



# Toy Safety Regulation

DIN Position paper on the European Commission's proposal for a Regulation on the safety of toys and repealing Directive 2009/48/EC (COM(2023)462)

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- Harmonized European standards should always take precedence over common specifications in the implementation of the Regulation.
- There needs to be a horizontal approach to common specifications across all single market directives.
- Annex III should refer to the general warning sign ISO 7010-W001.
- The analytical feasibility, e.g. for chromium (VI), should be taken into account when setting limit values.
- Organic tin limit values should be removed from the "element" migration limit table.
- The harmonization between several directives is key to enable an interoperable digital product passport.

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DIN supports the objectives of the revision of the Toy Safety Directive 2009/48/EC and the proposal for a Toy Safety Regulation (COM(2023)462) to increase children's safety and improve protection from harmful chemicals. We welcome that standards continue to play an important role in achieving these goals, as they specify technical details and thus help toy manufacturers to comply with the essential requirements set out in the Regulation. Since the European standardization organizations review each European standard at least every five years to ensure that it is up to date, the reference to harmonized European standards ensures that toys placed on the European internal market are based on the state of the art.

In the following, we would like to draw attention to some passages of the proposed Regulation that could be further specified or improved in the legislative process.

### **Common Specifications: Precedence for harmonized European standards**

In comparison to the current Toy Safety Directive (2009/48/EC), the proposal for a Regulation introduces "common specifications" (Article 14) as a second instrument to specify technical details. Following the principle of proportionality, Europe should continue to rely on voluntary and consensus-based standards that ensure compliance of products with Union legislation and provide a clear separation between legislation, standardization and conformity assessment, as well as include all stakeholders.

Harmonized European standards (hEN) according to their definition in Regulation 1025/2012<sup>1</sup> offer significant added value over common specifications resulting from implementing acts of the Commission:

- They respect European values through
  - transparency in the process and the Annual Union Work programme for standardization;
  - openness and inclusiveness of all relevant and interested stakeholders representing the widest possible technical expertise as well as consumers' interests and offering a right balance of participation among these stakeholders;
  - taking into account environmental, health and occupational safety aspects;
  - the consensus-based development of standards with a bottom-up approach.
- They offer technological leadership potential through the European standardization organization's strong links to international standardisation at ISO and IEC.
- They respect the World Trade Organization's (WTO) Agreement on Technical Barriers to Trade (TBT Agreement).
- They are trusted by manufactures and consumers alike, market relevant and fit-for-purpose because the requirements of potential users of the standards are taken into account in the drafting process.
- They ensure the inclusion of small and medium-sized enterprises (SMEs) and of societal stakeholders in the standardization process.

Circumventing harmonized standards through common specifications would lead to a loss of these benefits and significantly weaken the participation opportunities of SMEs, consumers and civil society in the development of responsible framework conditions for the safety of toys.

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<sup>1</sup> According to Regulation 1025/2012 Article 2 paragraph 1c a „harmonized standard“ is a „a European standard adopted on the basis of a request made by the Commission for the application of Union harmonisation legislation“.

**Recommendation:**

Harmonised standards should always be preferred to common specifications. Common specifications should be a fallback option only and must be subject to clear conditions for enactment and requirements for a transparent developing process involving all stakeholders. Furthermore, it is important to develop a horizontal approach for this instrument across all internal market directives. The agreement reached in the trilogue around the Machinery Regulation was supposed to serve as a blueprint for future regulation of common specifications. The present text for the Toy Safety Regulation deviates from this agreement. Alignment would be recommended.

**Generic warning pictogram (Annex III, 1.)**

DIN welcomes that the word 'Warning' may be replaced by a generic pictogram. We would, however, like to point out that a general warning sign (ISO 7010-W001) already exists and is part of

- EN ISO 7010:2019, Graphical symbols — Safety colours and safety signs — Registered safety signs as well as of
- COUNCIL DIRECTIVE 92/58/EEC of 24 June 1992 on the minimum requirements for the provision of safety and/or health signs at work (ninth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)

A warning sign consists of three elements: geometric shape (triangle), safety colour (yellow), graphical symbol.

**Recommendation:**

We recommend referring to the general warning sign ISO 7010-W001 in Annex III, no. 1.

**Potential reduction of current limit values (chromium VI)**

In recital 21 of the draft regulation it is stated that “limit values for arsenic, cadmium, chromium VI, lead, mercury and organic tin, which are particularly toxic and which should therefore not be intentionally used in toys, should be set out at half the values that are considered safe by the relevant scientific body, in order to ensure that only traces that are compatible with good manufacturing practice are present in the toy”.

DIN acknowledges the need to specify safe limit values for toxic substances. For chromium (VI) in particular, it should, however, be noted that the currently valid limit value in routine analysis already cannot always be reliably determined for all materials on the market, as the analysis tolerances vary with different materials and matrix types and are partly very high. This also affects very well-equipped commercial as well as market surveillance authority laboratories. A further reduction of the limit value

into the range of the LOQ of the method would lead to even higher analytical tolerances. The Cr (VI) values determined in routine would then no longer be "court-proof".

It is also true for other elements and also for bisphenol A that reducing the limit values greatly complicates routine analysis and also increases measurement uncertainties.

**Recommendation:**

In general, the analytical feasibility should be taken into account when setting limit values.

## Limit values for organic tin (Annex II, Appendix, Part A, 1.)

Annex II, Appendix, Part A, 1. specifies migration limits for several "elements" but also for organic tin. These limit values correspond to the limit values in Directive 2009/48/EC which are covered by the harmonized standard EN 71-3:2019 "Safety of toys - Part 3: Migration of certain elements". Addressing migration of organic tin (non-polar organic bound tin compound) and of elements in one standard with the same acidic (polar) migration conditions has, however, created problems as different migration conditions for organic tin would be needed to achieve fully satisfactory and reproducible results.

**Recommendation:**

*We suggest to remove the organic tin limit values from the "element" migration limit table to allow an alternative migration and determination.*

## Digital Product Passport

We highly welcome the introduction of the digital product passport through the Toy Safety Directive. The approach is well thought out and forward looking. The harmonization between several directives is key to enable an interoperable digital product passport. Hence the Toy Safety Directive is referring to the proposal for an Ecodesign for Sustainable Products Regulation (ESPR), it is necessary that a harmonization of the final ESPR is ensured. Discrepancies might occur through changes, which must be addressed and clarified in the sense of a harmonization.

## About DIN

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