

Safety of toys and repealing Directive 2009/48/EC

2023/0290(COD) - 13/03/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 603 votes to 5, with 15 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on the safety of toys and repealing Directive 2009/48/EC.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the proposal as follows:

Subject matter

The objective of this Regulation is to improve the functioning of the internal market while providing for a high level of consumer protection and a high level of protection of health and safety of children and other persons. This Regulation lays down rules on the **safety of toys** and on the free movement of toys in the Union, contributing to strengthening of the internal market. It should be implemented taking due account of the **precautionary principle**.

Ban on harmful chemicals

The Regulation will ban substances that are carcinogenic, mutagenic or toxic to reproduction (CRM). The existing prohibition on carcinogenic and mutagenic substances or substances toxic for reproduction (CRM) is extended to chemicals that are particularly harmful to children, such as **endocrine disruptors** or chemicals affecting the respiratory system. The rules also target chemicals that are toxic to specific organs or are persistent, bioaccumulative, and toxic.

The use in toys, components of toys or micro-structurally distinct parts of toys, of **per- and polyfluoroalkyl substances (PFAS)** and of bisphenols is **prohibited**. Toys intended for use by children under 36 months or other toys intended to be placed in the mouth shall not contain any fragrances.

Product requirements

Internet connected toys that have social interactive features (e.g. speaking or filming) may also require a third-party conformity assessment.

When assessing the risk to the safety or health of users or third parties, a manufacturer of digitally connected toys should, where appropriate, according to reasonable best efforts, also take into account any **risk posed to mental health, as well as the cognitive development, of children**, that may arise when such toys are used in accordance with their intended use.

When assessing the safety of digitally connected toys likely to have an impact on children, manufacturers should ensure that the products they make available on the market meet the highest standards of safety, security and privacy by design, in the best interests of children.

Members stated that toys which include **artificial intelligence** are to comply with the Regulation laying down harmonised rules on artificial intelligence, which classifies them as high-risk, and subjects them to third-party assessments, risk management, transparency, and human oversight. Therefore, such toys should comply with standards of safety, security and privacy by design.

Warnings

Toys which are sold without packaging should have **appropriate warnings affixed** to them if the surface of the toy allows. If this is not possible, the warnings should be placed on the label. The manufacturer may add a **QR-code** which provides a link to the instructions in a digital format, but shall always mark warnings on the toy, on an affixed label or on the packaging.

Warnings which determine the decision to purchase the toy should be **clearly visible to the consumer before the purchase**. They should be of sufficient size to ensure that they are also immediately visible and legible online.

Labels and instructions for use should draw the attention of children or their supervisors to the inherent hazards and risks to the health and safety of children considering the age group of children for which the toys are intended, and to the ways of avoiding such hazards and risks.

Obligations of online marketplaces

Toys should comply with the recently updated general rules on product safety, for example with regard to online sales, accident reporting and consumers' right to information and redress.

Digital product passport

Before placing a toy on the market, manufacturers should draw up a digital product passport for that toy. The digital product passport should meet the requirements laid down in this Regulation and other relevant Union harmonised legislation requiring an EU declaration of conformity and it should replace all EU declarations of conformity required.

All information included in the digital product passport should be based on open standards developed with an interoperable format, including for the purpose of transmitting information via the Safety Business Gateway and the Safety Gate Portal.

Assistance for SMEs

The Commission should provide comprehensive assistance, in cooperation with the relevant national authorities, to SMEs that are required to establish a digital product passport for toys, by providing them with tailor-made guidance on how to efficiently set up and operate a digital product passport for toys and an automatic translation tool for the languages.

Safety assessment

In order to demonstrate that a toy complies with the essential safety requirements, manufacturers should, before placing a toy on the market, carry out a safety assessment which should at least the following:

- cover all the chemical, physical, mechanical, electrical, flammability, hygiene and radioactivity hazards and the potential exposure to such hazards;
- in relation to chemical hazards, take account of the possible exposure to individual chemicals, and any known additional hazards from combined exposure to the different chemicals present in the toy, taking into account the obligations under Regulation (EC) No 1907/2006 and the conditions set out therein;
- be updated whenever additional relevant information is available.

The safety assessment should be included in the technical documentation.