



Right to repair in the EU

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The European Union has set an ambitious goal to become the first climate-neutral continent by 2050 through initiatives like the European Green Deal. Notably in consumer protection, the ambition is reflected in concrete initiatives, including the right to repair pushed by the European Parliament.

But also, thanks to the EU Ecodesign Directive, new requirements regarding the repair of certain new electrical appliances apply since 1 March 2021.

As a result, the European Commission has put forward a new proposal aimed at promoting the repair of goods by introducing common rules that will make it easier for consumers to have their products repaired. This proposal will help consumers save money while supporting the goals of the European Green Deal, including waste reduction. Historically, replacement has been prioritized over repair, and consumers have not been incentivized to repair their goods after the legal guarantee expires. The new proposal aims to make repair more affordable and accessible to consumers, which will increase demand for repair services and encourage producers to develop more sustainable business models.

What does the recently published proposal include?

This proposal provides for several axes to promote product repair in the European Union.

Within the legal guarantee, sellers would be required to offer repair except when it is more expensive than replacement.

Beyond the legal guarantee :

- A right for consumers to claim repair to producers would be introduced for a category of products that are technically repairable and affected by ecodesign measures (refrigerators, washing machines, televisions, etc.). Telephones, tablets and certain other electronic devices should be added.
- Producers would be obliged to offer to repair these products within a period of 5 to 10 years from the end of the legal guarantee of conformity (depending on the nature of the product concerned). They would be obliged to inform consumers of this right to repair.

If the producer is not established in the European Union, consumers will have this recourse to its representative in the European Union, failing which its importer, failing which its distributor.

- Each Member State would be obliged to set up a free online matchmaking repair platform to connect consumers with repairers and sellers of refurbished goods in their area. The platform would enable facilitate the identification of suitable repairers by location and quality standards.

A European Repair Information Form would become mandatory for all products covered by the right to repair. The aim would be to provide a framework for repair quotations, bringing transparency to repair conditions and price. This form would be valid for a period of 30 days from this communication by the repairer in order to make it easier for consumers to compare repair offers.

This new set of rules builds on the EU Ecodesign Directive. These measures have the potential to significantly extend the lifespan of products and reduce electronic waste that ends up in landfills.

Shadow rapporteur Ms. Cavazzini, who is the Internal Market and Consumer Protection Committee Chair and other consumer groups are also pushing to extend the legal guarantee to the durability of the product, a measure not included in the proposal. "Moreover, the legal guarantee has a minimal impact on consumption. The biggest amount of non-conformity defects occur in the first two years," responded EU Commissioner for Justice Didier Reynders.

What ECC-Net would we like to see included in the upcoming Directive:

- Extended guarantees to prevent programmed obsolescence, especially for electronic and white devices.
- Incentives that encourage consumers to opt for repairs such as, quick and easy procedure, financially reasonable, bonuses or temporary replacement devices during the repair period - Making the option of repair more attractive than replacement.
- Provisions that oblige having in the market more long-lasting devices that are easier to repair, with easily replaceable parts.
- Clear and improved information about reparability of devices.
- Multiple options available for consumers when it comes to pick a repairer.
- Clear rules on the indicative timeframe for reparability of a product.
- Article 7 mandates Member States to ensure that a minimum of one online platform exists within their territory to assist consumers in locating repairers. However, a question arises regarding products purchased from another EU country that are not circulated in the consumer's country. It is essential to consider whether the platform listing repairers should be available in English, given the cross-border nature of the European Union. Furthermore, it may be necessary for all national platforms to exist under a single EU platform that navigates consumers to the nearest repairer, regardless of whether it is located in another EU country.

- Considering that the proposed legislation on the right to repair is a crucial aspect of the European Green Deal, there is a legitimate concern that excessive manufacturing and supply of spare parts that remain unused for up to ten years after the product's market launch date could lead to significant waste. Therefore, it is important to consider how such practices will be monitored and controlled to ensure that they align with the objectives of the European Green Deal. Manufacturers should keep a record of the spare parts they produce and supply to monitor whether they are being used and for what purposes. This information could then be used to adjust the production and supply of spare parts to avoid unnecessary waste.
- Regarding electronic devices and software, there may be instances where a product's hardware remains fully functional beyond its intended lifespan, but the software becomes obsolete due to restrictions imposed by the manufacturer. For instance, a 10-year-old MacBook may still be in working order and require only a new battery, but the device's software may not be up to date, as Apple does not allow older devices to receive new software updates. In such cases, continuing to repair the device with spare parts may not be a practical solution, as the product cannot keep up with technological advancements.

