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## Provisional agreement reached on the **Ecodesign Regulation** and its impact on the fashion sector

On 5 December 2023, the Council and European Parliament reached a provisional political agreement on a proposal for a “Regulation establishing a framework for setting ecodesign requirements for sustainable products” sold in the EU.

The new regulation will replace the former 2009 directive and extend the scope of the existing regulation, which until now only covered energy-related products. The ecodesign regulation will apply to a wide range of product categories; only selected areas are exempted such as food or medical products. Changing fashion industry practices to better align them with sustainable measures has been a long-standing topic in the fashion sector and is often called “fashion’s open secret”. Accordingly, the Council is seeking to “make sustainable clothing the norm”. Regulators will require companies in the fashion sector to reform operations and to attain higher standards in their supply chains. New ecodesign rules aim to reduce resource, energy and water consumption throughout a product’s lifecycle, in support of a circular economy.

[OVERVIEW OF KEY AREAS](#) ▼

## 01. Destruction of unsold goods

In the area of fashion law, the draft regulation will have a significant impact on the issue of the destruction of unsold products, which has been a major topic of discussion in the fashion market in recent years, even beyond the so-called “fast fashion” sector. The Regulation aims to establish a framework to prevent the destruction of unsold products (including textiles and footwear), including products that have not been offered for sale or have been returned by consumers in respect of their right of withdrawal. The Ecodesign Regulation introduces a transparency obligation and requires EU operators to publish information on the reasons and number of unsold products discarded each year. At the same time, in its general approach, the EU will offer certain specific exemptions to allow for the destruction of unsold consumer clothing and clothing accessories (for example, on health and safety grounds).

## 02. Digital product passports

The Ecodesign Regulation will also require consumer products to be sold with a digital product passport containing information on the environmental sustainability of the given product in order to help consumers and businesses make informed decisions when purchasing products. It will also help facilitate recycling and repairs and provide transparency on overall environmental impact. Digital product passports are also designed to prevent and counter misleading eco-labels, i.e. “greenwashing”. In addition, such passports are intended to assist the authorities with carrying out controls and inspections so as to better enforce applicable eco-design standards. A digital product passport will be mandatory in this respect by 2030. Most often, textile products will contain a woven label with a QR code that provides information on the product’s compliance with applicable EU regulations.

## 03. Online marketplaces

The adopted provisional agreement emphasizes the crucial role of online marketplaces in supply chains and aligns the obligations of online marketplaces with the Digital Services Act. Online marketplaces will be obliged to establish a single contact point allowing for direct communication between Member States and so-called Market Surveillance Authorities (MSAs). MSAs will also have the power to remove non-compliant products.

Implementing and complying with this EU regulation will be a key issue for the fashion industry in the ensuing years. Indeed, fashion firms will face strong incentives to improve their environmental credentials so as to comply with pending EU sustainability legislation.



Should you wish to discuss in more detail the impacts on your business of existing national and EU-wide laws, our team of professionals at Kinstellar – combining in-depth legal expertise and a strong commercial focus – are standing by!

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