

New product safety requirements — have they been met? 2/6/25



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From 13 December 2024, all economic operators subject to the new regulatory framework must start to apply Regulation 2023/988 of the European Parliament and of the Council on general product safety (hereinafter referred to as “the Regulation”). The regulation imposes a number of obligations not only on manufacturers but also on importers, distributors and providers of online marketplace. It is therefore worth familiarising yourself with the regulation to avoid being unexpectedly penalised for non-compliance.-

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Scope of the Regulation

The Regulation is designed to impose the same safety requirements on all products on the European Union (EU) market, irrespective of their sales channel or country of origin, and complements the legal framework already in place in the EU legal order.

The Regulation is of general application, i.e., its provisions must be applied directly and that it does not need to be transposed into national law. For this reason, a draft law 24-TA-1022 has been developed in order to replace the Law on the Safety of Goods and Services with a new law - the Law on the Safety of Services, which removes the current regulation on the Safety of Goods from the Latvian legal framework. This means that the framework for the safety of goods, i.e. products, will in future be set out in EU legislation.

The Regulation States that *“a “product” is any item, whether or not it is connected to other items, which is supplied or made available for consideration or free of charge, including in connection with the provision of a service, and which is intended for consumers or can be used by consumers under reasonably foreseeable conditions, even if it is not intended for consumers.* Explaining the scope of the Regulation, the EU Commission stated that the requirements of the Regulation apply to any products, including digital products, including software.

In informal correspondence, this understanding has also been confirmed by the Ministry of Economy and the Consumer Rights Protection Centre, noting that the requirements of the Regulation must also be met by the provider of the online platform site, which markets various types of e-books/e-instructions. This means that the requirements of the Regulation apply in practice to any entity placing its product or, as an intermediary, to another person's product on the EU market, irrespective of the fact that the product concerned could not be considered unsafe.

At the same time, certain product categories are excluded from the scope of the Regulation, such as medicinal products for human use or veterinary medicinal products, food, feed, live plants and animals, genetically modified organisms, animal by-products, plant protection products, certain aircraft, and antiques.

Requirements of the Regulation

The EU legal system already has various legal provisions on product safety. However, the regulation does not affect the application of harmonisation legislation, such as for cosmetic products and toys, but supplements it by stipulating that every product must meet the general safety requirements and undergo an internal risk analysis and technical documentation before being placed on the market. In this context, it is also worth taking a look at the product safety standards developed by the EU, which are not legally binding, but whose technical requirements and test methods can be useful.

Although these are essentially more binding on the manufacturer, the Regulation also imposes a number of new obligations on other organisations. In particular, the Regulation affects economic operators at different stages of product development and commercialisation by imposing obligations on:

1. Manufacturers (Article 9 of the Regulation);
2. Authorised representatives (Article 10 of the Regulation);
3. Importers (Article 11 of the Regulation);
4. Distributors (Article 12 of the Regulation);
5. Providers of online marketplaces (Article 22 of the Regulation).

The obligations arising from the Regulation for authorised representatives, importers, distributors, and online marketplace providers relate mainly to the provision of different information, irrespective of the distribution channel of the product, in order to protect consumers as far as possible, even if the product is not directly purchased by the consumer, and to ensure faster circulation of information on product safety breaches. In addition to the online marketplace, providers must register with *Safety Gate*, providing information on the single point of contact for direct contact with the national market surveillance authority.

It should be noted that one company may have several “roles” at the same time, i.e., that the business may be the manufacturer of the product and distribute it, in which case the requirements for both “roles” must be met.

Liability for the non-compliance

By 13 December 2024, each EU Member State was obliged to introduce a framework for sanctions that can be imposed on companies if they do not comply with the requirements of the Regulation or do not enforce them properly.

In Latvia, given the fact that the Law on Safety of Services intends to exclude the current regulation on Goods (Products), which, among other things, provides for sanctions for non-compliance of goods with the requirements of the Law on Safety of Goods and Services, it is necessary to adopt a new regulation, which has not been done so far.

At the same time, the fact that Latvia has not issued a normative regulation on the amount of the penalty does not mean that an entrepreneur cannot be held liable for non-compliance with the requirements of the Regulation, especially if the entrepreneur also directs their business activities to other EU Member States. It is therefore worthwhile for every economic operator to familiarise themselves with the new regulation and its requirements to avoid an unpleasant surprise when it comes to the appropriate penalty for non-compliance.