

The European Union Regulation on critical raw materials

The European Union has approved Regulation¹ EU 2024/1252, of the European Parliament and of the Council, of 11 April 2024, establishing a framework for ensuring a **secure and sustainable supply** of critical raw materials (“Regulation”). The Regulation aims to **increase and diversify** the supply of these raw materials, strengthening **circularity** and supporting **research and innovation** to find ways of using resources more efficiently and developing substitutes.

1. WHAT ARE CRITICAL RAW MATERIALS AND WHY HAS A EUROPEAN REGULATION BEEN APPROVED?

The European Union (“EU”) has identified critical raw materials whose supply is very vulnerable to disruption because their supply sources are too concentrated (in countries such as China, the Democratic Republic of Congo or Turkey) and there are no adequate and sufficient alternatives for them. A guaranteed supply of these materials is essential as the EU’s demand for these materials is expected to increase in the coming years as economies continue to transition to a more sustainable future – critical raw materials are used to manufacture solar panels, wind turbines, electric vehicles and efficient lighting. Strategic sectors such as space and defence also use these raw materials.

Annex II of the Regulation **lists 34 critical raw materials** (such as arsenic, boron, cobalt, copper, tungsten, nickel). A material needs to meet (or exceed) the “economic importance” and “supply risk” thresholds set out in the Regulation to be added to this list.

Additionally, Annex I of the Regulation **lists 17 strategic raw materials** (such as cobalt, copper, lithium, nickel, rare earth elements, tungsten). Strategic raw material refers to those critical raw materials that score highest in terms of “strategic importance”, “expected growth in demand” and “difficulty in increasing their production” according to the Regulation’s calculation system.

¹ European Union regulations are legal acts emanating from European Union institutions. Their objective is to ensure that European Union law is applied uniformly throughout Member States. European Union regulations apply to abstract categories of persons (i.e. they are not addressed to specific persons) and are fully binding. They are directly applicable in Member States. This means that (i) they do not need to be transposed into national law by the Member States to be applicable and instead apply directly when the regulation enters into force; (ii) they can confer rights and obligations on individuals, who can invoke them directly before national courts; and (iii) individuals can use regulations as a reference in their relations with other individuals, with Member States or with the European authorities. Regulations enter into force on the specific date they themselves establish or 20 days after they are published in the Official Journal of the European Union.

Both lists will be reviewed, and if necessary, updated by the European Commission by 24 May 2027 and, subsequently, every three years.

2. PURPOSE OF THE REGULATION

The Regulation aims to **improve the functioning of the European internal market** by ensuring EU access to a **secure, resilient and sustainable** supply of critical raw materials.

The Regulation establishes several **measures** to achieve this objective, such as identifying “**strategic projects**”, which is fundamental to reducing the risks of potential supply chain disruptions. These projects help to reduce dependencies on just one or few third countries and to diversify imports of critical raw materials.

The Regulation also addresses **environmental protection** and improves the circularity and sustainability of critical raw materials.

3. KEY AREAS OF THE REGULATION

The Regulation covers a number of key areas on which the EU and the Member States will focus. Essentially, these areas aim to strengthen the value chain of strategic raw materials and develop European capabilities by approving “strategic projects”. Other key areas entail enhancing the EU’s resilience to supply chain disruption risks, and the sustainability and circularity of these raw materials.

The Regulation also focuses on the future and establishes new instruments that will enable new supply chains to be created for critical raw materials.

3.1 STRENGTHENING THE VALUE CHAIN OF STRATEGIC RAW MATERIALS: PRIORITIES FOR ACTION

The Regulation establishes that the European Commission and the Member States must reinforce the various stages of the value chain of strategic raw materials in order to depend less on third countries.

In particular, the following **objectives** must be met **by 2030**:

- **Extraction:** at least **10%** of the EU’s annual consumption of strategic raw materials will come from EU reserves.
- **Processing:** at least **40%** of the EU’s annual consumption of strategic raw materials will be processed in the EU.
- **Recycling:** at least **25%** of the EU’s annual aggregate consumption of strategic raw materials will come from internal recycling of waste containing these strategic raw materials.
- **External sources:** no more than **65%** of annual EU consumption of each strategic raw material at any stage of processing will be imported from one third country.

3.2 STRATEGIC PROJECTS

Project promoters of strategic raw material can request the European Commission to recognise and declare a project as “**strategic**”.

