

Right to repair

Strengthened consumer rights

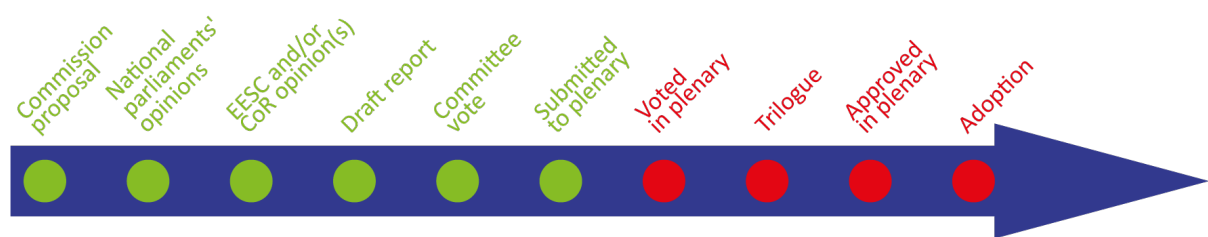
OVERVIEW

On 30 March 2023, the European Commission presented a proposal for a directive on common rules promoting the repair of goods. The proposed directive aims to mitigate current patterns of business and consumption, marked by frequent and premature replacement and discarding of goods.

The proposal seeks to save costs for consumers and facilitate the development of a resource-efficient circular economy. The proposed directive would apply to the repair of goods within and outside the legal guarantee. In the European Parliament, the file has been referred to the Committee on the Internal Market and Consumer Protection (IMCO), with René Repasi (S&D, Germany) appointed as rapporteur.

In October 2023, IMCO adopted its report on the proposal, in which it suggests improving the attractiveness of repair by reducing the level of inconvenience for consumers, and strengthening the repair market. Furthermore, the report suggests that the legal guarantee period be extended by one year for repaired products. The report will be debated during the November II 2023 plenary session, with a view to setting Parliament's position for trilogue negotiations with the Council.

Proposal for a directive of the European Parliament and of the Council on common rules promoting the repair of goods and amending Regulation (EU) 2017/2394, Directives (EU) 2019/771 and (EU) 2020/1828		
<i>Committee responsible:</i>	Internal Market and Consumer Protection (IMCO)	COM(2023) 155
<i>Rapporteur:</i>	René Repasi (S&D, Germany)	30.3.2023
<i>Shadow rapporteurs:</i>	Arba Kokalari (EPP, Sweden) Catharina Rinzema (Renew, the Netherlands) Anna Cavazzini (Greens/EFA, Germany) Beata Mazurek (ECR, Poland) Anne-Sophie Pelletier (The Left, France)	2023/0083(COD)
<i>Next steps expected:</i>	Vote on committee report in plenary	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')



Introduction

Discarded products are often viable goods that could be repaired but are thrown away prematurely. According to the [European Commission](#), the premature disposal of viable consumer goods generates 261 million tonnes of CO₂-equivalent emissions, uses 30 million tonnes of resources and results in 35 million tonnes of waste in the EU every year.

The Commission also points out that consumers opting for replacement instead of repair lose approximately €12 billion per year. Repair businesses meanwhile miss out on potential demand, and manufacturers invest in unsustainable business models.¹

The [proposal](#) for a directive on common rules promoting the repair of goods is intended to make it easier and more cost-effective for consumers to repair as opposed to replace goods. The initiative would complement other legal instruments promoting a more sustainable economy. While legislative proposals have already been submitted with a view to more [sustainable production](#) of goods and the promotion of [sustainable purchases](#), the new proposal would focus on the use phase of goods. The three initiatives together would thus cover the entire lifecycle of a product, including production, purchase and use.

