products in Scope

ESPR will repeal the successful Ecodesign Directive, which covers energy-related products commonly used in homes or offices (such as displays, cooking appliances, etc.), but will be wider in scope as its requirements can potentially cover almost any goods (except for cars, food, feed and medicinal products). The list of products to be covered by the requirements is not fixed within the regulation itself and will be established on a rolling-basis in three-year Working Plans of the EU Commission. Following the Working Plans, the product-group specific ecodesign requirements will be set up by the EU Commission in adoption of delegated acts.



Despite the choice of product groups being the responsibility of the EU Commission, the co-legislators (the European Parliament and the Council of the EU) have included in the ESPR a list of products to be obligatory taken into account by the EU Commission for the First Working Plan.

The specified products are:

Iron and steel	Furniture	Paints	Energy-related products
Aluminium	Tyres	Lubricants	Information, communication technology products and other electronics
Textiles	Detergents	Chemicals	

If the EU Commission wishes to deviate from this list, it will have to provide an adequate justification for doing so.

In addition to the co-legislators’ indication, for the final list of product under the First Working Plan, the EU Commission will consider the preliminary study on new product priorities, commissioned to the Joint Research Centre.

The study, in its draft version, suggests that the First Working Plan should also cover certain other intermediary products such as: pulp and paper, as well as glass. The final version study expected to be published in October 2024.

However, it will be up to the EU Commission to decide on the final scope of the First Working Plan, by 19 April 2025.

Aspects to be Covered by the Eco-design Requirements

The EU Commission will work for the selected product groups on specific eco-design requirements following timeline outlined in the Working Plan. They will be adopted in a form of delegated acts. The scope of ecodesign requirements will not be incidental. The requirements will have to be relevant for the product group concerned and can address the following limitative list of characteristics:

Reliability	Substances of concern	Resource use and efficiency	Environmental impacts, including carbon and environmental footprint,
Reusability	Energy use and efficiency	Recycled content	Generation of waste
Upgradability	Water use and water efficiency	Remanufacturing	
Repairability		Recyclability	
Maintenance refurbishment		Recovery of materials	

The adoption of the **first set of the ecodesign requirements is envisaged for 2026**, with applicability of the new rules foreseen for 2027 at the earliest.

Substances of Concern

As the sustainability of a product depends largely on what it is made of, the ESPR aims to regulate a group of substances defined as Substances of Concern. The concept covers substances:

- Identified as substances of very high concern (**SVHC**) under REACH
- **Subject to a harmonised classification** classified in one of the following hazard classes or categories under the **CLP Regulation**:

– Carcinogenic, Mutagenic or toxic for Reproduction (CMR), Cat. 1 and 2
– Endocrine Disruptors to Human Health or the Environment, Cat. 1 or 2
– Persistent, Mobile and toxic (PMT) or very Persistent, very Mobile (vPvM)
– Persistent, Bioaccumulative and Toxic (PBT), or very Persistent, very Bioaccumulative (vPvB)
– Respiratory and Skin Sensitizers , Cat. 1
– Hazardous to the Aquatic environment or to the Ozone layer
– Specific Target Organ Toxicity (STOT) in repeated (RE) or single exposure (SE), Cat. 1 and 2

- Qualified as **Persistent Organic Pollutants** under the POPs Regulation
- Negatively affecting the **reuse and recycling** of materials in the product in which it is present (specific substances to be determined in the ecodesign requirements)

The ESPR addresses substances of concern from two perspectives:

- Firstly, it requires that **the ecodesign requirements will allow tracking Substances of Concern**, throughout the life cycle of the products
- Secondly, **it enables** future regulatory measures **to govern the use of such substances**, whether independently or in combination with other substances or substances in mixtures, throughout the production process

Substances of Concern – Tracking

With regards to Substances of Concern, ecodesign requirements should **require providing at least the following information**:

- The name or numerical code of the Substance of Concern present in the product
- The location within the product
- The concentration in the product, its relevant components or spare parts
- Instructions for the safe use of the product
- Information relevant for the environmentally sound management of the product at end-of-life

Substances of Concern – Restrictions

The ecodesign requirements **may restrict the use of certain Substances of Concern**. This will only be permitted if the substances found in products or utilised in their manufacturing processes have a negative impact on the sustainability of the products. The substance restrictions under ESPR cannot be imposed based on the chemical safety of the substances, as this aspect is primarily managed under the REACH regulation.

The Ecodesign Forum

The adoption of requirements will not take place in isolation from the voice of businesses. Industry will be able to contribute to the discussion through the Ecodesign Forum – **a dedicated expert group, whose views will obligatorily have to be considered by the EU Commission**. The first call for applications for the Ecodesign Forum for non-member state participants, will be published on the Register of Commission Expert Groups in the Q3 of 2024. The first meeting of the Forum should take place in Q4 2024 or Q1 2025.

Summary

The future eco-design requirements will focus on **the entire life cycle of the products covered and might impact the use of certain substances in manufacturing processes**. The industry will have the opportunity to work with the EU Commission on the development of the requirements through the Ecodesign Forum. The Forum will start its operation in Q4 of 2024. No later than by **19 April 2025**, the EU Commission will communicate, through the **First Working Plan**, which **group of products** it wishes to target first. The adoption of the first set of the **ecodesign rules is foreseen for 2026**. Being aware of this development is crucial for making informed and future-proof business decisions.

How We Can Help

Our firm is comprised of lawyers and policy professionals with extensive experience in EU laws and regulations.

At this stage of the ESPR, we can assist companies in **understanding the new requirements and guide them through the adoption phase** of the Working Plans and the subsequent secondary legislation, which will concretely define the regulation's scope. This may also include, if requested, engaging with decision makers to suggest modifications to the proposed draft secondary legislation.

Once the delegated acts are adopted, our firm's experts will **assist companies in understanding the legal requirements for marketing products in the EU in compliance with the ESPR**.

Our support will aim to ensure compliance with the new regulations, helping businesses avoid potential consequences, including sanctions that will be imposed at the member state level as stipulated in Art. 76 of the ESPR.

Moreover, building upon its longstanding experience of EU chemicals and chemicals in products regulations, our firm also helps navigate the challenges triggered by the concept of **Substances of Concern** across a variety of EU legislations.

Our firm consists of professionals with a deep understanding of global and EU-specific legal frameworks, dedicated to providing comprehensive legal services tailored to meet the needs of our clients.

We are well-equipped to assist international clients in familiarising themselves with new regulatory frameworks and ensuring compliance. Our combination of national and international regulatory experience enables us to support clients across various EU Member States. We combine a unique mix of legal and public policy expertise to provide advocacy, regulatory and strategic advice to a range of leading companies and industry associations.

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