EU National initiatives

While the above discussed promising provisions have been included in the proposal submitted by the EC to the Council and the EU Parliament, ECCs have also identified that there are already numerous national and local actions to encourage repair of consumer goods across the EU. The below ones can play a very important role next to the recent proposed Directive when adopted and could possibly bring the EU closely to achieving the objective of sustainable consumption.



Austria

The country is fighting tons of electronic waste with repair vouchers. These vouchers cover half of the repair costs for consumers up to a maximum of 200 €, encouraging citizens to invest money into repairs instead of throwing away broken electronic devices and buying new ones. The programme has been a great success in the capital Vienna since 2020 and was expanded to the whole country in 2022.



Belgium

Belgium has reduced its VAT rate to 6% for small repairs on bicycles, shoes, leather goods, clothing and household linen.



Croatia

The seller must ensure spare parts for technical products, motor vehicles and other vehicles during the commercial guarantee period.



France

When it comes to defective products, France encourages circular economy including repair via various measures

- **Information and availability of spare parts:** Since 2022, the seller is obliged to inform the consumer about the availability but also about the non-availability of spare parts. If no information is given, the spare parts are presumed to be unavailable. The manufacturer or importer have 15 days (not 2 months as prior) to provide the spare parts. For certain electronic and electrical products, spare parts will have to be available for at least 5 years from the date of placing on the market. In case of repair of certain electronic and electrical products, second hand spare parts may be used. Any technique, including via software, which makes it impossible for a device to be repaired or reconditioned by a repairer other than one authorised by the brand is prohibited. Any practice that limits a repairer's access to spare parts, operating instructions, technical information, or other tools, equipment or software for the repair of the product is prohibited.

In practice, it is the manufacturer or importer who informs the seller, who in turn must inform the consumer of the availability of spare parts. This obligation only applies to purchases in a shop, not to online purchases for example (although the seller is free to make the availability of spare parts a commercial argument and to indicate this on his website).

- A repair index since 2021 on 5 categories of product: smartphones, laptops, washing machines, TVs and lawn mowers. For end 2022 the index is extended to top washing machines, dishwashers, high pressure cleaners, as well as corded, cordless and robot hoovers.

Consumers will be informed, at the point of sale, on the reparability of the product to purchase, based on 5 criteria.

- The availability of documentation (e.g. technical manual with repair instructions).
- The ease of disassembly of the product, the type of tools needed and the characteristics of the fixings.
- The commitment of the producer on the duration of availability of spare parts and on the time of their delivery.
- The relationship between the selling price of the spare parts and the price of the product.
- Sub-criteria specific to each product category concerned (e.g. the presence of a usage meter for washing machines).

This index is calculated directly by the manufacturer, who sends this score to the seller, who must then display it. This index is to be replaced by 2024 by a durability index which will include new criteria such as robustness and reliability of the product.

But some improvements are needed for a more reliable repair index.

- Each criterion has unfortunately the same weight in the final score, to the detriment of important criteria such as the availability of spare parts. For example, while smartphones and televisions score below average on the criterion of availability of spare parts, respectively 4.8/10 and 3.1/10, these families show commendable reparability indices of 7.2/10 and 6.6/10."
- A more decisive criterion should weigh more heavily in the final score. The weighting of the index should therefore be done by considering the importance of each criterion.
- The location of the repair index should be more precisely regulated. Indeed, on some e-commerce websites, it is easy to find this index affixed right next to the product advertisement. On other sites, it is sometimes a struggle to find it.
- For consumer to be able to fully benefit from this repair index, they should have an access to the detailed calculation grid, not only the summary with the final score. Producer commitments and actions explaining the allocation of points and the final score should be available to justify the scores awarded.
- Repair fund: Because some repairs are expensive for the consumer, the French law also provides for the creation of repair funds financed by "polluter-pays" schemes. The aim is to reduce the cost of repairs for consumers who go to certified repairers. These funds cover part of the invoices, and therefore the repair costs, issued by the labelled repairers. These funds will be financed by approved eco-organisations and cover at least 10% of the estimated repair costs of the products concerned by the approval of the funds.