Context

The current proposal ties in with the broader context of the [European Green Deal](#) – the EU initiative to address climate change and protect nature – and its contribution to the United Nations 2030 Agenda for Sustainable Development. The proposals under the Green Deal aim to transform the EU into a climate-neutral and resource-efficient circular economy. One key element of a circular economy is the promotion of the sustainable consumption of goods, thus **reducing waste** as well as **avoiding the over-exploitation of resources** and **reducing greenhouse gas emissions**. Extending the lifespan of products is crucial in this context.

The proposal reflects citizens' expectations as voiced during the 2022 [Conference on the Future of Europe](#), where participants called on the EU to take more action to enable and encourage consumers to use products for longer, including measures to promote repair.

Consumer organisations have long been [complaining](#) not only that products tend to break down faster than they used to, but also that repairing them is often too costly, difficult to arrange for lack of spare parts, and sometimes impossible. From the consumers' perspective, repair could help them keep costs down.

The [2020 Special Eurobarometer](#) survey on the attitudes of European citizens towards the environment showed that for a large majority of people in the EU, environmental protection is important to them personally. The vast majority considered that the most effective way to tackle environmental problems is to make changes to the way we consume, produce and trade.

With regard to digital devices, a [2020 Eurobarometer](#) showed that almost eight in ten consumers would like to oblige manufacturers to make digital devices easier to repair. However only four in ten preferred this remedy if it implied an increase in prices.

A [2022 Eurobarometer](#) showed that 88 % of EU citizens support a transition to a greener economy, with 77 % of Europeans feeling personally responsible for acting to limit climate change. Only 46 % of Europeans however are currently confident that by 2050 sustainable energy, products and services will be affordable for everyone.

The 'right to repair' initiative is designed to support both consumers and the environment. It was announced in the European Commission's 2020 [circular economy action plan](#), promoting sustainable consumption, waste prevention and resource efficiency. It was also part of the 2020 [new consumer agenda](#), encouraging consumers to play an active role in the transition towards a greener economy.

The initiative complements other recent legal initiatives, such as the [proposal](#) for an ecodesign for sustainable products regulation (ESPR) and the [proposal](#) for a directive on empowering consumers for the green transition.

The planned ESPR would build product reparability into the **production phase**. Its focus is therefore on product design requirements, such as improved durability, reusability, upgradability, reparability, recyclability, resource use and resource efficiency. The proposal builds on the existing Ecodesign Directive, which currently only covers energy-related products.

The planned directive on empowering consumers for the green transition would provide for better information on the durability and reparability of goods at the **point of sale**, thus enabling consumers to take sustainable purchasing decisions.

With its focus on the **after-sale of goods** the current proposal on the right to repair would fill a gap and provide for complete coverage of the lifecycle of goods.

Existing situation

Rules on repair as a remedy for faulty products are currently laid down in the [Sale of Goods Directive](#) (2019/771) (SGD). This directive stipulates that the seller is liable to the consumer for any lack of conformity existing at the time of delivery of the goods that becomes apparent **during the legal guarantee**, which under EU law is at least two years. According to Article 13 of the SGD, consumers are entitled to choose between the remedies of repair or replacement, if a purchased good turns out to be defective and the conditions for the application of the legal guarantee are met.

Outside the legal guarantee consumers no longer have the right to have their products repaired, even if they want to pay for the repair themselves. Moreover, consumers are often discouraged from repair because repair is more expensive than buying a new product; spare parts are not available; no repair shops can be found; or products are made in such a way that they cannot be repaired. Under current EU law, manufacturers are not required to provide consumers with technical information, nor are they required to provide consumers with spare parts. Only professional repairers have – for some products – the right to access to spare parts and the related technical information.

Measures to guarantee the availability of spare parts and repair manuals were introduced for some product groups under the [Ecodesign Directive](#) (2009/125/EC). This directive lays down rules for improving the environmental performance of products, but covers energy-related products only. There are eight product groups, for which energy efficiency and other requirements exist, such as refrigerators, washing machines, dishwashers and electronic displays. The ecodesign requirements for the specific product groups are laid down in Commission implementing acts.