In order to be considered “strategic”, projects must meet the following **criteria**: **(i)** they must contribute significantly to ensuring UnionEU supply of strategic raw materials; **(ii)** they must be technically feasible within a reasonable timeframe; **(iii)** their expected production volume must be capable of being estimated with a sufficient level of confidence; **(iv)** they must be implemented sustainably (mainly as regards environmental and social impacts); and **(v)** they must generate cross-border benefits beyond the Member State concerned. These criteria will be further developed through delegated acts that the European Commission will adopt.

Strategic projects **can be implemented in third countries or in the Overseas Countries and Territories (“OCTs”)** that are emerging markets or developing economies if they are mutually beneficial to the EU and to the third country in question. These projects must strengthen the EU’s security of supply of the strategic raw materials and offer the same level of social and environmental sustainability as the strategic projects located in the EU². The European Commission, together with the European Critical Raw Materials Council, must identify strategic projects in third countries or in the OCTs that intend to be actively involved in the extraction, processing or recycling of strategic raw materials, or in the production of materials that can replace raw materials in strategic technologies.

The Regulation establishes the **procedure** to apply for a project to be recognised as “strategic” before the European Commission. Application for recognition of strategic projects shall be assessed by the European Commission through an open call with regular deadlines. The first of such deadlines shall be set no later than 24 August 2024. The European Commission shall set deadlines at least four times a year.

Member States and the third countries potentially involved play a key role in this strategic projects recognition procedure: if they object to a project being recognised as “strategic”, the European Commission will not approve the application.

There are many **benefits** of considering a project as strategic. As they are given the “highest possible national priority”, promoters of strategic projects benefit from:

² The Regulation also refers to international cooperation and strategic partnerships. The European Critical Raw Materials Council is expected to undertake regular discussions on the strategic partnerships the EU has built; particularly, to determine the extent to which these strategic partnerships (i) enhance the EU’s security supply; (ii) improve cooperation along the value chain of critical raw materials between the EU and partner countries; and (iii) contribute to the economic and social development of partner countries. The Council will also discuss (i) coherence and possible synergies between Member States’ bilateral cooperation with third countries and the actions the EU has undertaken in the context of strategic partnerships; and (ii) which third countries should be prioritised for strategic partnerships because they can, among other things, contribute to security and resilience of supply.

Member States must report to the European Commission on their bilateral cooperation with third countries when the scope of that cooperation includes the value chain of critical raw materials. They may also support the European Commission in implementing the cooperation measures set out in the strategic partnerships along the raw material value chain.

- **Shorter licensing procedures:** licensing procedures to implement and operate strategic projects will be resolved within a maximum of 27 months – for extractive projects – and 15 months – for projects that require only processing or recycling.³

In these licensing procedures, and by 24 February 2025, Member States must establish or designate one or more administrative authorities that will operate as the “single point of contact” for promoters of the projects involving critical raw materials. The authorities designated for this purpose will be in charge of facilitating and coordinating the procedure for obtaining all the required project authorisations, and will assist promoters in submitting information and documentation.

- **Urgency:** dispute resolution procedures, litigation, appeals and judicial remedies (including mediation and arbitration) relating to projects’ authorisation and permit-granting procedure are declared “urgent” if the Member State in question has an “urgent” procedure (which ultimately means that the terms of the procedure are shorter).
- **Speeding up implementation:** the relevant Member State must assist the developer in complying with applicable administrative and reporting obligations and in getting the communities affected by the project more actively involved in order to be able to implement the strategic projects more quickly.
- **Monitoring and control:** every two years, promoters of “strategic projects” will be required to provide the European Commission with specific information such as how they are progressing with the project’s implementation, why, as the case may be, they are not meeting the schedule communicated to the European Commission, and how they intend to remedy this situation, as well as on how they intend to finance the project. Promoters will also have to notify the Commission of, among other things, project changes that affect their status as a “strategic” project.
- **Access to the buying and selling market:** promoters have access to a system that the European Commission has established to put them in contact with potential buyers of strategic raw materials.
- **Financial support:** strategic projects also benefit from financial support. In particular, the Regulation establishes that critical raw material projects, including strategic projects, are eligible for EU funds if the relevant requirements are met (e.g. relating to geographical location, the environment or their contribution to innovation). Relevant funds include the cohesion policy

³ If a project’s licensing process is already underway before it is declared “strategic”, or it involves extending an existing “strategic” project that already has a permit, the remaining phases after being declared “strategic” will be (i) 24 months for projects that require extraction; and (ii) 12 months for processes that only require processing or recycling.

