



# ESPR: Ban on destruction of unsold consumer products and disclosure requirements

Sustainability

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It's a well-documented fact that a proportion of unsold products (especially textiles) are routinely being destroyed before being used, generating significant avoidable waste and CO<sup>2</sup> emissions.

To address this issue, Article 24 of the Regulation (EU) 2024/1781 establishing a framework for the setting of ecodesign requirements for sustainable products (**ESPR**) requires businesses to disclose data about unsold consumer products while Article 25 sets an outright ban on the destruction of certain products.

On 9 February 2026, the European Commission (**EC**) published a delegated act setting out exemptions from this ban (section 1), as well as an implementing regulation specifying the format for the disclosure requirements regarding discarded unsold consumer products (section 2).

## 1. Upcoming destruction bans and information requirements under the ESPR

In addition to the ecodesign requirements, which are still being formulated for each product category on the basis of the ESPR, the ESPR also contains regulations on the handling of unsold consumer products. Specifically, Article 24 ESPR stipulates annual disclosure requirements according to which companies must report on the disposal of unsold consumer products. An “unsold consumer product” is defined very broadly in Article 2(37) ESPR as:

*“any consumer product that has not been sold including surplus stock, excess inventory and deadstock and products returned by a consumer on the basis of their right of withdrawal in accordance with Article 9 of Directive 2011/83/EU or, where applicable, during any longer withdrawal period provided by the trader;”*

This disclosure requirement applies to consumer products, textile-related or not (e.g. electronics, toys, ...), but does not apply to food, feed, medicinal products, vehicles, ... (to name just a few) which are not in the scope of the ESPR. If these consumer products are destroyed, this must be disclosed in accordance with Article 24 of the ESPR.

Furthermore, there is also an outright ban on the destruction of the unsold consumer products listed in Annex VII of the ESPR, notably clothing, shoes and apparel. According to Article 25(1) of the ESPR, the destruction ban applies already from **19 July 2026**.

The application of these requirements required additional secondary legislation. The new delegated act specifies exceptions to the prohibition on destruction under Article 25 of the ESPR.

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The implementing regulation and the annexes published with it regulate the format and details of the disclosure requirements under Article 24 of the ESPR with regard to disposals that have already taken place.

## 2. Derogations to the ban on the destruction of unsold shoes and clothing

The delegated act now specifies ten **derogations** to this prohibition based on the reasons set out in Article 25(5) of the ESPR.

Destruction is permitted in the following cases:

- dangerous products within the meaning of the Product Safety Regulation, in the event of violations of EU or national law (such as forced labour),
- infringements of intellectual property rights through counterfeiting or after the expiry of distribution periods specified in licence agreements,
- physically damaged, contaminated or hygienically questionable products (especially returns), provided that repair is not technically or economically feasible,
- non-functional products with design or manufacturing defects,
- products whose protected or culturally/ethically inappropriate labels, logos or designs cannot be removed for technical reasons,
- after unsuccessful donation efforts: in this case, a direct offer must have been made to at least three social economy enterprises or an eight-week public tender must have been conducted.

Special provisions apply to social economy enterprises and recycled products.

If companies wish to make use of the exemptions, they must comply with the documentation requirements set out in Article 3 of the delegated act. Companies must retain documentation for five years, such as safety assessments, test reports, inspection reports on individual products, evidence of internal investigations into IP infringements or proof of donation offers. The documentation must be available in electronic form within 30 days upon request by the authorities. When handing over to waste disposal companies, a declaration of the relevant exemption must also be provided to

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support more effective sorting processes and higher recycling rates. The prohibition on destruction under Article 25(1) of the ESPR will apply to large companies from 19 July 2026.

The delegated act only concerns exemptions from the prohibition under Article 25(5) of the ESPR and would also apply from 19 July 2026. However, pursuant to Article 72(6) of the ESPR, the European Parliament and the Council may raise objections within two months. If objections are raised within this period, the delegated act will not enter into force, with the result that the prohibition on destruction under Article 25(1) of the ESPR would apply without exception from 19 July 2026.

### **3. Disclosure requirements for destroyed unsold consumer products**

The implementing regulation specifies the format and scope of the disclosure requirements under Article 24 of the ESPR. This also applies to products other than footwear and clothing. However, the exceptions to the prohibition on destruction under Article 25(5) of the ESPR in conjunction with the published delegated act apply.

Economic operators who dispose of unsold consumer products directly or have them disposed of on their behalf must publish a report in the format specified in Annex I to the implementing regulation on their company website within 12 months of the end of the financial year. Alternatively, a reference to such a report with a clear indication of the relevant passage is sufficient, provided that the information is contained therein in the prescribed format.

The company should report on:

- Number and weight of products destroyed (these must always be specified according to their chapter in the Combined Nomenclature (CN), and in some cases specified in Annex II to the Implementing Regulation, according to their CN heading).
- Reasons for destruction, including exemptions applied in accordance with the delegated act.
- Proportion by type of waste treatment (preparation for reuse, recycling, other recovery including energy recovery, disposal).
- Preventive measures already taken and planned to avoid future destruction.

Companies must also keep records of the transfer and receipt of destroyed products, including declarations from waste disposal companies regarding receipt and treatment, for five years. Compliance is verified by national market surveillance authorities using standardised procedures in

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accordance with Annex III, with provision for informing other Member States in cases of cross-border relevance.

The first reporting period for large companies was scheduled for the first full financial year after the ESPR came into force on July 18, 2024. The implementing regulation will only apply from the first quarter of 2027 – 12 months and 20 days after publication in the Official Journal. It postponed the reporting period for large companies to the first full year after the implementing regulation came into force. The disclosure requirements were postponed accordingly. Medium-sized companies will be required to report from July 19, 2030.

The applicability of the implementing regulation does not depend on objections from Parliament or the Council. It is only subject to control via the so-called comitology procedure under Article 73 ESPR, in which the member states are involved via a committee.

#### 4. Conclusion

Companies should take note of the very short time frame and review the applicability of the exemptions under Article 25 ESPR to their products. The disclosure requirement affects a much larger product portfolio than the ban on destruction. In addition to manufacturing and distribution companies in the textile industry, companies that fulfil orders should also consider the impact of the requirements.

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