Parliament's starting position

The European Parliament has been supportive of consumers' right to repair and better reparability of products for almost two decades. As early as 2004, it called in a [resolution](#) for 'a system of accredited re-use and repair centres', with the primary aim of reducing waste. In its [resolution](#) of 9 July 2015 on resource efficiency, Parliament noted that repair was an important means of achieving a circular economy. It urged the Commission to further develop product standards, to ensure that products are both durable and easy to upgrade, reuse, repair, recycle and dismantle. In its [resolution](#) of 4 July 2017 on a longer lifetime for products, Parliament proposed a number of actions to promote product reparability, including: measures to make repair attractive to consumers; rules requiring products to be designed for easy and less expensive repair; measures to discourage the fixing-in of essential components, urging manufacturers to provide maintenance guides; standardisation of spare parts and tools necessary for repair.

In its [resolution](#) of 31 May 2018 on the 'implementation of the Ecodesign Directive', the European Parliament noted that the Ecodesign Directive provides significant untapped potential for

improving resource efficiency and stressed the need to set up minimum resource efficiency criteria covering, inter alia, durability, robustness, reparability and upgradability.

In two recent resolutions, the European Parliament has called for additional measures: On 25 November 2020, in a [resolution](#) on a sustainable single market for business and consumers, Parliament called on the Commission to establish a consumers' 'right to repair' with a view to making repairs systematic, cost efficient and attractive. It called for independent repairers and for consumers to be given free access to repair and maintenance information and access to standardised spare parts at reasonable prices and within certain delivery times. It repeated its call for a new 'right to repair' in its [resolution](#) of 10 February 2021 on the new circular economy action plan.

Parliament adopted a [resolution](#) on the right to repair on 7 April 2022. The resolution calls for the right to repair to address the whole lifecycle of products and to take into account product design, standardisation and enhanced consumer information. The resolution calls on the Commission to ensure: that products are designed so as to last longer and so that they can be repaired; that consumers are empowered to choose repairable products; and that consumer rights and guarantees are strengthened to enable longer use of goods.

Preparation of the proposal

The proposal is based on Article 114 of the Treaty on the Functioning of the European Union (TFEU), which lays down the principles of the functioning of the internal market. Given the fact that many EU [Member States](#) are currently considering measures for a right to repair, the Commission wants to set out a harmonised system of rules to promote repair of goods purchased by consumers within the internal market.

Moreover, the proposal is based on an [impact assessment](#) (IA). The Commission organised a [public consultation](#) to feed into the preparation of the IA and a feedback period after the publication of the proposal. EPRS issued an [initial appraisal](#) of the Commission IA.

In its IA, the Commission identifies seven policy options and sub-options, grouped in two clusters, corresponding to the two specific objectives of the proposed initiative, namely promoting repair within the legal guarantee and facilitating repair outside the legal guarantee. The policy options are: i) prioritising repair within the remedies system of Directive 2019/771; ii) prolonging the liability period in the context of repair; iii) requiring replacement with refurbished goods; iv) aligning the liability period for refurbished goods with new goods; v) providing information on where to repair; vi) enhancing transparency/conditions for repair; and vii) setting up an online platform promoting refurbished goods. The preferred policy option is a combination of several options and sub-options.²

According to the Commission IA, savings for sellers and producers are estimated at around €15.6 billion over the next 15 years, as they repair products instead of replacing them for free under the legal guarantee. Growth and investment also will increase by €4.8 billion in that timeframe. The Commission also expects the proposal to create new jobs, mainly in the repair sector in the EU.³ EU consumers would meanwhile benefit from savings amounting to €176.5 billion over 15 years.⁴

In the IA, the European Commission suggests that the envisaged measures could reduce the number of purchases, which would in turn translate into reduced production of new goods with corresponding positive environmental impacts. It estimates that the initiative could trigger a greenhouse gas emissions reduction equal to 18.4 million tonnes CO₂ equivalent, while saving 1.8 million tonnes in resources and 3 million tonnes of waste, over 15 years.