These maximum periods do not include the processing of the project’s environmental impact assessment procedure, if applicable.

programmes such as the European Regional Development Fund, the Innovation Fund, InvestEU, the Just Transition Fund, and the Recovery and Resilience Mechanism (particularly its REPower EU chapter).⁴

Apart from the above, the European Commission will adopt measures to attract private investment for strategic projects (including coordinated support for projects that are struggling to have access to financing).

In addition, the Regulation establishes that promoters of strategic projects may seek advice on how they can get more financing for the projects, taking into account (i) additional private sources; (ii) support through resources of the European Investment Bank Group or other international financial institutions; (iii) the existing instruments and programmes of the Member States; and (iv) the EU funding programmes, such as the ones mentioned above.

By 24 May 2026, the European Commission must report on the obstacles to access finance for strategic projects, including recommendations on how to improve the situation for these projects.

3.3 IMPROVING RESILIENCE

Improving the EU's resilience to supply chain disruptions involves both the European Commission and the Member States.

In this regard, the **European Commission**, supported by the Member States, must **monitor risks** to the supply chains of critical raw materials by analysing parameters such as trade flow between the EU and third countries in the single market, supply and demand, supply concentration and price volatility. Also, the supply chains of each of the strategic raw materials are to undergo **stress tests**.⁵

Member States must do the following:

- Promptly **notify** the European Commission if they detect that the supply of critical raw materials may be seriously disrupted.
- **Provide** the European Commission with **information** on new or existing critical raw material projects in their territory. This information will be obtained from available data and surveys.

⁴ Projects located in third countries that contribute by diversifying the EU's supply chain may be supported through funds, such as the Neighbourhood, Development Cooperation and International Cooperation Instrument, and the European Fund for Sustainable Development Plus.

⁵ The stress tests will consist of assessing how vulnerable to supply disruptions the EU supply chain of the relevant strategic raw material is. In particular, the impacts associated with the various scenarios that may cause such disruptions and their potential effect must be estimated taking into account several elements. For example: (i) whether the raw material is extracted, processed or recycled; (ii) the capacities of the economic operators along the value chain, as well as the market structure; (iii) the availability of supply sources and the ability to diversify, substitute raw materials or reduce demand rapidly; (iv) factors that may affect supply (e.g. geopolitical tensions, natural disasters, logistics); (v) users of raw materials and their share of demand; and (vi) potential barriers to cross-border trade in raw materials or products that use them as an input in the domestic market.

Member States must also notify the European Commission of any major developments that may hinder the regular operation of the identified critical market operators' activities⁶.

- Set aside **strategic reserves** for strategic raw materials. The European Commission will set the benchmark of what represents a safe level for each material. The European Commission may also issue non-binding opinions to encourage Member States to increase their reserves (and, where appropriate, production capacities) or to modify or manage the procedures and rules for using, allocating and distributing the strategic reserves.
- Identify **large companies**⁷ that will themselves have to assess the risks to their supply chain of strategic raw materials. If such companies identify vulnerabilities to supply disruptions, they will strive to mitigate them, in particular, by considering diversifying their supply chains or substituting strategic raw materials.

3.4 SUSTAINABILITY AND CIRCULARITY

As part of the transition to a circular economy model, the Regulation includes **measures** to promote collecting and recycling critical raw materials from which secondary raw materials can be obtained and reintroduced into the system.

- Member States must implement **national plans** on circularity. They must contain measures encouraging technological progress and resource efficiency to control the expected rise in the use of critical raw materials; recycling waste; making greater use of secondary critical raw materials; promoting circular design; fostering products that have a higher proportion of secondary critical raw materials; encouraging compliance with the end-of-waste status requirements, etc.
- Operators required to prepare waste management plans must also submit **studies** with a preliminary economic assessment of the possible recovery of critical raw materials from the extractive waste stored or generated at their facilities.
- Member States must implement measures to promote the **valorisation** of critical raw materials from extractive waste, especially from closed facilities. Among others, they must review these facilities' available authorisation files and carry out geochemical and characterisation sampling in facilities to find out if they have economically recoverable quantities of critical raw materials.