However, the low percentage of reimbursement could discourage repairers, who would then not take up the scheme, not to mention the administrative work involved, while the reduction may be derisory in a large number of situations? Because it should not be forgotten that it will be the responsibility of the repairer to take steps to recover the amount of the reduction from the fund.

- Visibility of repairers: The Ministry of Ecological Transition and ADEME have created a website longuevieauxobjets.gouv.fr, with all kinds of practical advice, news, tools for sharing objects with neighbours or diagnosing equipment breakdowns... But it's also, and above all, a directory that allows to quickly identify the professionals best able to meet the consumer's needs, whether looking for an alternative to buying something new or a solution that will help avoiding throwing away something that could still be useful.
- Change in the rules on legal guarantees of conformity: Consumers are encouraged to choose repair over replacement with a new product. For example, by suspending the legal guarantee of conformity while a product is being repaired. Or by granting a six-month extension of guarantee if a consumer asks a trader to repair the product. France even has a 2-year guarantee

renewal if the trader decides to exchange an appliance instead of repairing it as requested.

- Fight against planned obsolescence: planned obsolescence is a punishable offence since 2015. And to limit programmed obsolescence of devices, and particularly smartphones, consumers also benefit from new rules concerning updates: consumers are now informed about the length of time their device will be able to withstand successive updates.



Finland

There is no specific regulation regarding spare parts in the Finnish Consumer Protection Act. If the trader is not able to provide necessary spare parts, the product is considered defective in relation to the Act. In such a situation, the buyer may demand a reduction in the price that corresponds to the defect, or cancel the sale if the defect is not minor. Because the trader may be obliged to repair the product several years after the sale, this may encourage traders to keep spare parts available for a relatively long time.

In principle, the consumer is allowed to choose whether to have the goods repaired or replaced. On the other hand, if the defect is minor and easily repairable, the trader is usually allowed to fix it. The latter starting point emphasizes sustainable consumption.



Germany

Germany has transposed the Ecodesign directive.

- Spare parts must be available long after purchase, for example 7 years for refrigerators and 10 years for washing machines.
- Spare parts must be delivered promptly - within 15 days.
- Manufacturers must ensure that spare parts can be replaced with commonly available tools and without permanently damaging the appliance.
- Consumers must be able to buy „non-safety“ spare parts themselves, such as door handles or door hinges. „Professionally competent repairers“ should also be able to purchase safety-relevant spare parts.
- Manufacturers must provide consumers with a list of available spare parts on the internet.
- „Professionally competent repairers“ and consumers must be guaranteed free access to corresponding repair instructions.
- In addition, consumers must be informed at the time of purchase which defects can occur, whether and how the product can be repaired and what the costs are.

Traders have also obligations to recycle more and produce less waste, since the Act to Promote Closed Substance Cycle Waste Management and to Ensure Environmentally Sound Ma-

nagement of Waste (KrWG) which was originally implementing the EU minimum requirements of the Waste Directive (Directive 2008/98/EC). Thanks to a partial reform and amendment that became effective in September 2020, traders now also have an „obligations of care”.

The law works in conjunction with the Electrical and Electronic Equipment Act (ElektroG), which obliges traders to take back old electronic equipment under certain conditions. It is also intended to prevent the business practice of some companies of destroying returns that are almost as good as new.

Core measures of the amendments to the KrWG:

- The fitness for use of goods must be maintained (e.g. through careful handling, storage, transport, donation of the goods, reduced sale of the goods, sale before the expiry date, etc.).
- If the goods can no longer be used for their original purpose, other uses can also be considered
- If the goods can no longer be used, recycling is preferable to destruction („cascade of use“).
- Already during the production of the goods, care must be taken to ensure that waste is reduced through production and use and that any waste can be recycled or disposed of in an environmentally sound manner („product responsibility“).

So far, these are rather voluntary obligations. According to § 23 para. 4 KrWG, an additional legal ordinance is required to determine who is obligated by the law, for which products and in what manner the measures are to be carried out.

Other interesting initiative: last year one of the federal states (Thüringen/Thuringia) pioneered a repair bonus program allowing consumers to send in their repair invoices to get a partial refund for the costs. Now the program is paused but it will be continued in 2022.



Greece

The seller must ensure the supply of spare parts during the estimated lifetime of the product.



Ireland

In Ireland, there is no obligation for the seller to inform the consumer about spare parts, but the law specifies that spare parts and adequate after-sales service must be made available by the seller for the period stated in the offer, description or advertisement made by the seller.