In September 2022, the Commission's [Regulatory Scrutiny Board](#) (RSB) – set up to judge the quality of impact assessments for new legislation – issued a negative opinion on the first draft proposal. Its critical remarks referred in particular to the scope of the proposal. While in the first proposal the obligation to repair referred to all products, the scope of products with an obligation to repair is now limited to products for which reparability requirements exist under the current Ecodesign Directive. The RSB provided a [positive opinion](#) with further comments on 24 January 2023.

The changes the proposal would bring

The proposed directive would bring about changes to the existing remedy systems concerning defective products **within** (article 12) **as well as outside** (article 5) **the guarantee period** for purchased goods. It would also enlarge the range of products concerned, over time.

The obligation to repair would be limited to certain product groups for which reparability requirements are established under EU legislation. The current framework for product reparability is set by the Ecodesign Directive, which will be replaced by the future regulation on ecodesign for sustainable products. The coverage of product groups including reparability requirements will progressively be expanded.

Under the new proposal for a right to repair the Commission would – by means of **delegated acts** – update the list of EU legislation laying down reparability requirements, thus adding new product groups falling under the directive whenever new reparability requirements are adopted (articles 5(4) and 15). Parliament can exercise its right of veto with regard to delegated acts adopted by the Commission, preventing their entry into force.

Member States would have to transpose the provisions of the directive into national law within two years of its entry into force. To facilitate cross-border provision of services and competition among repairers of goods purchased by consumers in the internal market, Member States would not be allowed to maintain or introduce national provisions diverging from the proposed directive (article 3).

The directive would introduce an obligation for Member States to provide for at least one national platform where consumers could find suitable repairers corresponding their needs (article 7), as well as a European repair information form, which would enable consumers to compare repair opportunities (article 4). The proposal also envisages the development of a voluntary European quality standard for repair services.

While currently, **consumers** are entitled to choose between free replacement and repair when a product becomes defective under the legal guarantee, the proposed directive would change the rules and promote repair over replacement, unless the costs were higher than for replacement. Article 12 of the proposed directive would introduce an amendment to Article 13 of the Sale of Goods Directive (2019/771), adapting the rules accordingly. Consumers would still be free to choose replacement as a remedy when it is cheaper than repair.⁵

The proposed directive would also apply to the repair of goods in the event of a defect that becomes apparent outside the legal guarantee. In this case the proposal envisages that consumers might request to have a product repaired (for free or against a price), and that producers would be obliged to repair the defective product, unless a repair is not possible (article 5.1).

Several new measures are designed to reinforce the consumer's right to repair outside the legal guarantee: consumers would have a right to request the European repair information form (Article 4). The form would lay down key parameters that might influence the consumer's decision when considering whether or not to repair defective goods, such as the price and the estimated time needed. The consumer could request the form from the producer, from the seller or from independent repairers.

The proposed directive would impose an obligation on **producers** to repair goods for which reparability requirements exist under EU law (see above). The obligation would apply to defective products within and outside the legal guarantee. It would also apply to producers established both inside and outside the EU.

Under the legal guarantee, producers would be bound to give priority to repair over replacement, unless the costs for repair are higher than for replacement (article 12). Outside the legal guarantee producers would be obliged to repair a defective product at the request of the consumer, the latter

could be asked to bear the costs of the repair (article 5). The producer would be exempt from the obligation to repair only if repair is impossible (article 5(1)).

Producers would also be obliged to ensure that independent repairers have access to spare parts and repair-related information and tools (article 5.3). They would need to inform consumers of their obligation to repair goods and provide information on repair services (article 6).

Repairers would be obliged to provide standardised key information on their repair services using the European repair information form (article 4).