⁶ The Regulation defines "critical market operators" as companies involved in the supply chain of critical raw materials in the EU and downstream companies that use critical raw materials and whose operation is key for the supply of critical raw materials.

⁷ The Regulation refers to large companies using strategic raw materials to manufacture certain products such as energy storage batteries and electro mobility, equipment to produce and use hydrogen, equipment related to renewable energy generation, aircraft, traction motors, heat pumps, data transmission and storage, mobile electronic devices, rocket launchers, satellites, robotics, drones, advanced chips.

- Those who place on the market devices that contain or may contain **permanent magnets** must label such devices or products⁸, include a “data carrier” on their exterior (or interior) and publish on a freely accessible website the recycled content of the permanent magnets that their products contain. The labelling and data carrier must indicate, among other things, that the products contain permanent magnets, as well as information on how they can be safely accessed and removed. The economic operators placing the products on the market must ensure that the information is up to date and remains available for at least ten years after the end of the normal lifetime of the products containing a permanent magnet, even if they become insolvent, are liquidated or cease their activity in the EU.
- The European Commission must recognise **certification frameworks** on the sustainability of critical raw materials that comply with the requirements of Annex IV of the Regulation. Each certification framework’s coverage will be specified according to the stages of the value chain that the framework covers, stages of a project’s life cycle that it covers, sustainability dimensions and the Annex IV environmental risk categories (air, water, soil, biodiversity, hazardous substances, noise and vibration, safety, energy consumption, and waste).
- The European Commission may issue rules on calculating and verifying the **environmental footprint** of critical raw materials, in accordance with Annex V. The rules must determine, at least, the three most significant impact categories that represent the largest part of the overall environmental footprint⁹. The footprint declaration must focus on these impact categories. Any individual or legal person placing on the market critical raw materials for which the European Commission has adopted calculation and verification rules must submit an environmental footprint declaration.

Finally, the Regulation also takes into account **freedom of movement**, which is essential in the European’s single market. It establishes that Member States must not prohibit, restrict or impede the placing on the market or putting into service of products bearing a permanent magnet that comply with the Regulation on grounds relating to recycling information or information regarding recycled content of permanent magnets or on grounds relating to their environmental footprint.

In this regard, before placing a product containing permanent magnets on the market, operators must ensure that they have followed the conformity assessment procedure and that, therefore, an EU declaration of conformity has been drawn up and the product has the CE mark affixed to it.

3.5 THINKING AHEAD: CREATING SUPPLY CHAINS FOR CRITICAL RAW MATERIALS BY DEVELOPING EUROPEAN CAPABILITIES

The Regulation states that the national, regional or local authorities in charge of preparing plans (zoning, and land use plans) must, where appropriate, include **provisions on developing critical raw material**

⁸ Products that may contain permanent magnets include magnetic resonance imaging devices, wind power generators, industrial robots, motor vehicles, refrigeration generators, heat pumps, automatic washing machines, tumble dryers, microwave ovens, vacuum cleaners and dishwashers.

⁹ The Regulation establishes that greenhouse gas emissions will constitute one of the environmental categories.

projects. These provisions must prioritise artificial and built surfaces, industrial sites, brownfields and active or abandoned mines, including mineral occurrences.

In addition, each Member State must draw up a **general national exploration programme** on critical raw materials and minerals that contain them. These national programmes must include measures to make more information available on occurrences of critical raw materials within the EU (by mapping, carrying out campaigns and surveys, processing the data obtained, etc.). Programmes will be communicated to the European Commission and updated every five years. Also, Member States must inform the European Commission on how the measures included in their national programmes are progressing.

3.6 GOVERNANCE AND MONITORING

The Regulation creates the **European Critical Raw Materials Council**, which will serve as an advisory body to the European Commission and be formed by Member State and European Commission representatives.

The Regulation expressly sets out the Council's **functions**, such as assessing all strategic project applications that promoters submit or supporting the European Commission in monitoring risks for the supply of critical raw materials.

The Council will also be in charge of **discussing** how the strategic projects are to be implemented and financed; measures to promote circularity, resource efficiency and alternatives to critical raw materials; strategic partnerships that the EU enters into with third parties to ensure the EU's access to a secure supply of critical raw materials or cooperation along the value chain; as well as which strategic partnerships should be prioritised.

The Council must meet regularly and it may create temporary or permanent subgroups to deal with specific issues and tasks.

