



Netherlands Enterprise Agency

EED Art. 7 and EU product policy

CA EED PM7 - Cyprus
WG 7.2 Public Procurement
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Disclaimer

Only the EU Court of Justice
can give a binding
interpretation of EU law





Overview

- Link of EED Art. 7 with products
- Energy labelling ((EU) 2017/1369)
- ESPR* ((EU) 2024/1781)
 - Benchmarks
 - GPP (ESPR Art. 65)

*Ecodesign for Sustainable Product Regulation



Link of EED Art. 7 with products

Article 7

Public procurement

1. Member States shall ensure that contracting authorities and contracting entities, when concluding public contracts and concessions with a value equal to or greater than the thresholds laid down in Article 8 of Directive 2014/23/EU, Article 4 of Directive 2014/24/EU and Article 15 of Directive 2014/25/EU, purchase only products, services buildings and works with high energy-efficiency performance in accordance with the requirements referred to in Annex IV to this Directive, unless it is not technically feasible.

EED Art. 7 links to Annex IV: high energy performance in accordance with Annex IV

Member States shall also ensure that in concluding the public contracts and concessions with a value equal to or greater than the thresholds referred to in the first subparagraph, contracting authorities and contracting entities apply the energy efficiency first principle in accordance with Article 3, including for those public contracts and concessions for which no specific requirements are provided for in Annex IV.

Application of EEfirst in addition for large contracts.



Links in Annex IV

ANNEX IV

ENERGY EFFICIENCY REQUIREMENTS FOR PUBLIC PROCUREMENT

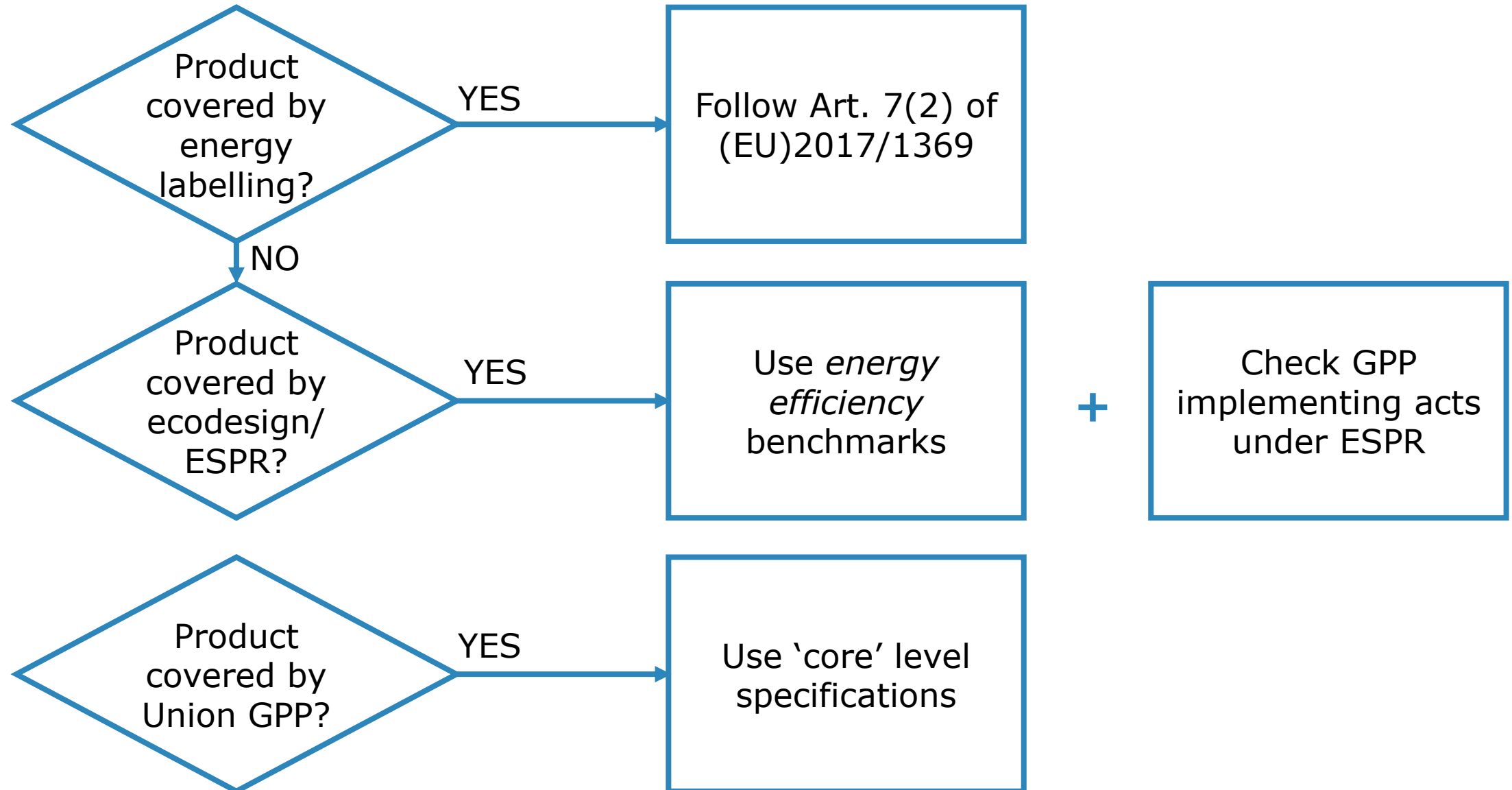
In award procedures for public contracts and concessions, contracting authorities and contracting entities that purchase products, services, buildings and works, shall:

- (a) where a **product** is covered by a delegated act adopted under Regulation (EU) 2017/1369, Directive 2010/30/EU or by a related Commission implementing act, purchase only the products that comply with the criterion laid down in Article 7(2) of that Regulation; → **Energy labelling**
- (b) where a **product** not covered under point (a) is covered by an implementing measure under Directive 2009/125/EC, purchase only products that comply with energy efficiency benchmarks specified in that implementing measure; → **Ecodesign/ESPR**
- (c) where a **product** or a **service** is covered by the Union green public procurement criteria or available equivalent national criteria, with relevance to energy efficiency of the product or service, make best efforts to purchase only products and services that respect at least the technical specifications set at 'core' level in the relevant Union green public procurement criteria or available equivalent national criteria including among others for data centres, server rooms and cloud services, road lighting and traffic signals, computers, monitors tablets and smartphones; → **Green Public Procurement**
- (d) purchase only **tyres** that comply with the criterion of having the highest fuel energy efficiency class, as defined in Regulation (EU) 2020/740, which shall not prevent public bodies from purchasing tyres with the highest wet grip class or external rolling noise class where justified by safety or public health reasons; → **Tyre labelling**
- (e) require in their tenders for **service contracts** that service providers use, for the purposes of providing the services in question, only products that comply with points (a), (b) and (d) when providing the services in question. This requirement shall apply only to new products purchased by service providers partially or wholly for the purpose of providing the service in question; → **Services -> products**
- (f) purchase, or make new rental agreements for, **buildings** that comply at least with nearly zero-energy level, without prejudice to Article 6 of this Directive, unless the purpose of the purchase is:
 - (i) to undertake deep renovation or demolition;
 - (ii) in the case of public bodies, to re-sell the building without using it for the public body's own purposes; or
 - (iii) to preserve it as a building officially protected as part of a designated environment, or because of its special architectural or historic merit.→ **Buildings**

Compliance with the requirements laid down in point (f) of this Annex shall be verified by means of the energy performance certificates referred to in Article 11 of Directive 2010/31/EU.



Annex IV flowchart products





Services and works

- Services: new products used for services shall comply with product requirements (point e) of Annex IV of EED)
- Works: products that are used for activities constituting the subject matter of those contracts (ESPR Art. 65(1))



Energy labelling ((EU) 2017/1369) Art. 7(2))

Article 7

Obligations of Member States

2. Where Member States provide incentives for a product specified in a delegated act, those incentives shall aim at the highest two significantly populated classes of energy efficiency, or at higher classes as laid down in that delegated act.

- What are the highest two significantly populated classes?
- Use of EPREL to find these.

REGULATION (EU) 626/2011 with regard to energy labelling of air conditioners

Distribution of the selected 27 906 models out of a total of 27 906 models

Cooling mode
27 906 models

Other 25 594 models			Single duct 2 146 models			Double duct 166 models		
Class	Entries	%	Class	Entries	%	Class	Entries	%
A+++	3 149	12,3	A+++	4	0,2	A+++	1	0,6
A++	18 573	72,6	A++	87	4,0	A++	9	5,4
A+	1 609	6,3	A+	131	6,1	A+	32	19,3
A	372	1,5	A	1 956	91,1	A	128	77,1
B	15	0,1	B	15	0,7	B	0	0,0
C	4	0,0	C	1	0,0	C	0	0,0
D			D			D		



ESPR ((EU) 2024/1781) Art. 65(3) (GPP)

3. The Commission is empowered to set, by means of implementing acts, the minimum requirements in the form of technical specifications, award criteria, contract performance conditions or targets.

The minimum requirements shall be set in relation to the product aspects addressed in the delegated act adopted pursuant to Article 4 applicable to the product groups in question, as relevant for those product groups.

The minimum requirements shall be based on the two highest performance classes, the highest scores or, when not available, on the best possible performance levels as set out in the delegated act adopted pursuant to Article 4 applicable to the product groups in question.

Award criteria shall, where appropriate, have a minimum weighting of between 15 % and 30 % in the awarding process which enables them to have a significant impact on the outcome of the tendering procedure and which favours the selection of the most environmentally sustainable products.

Targets shall require, on an annual or multiannual basis, a minimum percentage of 50 % of procurement conducted at the level of contracting authorities or contracting entities, or at an aggregated national level, of the most environmentally sustainable products as referred to in the fourth subparagraph.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 73(3).



GPP in ESPR

Implementing acts (for products covered by a delegated act) may specify minimum requirements in the form of:

- Technical specifications:
 - Two highest performance classes
 - The highest scores
 - The best possible performance levels as set out in the delegated act for the product
- Award criteria with minimum weighting of between 15% and 30%, and shall favour the selection of the most environmentally sustainable products.
- Targets: minimum percentage of 50% of procurement of the most environmentally sustainable products.



Thank you for your attention.

Questions?