Advisory committees

The European Economic and Social Committee (EESC) adopted an [opinion](#) on the proposal on 14 June 2023. The EESC welcomes the planned measures aimed at facilitating product reparability, while highlighting the importance of the distributors' right to recourse against manufacturers, especially with regard to spare parts and costs. According to the EESC, the right to repair should also involve a ban on practices, such as serialisation, that hinder the ability to repair. Moreover, the EESC would like to see measures to make the market for second-hand product materials and safe and recycled spare parts more competitive.

The Committee of the Regions (CoR) adopted an [opinion](#) on the 'Consumers' protection package', related to the present proposal, on 10 October 2023. The CoR calls for harmonised rules for providing information to consumers, including, repair scores and information on estimated lifespans, spare parts, and repair services. It regrets that the proposal does not introduce changes to the legal guarantee framework to extend legal guarantee periods for more durable goods by defining them through the ecodesign implementing measures (i.e. by creating product-specific guarantee periods), or further expand the reversal of the burden of proof to align it with the legal guarantee period and introduce a joint seller-producer liability. The CoR supports regional and local governments in encouraging the development of not-for-profit and voluntary sectors as important service providers for implementing the right to repair. It recommends that the range of possible repairers be expanded to include people who are removed from the labour market, such as people with disabilities from special employment centres and people who are serving a prison sentence, ensuring fair working conditions and a fair compensation.

National parliaments

The [deadline](#) for the submission of reasoned opinions on grounds of subsidiarity was 26 May 2023. No subsidiarity concerns were raised. The [Czech Senate](#) and the [Czech Chamber of Deputies](#) each issued a resolution, while the [Portuguese Assembleia da República](#) issued an opinion.

Stakeholder views⁶

The European Consumer Organisation ([BEUC](#)) welcomed the proposal, in particular the envisaged obligation for producers to repair products' defects beyond the legal guarantee and the incentives for consumers to have their products repaired. BEUC criticised however the way that the proposal would limit consumers' choice, imposing repair of a defective product over replacement whenever repair cost less than or the same as replacement. The organisation also wanted to see longer legal guarantee periods for certain goods where the two-year coverage is insufficient.

While the non-governmental organisation [Right to Repair Europe](#) welcomed the Commission initiative, it stressed that the proposal would not grant a universal right to repair. The organisation underlined in particular that the cost of repair, including for spare parts, would have to be driven down in order to make repair more attractive. It also argued that access to spare parts would have to be guaranteed for a period corresponding to at least the expected lifespan of the product and second-hand and third-party spare parts would have to be recognised.

Business organisation [SMEunited](#) underlined that the proposed directive would have positive effects on repairers, but suggested a product-specific, over a horizontal one-size-fits-all approach. The organisation objected to the planned amendment of the Sale of Goods Directive and underlined the importance of legal clarity and planning stability for SMEs. Awareness-raising measures for a culture of repair, improving consumers' knowledge about their existing rights in terms of legal guarantees, and financial incentives such as a VAT reduction for repair services would, according to the organisation, be preferable to further regulatory measures.

Legislative process

In Parliament, the Committee on the Internal Market and Consumer Protection (IMCO) is leading on the file, with René Repasi (S&D, Germany) as rapporteur. The Committee on the Environment, Public Health and Food Safety (ENVI) and the Committee on Legal Affairs (JURI) were asked to provide opinions. JURI decided not to give one, while ENVI adopted its [opinion](#) on 12 October 2023.

IMCO committee report

The IMCO rapporteur presented his [draft report](#) during the committee meeting of 18 July 2023. Proposed changes included making repairs faster, extending the legal guarantee period of repaired goods, and making the producers directly liable for repairs. Amendments also sought to make independent repairers more competitive on the market, ultimately decreasing costs for consumers and improving repair services. On 25 October 2023, IMCO adopted its [report](#) with 38 votes in favour, 2 votes against, and no abstentions. It welcomed the Commission proposal while introducing new elements to **improve the attractiveness of repair** by decreasing the level of inconvenience for consumers, and strengthening the repair market.