With regard to **monitoring**, the Regulation establishes that the European Commission and Member States must prepare some reports:

- The **European Commission** must prepare reports with estimated projections of annual consumption of critical raw materials in 2030, 2040 and 2050, as well as analysing whether the Regulation is consistent with other EU legislation.
- **Member States** must prepare an annual report for the European Commission on issues such as the implementation of the measures included in their national exploration programmes, new or existing critical raw material projects in their territory, critical market operators established in their territory, and their strategic reserves.

3.7 OTHER PROVISIONS

The Regulation empowers the European Commission to adopt **delegated acts** on a number of issues such as updating the annexes containing the lists of critical and strategic raw materials, the elements and evidence to be considered when assessing whether the criteria for recognising a project as strategic have

been met, as well as the rules for calculating and verifying the environmental footprint of critical raw materials.

The Regulation states that Member States must have a **sanctioning system** in place for infringements of the Regulation, with measures to ensure its enforcement, no later than 24 November 2026.

The European Commission must also assess the Regulation and submit a report on it to the European Parliament, the Council and the European Economic and Social Committee on the appropriateness of establishing maximum environmental footprint thresholds, the need to further strengthen supply chains for critical raw materials beyond 2030, the consistency of the Regulation with EU environmental legislation, the appropriateness of establishing further measures to increase waste collection, sorting and treatment, etc. Depending on the conclusions of this report additional legislative proposals may be made.

4. REGULATION APPROVAL PROCEDURE

The Regulation has been adopted under the ordinary legislative procedure under which the European Parliament has approved the Commission's Regulation proposal with a single amendment (on 12 December 2023) and the Council has approved the Parliament's position without proposing any amendments (on 14 March 2024).¹⁰

On 3 May 2024, the Regulation was published in the Official Journal of the European Union. The Regulation will enter into force 20 days after publication.¹¹

5. OTHER INITIATIVES IN SPAIN ON CRITICAL RAW MATERIALS

As we transition into a more ecological way of life and economies, the strategic autonomy of mineral resources is one of the most sensitive and decisive areas of Spanish industrial and energy policy.

In this regard, the Spanish Government, at the request of the Ministry of Ecological Transition and the Demographic Challenge, approved the **Roadmap for the sustainable management of mineral raw materials** in August 2022 ("**Roadmap**"). The Roadmap, approved in line with European policies (among others, the Action Plan on Critical Raw Materials), aims to shape a strategy for the mineral raw materials industry, with an emphasis on efficiency and supply security.

The Roadmap has set a target of 2050 and contemplates several instruments and action measures, including (i) revising mining regulations to adapt them to a model based on the circular economy and the EU Action Plan on Critical Raw Materials; (ii) drawing up a list of strategic raw materials for the green and digital industry that is consistent with EU initiatives on critical raw materials; and (iii) implementing cross-cutting instruments such as environmental product declarations.

¹⁰ The Parliament's position already reflected what had previously been agreed in the tripartite negotiation between the Commission, the Council and the Parliament as stated in the Informative Note through which the Secretariat of the Council sends the Permanent Representatives Committee the text approved by the European Parliament. Available at: [pdf \(europa.eu\)](#)

¹¹ With the exception of the amendments introduced by the Regulation to some specific points of certain Annexes to Regulations 16/2013 and 2018/858, which will enter into force on 24 May 2028.

The Roadmap also identifies future challenges. In line with the Regulation on critical raw materials, it refers to the need to reduce the consumption of mineral resources, and reuse and recycle more. It also indicates the need to guarantee supply security of raw materials that – such as those the Regulation identifies – are considered critical to the national economy; among other measures, it aims to speed up administrative procedures for authorisations for projects linked to strategic raw materials.

Some Spanish regions have approved instruments and initiatives on critical raw materials. For example, (i) Andalusia passed the **Sustainable Mining Strategy 2030**, (ii) Galicia passed the **Sustainable Mining Agenda 2030** and (iii) Extremadura passed Decree-Law 5/2022 of 31 August on **urgent measures to regulate the use of lithium**, which has been declared of general interest, as lithium has been included on the EU's list of strategic raw materials.

6. CONTACT LAWYERS



Mariano Magide Herrero
Partner
+34 91 586 01 38
mariano.magide@uria.com



Jesús Andrés Sedano Lorenzo
Partner
+34 91 586 01 87
jesusandres.sedano@uria.com

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