



Brussels, 30 May 2023

**To: Members of the European Parliament - Environment Committee**

**Subject: substances of concern in ESPR**

Dear Members of the European Parliament ENVI Committee,

The ESPR framework is a key pillar of implementing the promises of the European Green Deal and the Chemical Strategy for Sustainability, such as clean material cycles, toxic-free environment and zero pollution.

We, the undersigned, urge the rapporteurs and Members of the European Parliament to maintain these promises by allowing transparency and control of substances of concern in everyday products through ESPR. Citizens should not be exposed to any substance of concern such as chemicals that cause cancer, impairs our reproductive system or hampers fertility. Until products—in targeted sectors like textiles, ICT products, and furniture—are made toxic-free, citizens have the right to know about the presence and hazards of these substances, and where they can be found in the products they buy.

The Chemicals Strategy for Sustainability, endorsed by the European Parliament, commits to the EU's transition towards a clean circular economy by phasing out both the presence of certain substances that are harmful for human health or the environment, OR that prevent clean recycling [1]. The Strategy also commits (in the context of ESPR) to minimise the presence of substances of concern in products by introducing requirements and to ensure availability of information on chemical content and safe use, by introducing information requirements. [2]

Hence we can not support a cumulative definition of substance of concern that requires combination of certain hazardous properties and additionally negative effects on re-use and

recycling, as that would significantly weaken this definition and indeed the entire framework since it would hide and allow very hazardous chemicals in everyday products from the general public.

For the framework to fully achieve its objective to “*reduce the negative life cycle environmental impacts of products and improve the functioning of the internal market*”, **the definition of substance of concern must remain inclusive as written in the proposal**, so that all substances fitting any of these criteria are included within the information requirements as outlined in Article 7. These requirements are a key for all actors in the value chain, including upstream and downstream users, consumers, and waste handlers, to be fully informed about the substances that are present in the products.

Furthermore, the ESPR framework must be able to then address these substances of concern for reasons relating to chemical safety. We strongly urge the rapporteurs **to delete the proposed Article 6 (3)**, where the [Commission has proposed](#) to not allow restrictions “for reasons relating primarily to chemical safety.” Circularity and chemical safety cannot be easily separated, as some chemicals may be able to be physically recycled but still pose hazards if subsequently repaired and re-used, or used partly in another product. The presence of these chemicals in reused and recycled content can therefore hamper the viability and safety of recyclates, and perpetuate the toxic material cycles problem. To ensure the future-proofing of toxic-free material cycles, the Commission must be empowered to act against relevant substances of concern per product group based on chemical safety as well as circularity within the ESPR.

Moreover, relying solely on REACH for chemical safety is not sufficient in the face of the crises of chemical pollution in our bodies, in the environment, and the fact of having long ago [exceeded the planetary boundary](#) and safety limit. While a global leader for chemical regulation, REACH is also a top-down approach. The processes [move far too slowly](#) to address the continuing proliferation of hazardous chemicals in everyday products and the industry’s reliance on regrettable substitutions once consumers understand the hazards of a chemical being used.

This approach is consistent with recent actions, proposals, and communications from both the European Parliament and the Commission, not the least the Chemical Strategy for Sustainability:

- In the EP [resolution on the new circular economy action plan](#), product specific standards on non-toxicity were explicitly called for in points 22 and 23.
- In the [7th](#) and [8th](#) Environment Action Programmes, the Commission and the Parliament set out to tackle exposure from hazardous chemicals in products.

Finally, the ESPR legislation will serve as a complement to the main chemicals legislation frameworks, just as the current [ecodesign directive](#) is complementary to other legislation.

We must take the steps now to enact these promises. We are available for further exchanges on the need to substantially and comprehensively address substances of concern in the circular economy. Thank you for your dedication to this urgent issue.

Yours sincerely,

The following organisations:

ECOS

EEB - European Environmental Bureau

WECF - Women Engage for a Common Future

Arnika - Toxics and Waste Programme

ZERO - Association for the Sustainability of the Earth System

Ecologistas en Acción, Spain.

Zero Waste Europe

ClientEarth

ChemSec

Green Transition Denmark

[1] For the implementation of the CSS goals, the Commission [writes](#):

*The EU's transition towards a circular economy is being hampered by the presence of certain substances that are harmful for human health or the environment, OR that prevent clean recycling. The Commission is committed to tackling these 'substances of concern' in products and waste. Building on previous experience, including the 2018 Communication on options to address the interface between chemical, product and waste legislation, the Chemicals Strategy lays down several actions to minimise and substitute substances of concern by:*

- *ensuring that the most harmful substances in products are phased out*
- *introducing minimum requirements to minimise substances of concern in products*
- *ensuring information is easily available through requirements in the upcoming Sustainable Product Policy Initiative, and tracking the presence of such substances through the life cycle of materials and products [...]*

[2] The [commitments](#) of the Commission under the CSS are:

- *minimise the presence of substances of concern in products by introducing requirements, also as part of the Sustainable Product Policy Initiative, giving priority to those product categories that affect vulnerable populations as well as those with the highest potential for circularity, such as textiles, packaging including food packaging, furniture, electronics and ICT, construction and buildings;*
- *ensure availability of information on chemical content and safe use, by introducing information requirements in the context of the Sustainable Product Policy Initiative and tracking the presence of substances of concern through the life cycle of materials and products;*
- *ensure that authorisations and derogations from restrictions for recycled materials under REACH are exceptional and justified;*

Moreover, the [CSS implementing table](#) commits to “Introduce legal requirements on the presence of substances of concern in products, including PFAS, through the initiative on sustainable products”

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