In article 5, among the measures to **reduce the level of inconvenience for consumers**, the IMCO report asks that repair should be carried out in a reasonable time; the producer 'may provide' the consumer with the loan of a replacement good free of charge or against a reasonable fee for the duration of the repair; in cases where the repair is factually or legally impossible, the producer 'may provide' the consumer with a refurbished product that, on acceptance by the consumer, must discharge the producer from the repair obligation. Producers must ensure that independent repairers, remanufacturers, refurbishers and end users have access to all spare parts and all repair-related information and tools, including diagnosis tools, at a reasonable and non-discriminatory cost. According to the IMCO report, producers are required to make available on their website all information related to repair, such as repair prices and prices of spare parts. Producers must not impede the repair by any contractual, hardware or software technique, nor must they impede the use of original or second-hand spare parts, compatible spare parts and spare parts issued from 3-D printing. Furthermore, producers must not refuse to service or repair a device that was bought or previously repaired outside their authorised service or distribution networks.

In article 7, among the measures to **strengthen the repair market**, the IMCO report asks Member States to promote private initiatives aiming to establish online platforms for repair and goods subject to refurbishment. Among other things, these online platforms are required to inform consumers about applicable financial and fiscal incentives to lower cost of repair. There has to be at least one platform in the territory of a Member State. The Commission must keep a publicly available, easily accessible and machine-readable database of online platforms for repair registered within the Member States. In article 9, the IMCO report asks that Member States take appropriate measures to promote repair, including repair vouchers, national repair funds and other incentives. Member States must ban practices that impede consumers to exert their right to repair, and ensure that commercial guarantees of durability sold in addition to the legal guarantee of conformity always include a right to repair, according to article 10.

In article 12, the IMCO report suggests that **the legal guarantee period be extended by one year for repaired products**. Where the good has been brought in conformity by means of repair, the

seller or producer must be liable for any lack of conformity that exists at the time the consumer received the repaired goods and that becomes apparent within one year after that time.

Next steps

Parliament is expected to vote on the report during the November II plenary session. Discussions on the file in the Council are ongoing.

EUROPEAN PARLIAMENT SUPPORTING ANALYSIS

European Parliament, [Circular economy: definition, importance and benefits](#), 24 May 2023.

Anglmayr I., [Promoting the repair of consumer goods](#), EPRS, European Parliament, July 2023.

Šajin N., [Right to repair](#), EPRS, European Parliament, January 2022.

OTHER SOURCES

European Parliament, [Common rules promoting the repair of goods](#), Legislative Observatory (OEIL).

European Commission, ['Right to repair': Questions & Answers](#), 22 March 2023.

BEUC, [Improving consumers' access to product repair](#), July 2023.

BEUC, [Sustainable consumption of goods - promoting the right to repair and reuse](#), April 2022.

Bradley K. and Persson O., ['Community repair in the circular economy – fixing more than stuff'](#), *Local Environment*, Vol. 27(10-11), Taylor & Francis Online, 2022, pp. 1321-1337.

Katland Wanja D., Maitre-Ekern E. and van der Velden M., [The Role of Independent Repair in a Circular and Regenerative Economy](#), *Circular Economy and Sustainability*, Springer Link, 4 October 2023.

The Economist, [A 'right to repair' movement tools up](#), September 2017.

ENDNOTES

¹ European Commission, [press release](#), 22 March 2023.

² See I. Anglmayer, [Promoting the repair of consumer goods](#), EPRS; European Parliament, July 2023, p. 3.

³ European Commission press release.

⁴ Commission [IA](#), p. 72.

⁵ Moreover, article 13 would introduce changes to Directive (EU) 2020/1828 on representative actions and Regulation (EU) 2017/2394 on cooperation between national authorities on consumer protection law, in so far as it would add the proposed directive to the respective annex, which lists the EU laws covered by the directive.

⁶ This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'European Parliament supporting analysis'.

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