The VAT rate for minor repairs to bicycles, shoes, leather goods, clothing and household linen has been reduced to 13.5%.

 **Italy**

There is no obligation to inform about the availability of spare parts, but the seller must inform the consumer if the goods are no longer manufactured.

 **Luxemburg**

Luxembourg applies a reduced VAT rate of 8% on minor repairs to bicycles, shoes, leather goods, clothing and household linen.

 **Malta**

In Malta, if the goods purchased by the consumer are of a nature that they require maintenance or replacement of parts, such replacement of parts and the appropriate repair service must be available within a reasonable time from the date of delivery. Also, Malta applies a reduced VAT rate of 5% for minor repairs to bicycles, shoes, leather goods, clothing and household linen.

 **Netherlands**

The Netherlands have reduced the VAT rate to 9% for small repairs on bicycles, shoes, leather goods, clothing and household linen.

 **Poland**

Poland has implemented a right to repair since 1 April 2021 with an obligation of spare parts for 7 to 10 years, depending on the product. Poland applies a reduced VAT rate of 8% on small repairs to bicycles, shoes, leather goods, clothing and household linen.

 **Portugal**

The manufacturer has the obligation to provide spare parts needed for the repair of goods for 10 years from the date of the placing on the market of the last item. The professional has to provide assistance for registered goods for 10 years (not necessarily for free). Portugal applies a reduced VAT rate of 6% for small repairs on bicycles. A reduced VAT rates for repairs on shoes, leather goods, clothing and household linen is under discussion.

 **Romania**

The manufacturer shall ensure the supply of spare parts during the estimated lifetime of the product.



Slovenia

In Slovenia, the manufacturer must provide a specific guarantee for certain technical goods at the time of the conclusion of the contract. This statement includes, inter alias, instructions for the maintenance and use of the product, and the commitment of the manufacturer to repair defects free of charge during the guarantee period (1 year). The manufacturer must also, against payment, repair the products and supply spare parts for at least three years after the expiry of the guarantee period (i.e. $1+3=4$ years). This after-sales service is provided by the manufacturer itself or a third party.

Finally, Slovenia applies a reduced VAT rate of 9.5% on small repair services on bicycles, shoes, leather goods, clothing and household linen.



Spain

Manufacturers are obliged to have parts to repair their products for 10 years after the product is no longer manufactured. They also have to provide a proper technical service during 10 years.



A tax deduction, the so-called "RUT- deduction", applies to certain services within the households. The RUT-deduction means a tax reduction of 50 % of the labour cost for the service. Services covered are for example repairing clothes, curtains, bedding and removable sofa upholstery. IT services in the consumer's home are also covered, e.g. to repair, install and maintain computers, tablets, game consoles, televisions and smart phones, as well as updating and installing operating systems and computer programs. Since 1 January 2017, repair of white goods has been covered and since 1 January 2021, laundry and related services are covered.

Furthermore, Sweden has reduced its VAT rate of 25% to 12% when it comes to repair services for bicycles, shoes, leather goods, clothing and household linen.

Catalogue of good practices to keep across the EU, to implement or to extend to the majority of consumer goods

- Because reparability and product life span are closely linked: extended legal guarantee periods based on the expected life span of a product (Finland, the Netherlands, Norway)
- Further extension in case a consumer chooses repair over replacement.
- Information on reparability of items and availability of spare parts (including an obligation to inform if no spare parts are available if the country does not oblige manufacturers to provide spare parts for all goods)
- This information should be available for purchases in physical shops and online!
- Obligation to provide spare parts throughout the estimated lifespan of products within 15 days
- Even if a good is no longer manufactured, obligation to ensure spare parts for the estimated lifespan of the product.
- Visibility of repairers: so that consumers can trust in the repair, an official registry of approved repairers across EU easily accessible to consumers of different MS as well.
- Extension of the reduced VAT or reduction of other taxes for repair services or tax benefits
- More standardisation of spare parts
- Promotion by sellers or manufacturers of instructions manuals/videos/workshops/ateliers to consumers on how to do small repairs
- The digital product passport would be an excellent outcome, provided that it includes information on reparability, the social and environmental footprint of the product and the traceability of the supply chain and the guarantees (legal and commercial) the product benefits from.

The QR code should be coupled with a second means of identifying the product in the event that one is not in possession of a terminal enabling the QR code to be scanned (a number to be entered online, for example, enabling the same page to be viewed as if the QR code were used).