

## Basic information

**2022/0392(COD)**

COD - Ordinary legislative procedure (ex-codecision procedure)  
Directive

Industrial property: legal protection of designs. Recast

Repealing Directive 1998/71 [1993/0464\(COD\)](#)

### Subject

3.50.16 Industrial property, European patent, Community patent, design and pattern

Procedure completed

## Key players

European Parliament

### Committee responsible

**JURI** Legal Affairs

### Rapporteur

LEBRETON Gilles (ID)

### Appointed

28/02/2023

### Shadow rapporteur

MANDERS Antonius (EPP)

GARCÍA DEL BLANCO Ibán (S&D)

KARLESKIND Pierre (Renew)

BREYER Patrick (Greens /EFA)

STANCANELLI Raffaele (ECR)

MAUREL Emmanuel (The Left)

### Committee for opinion

**ECON** Economic and Monetary Affairs

### Rapporteur for opinion

The committee decided not to give an opinion.

### Appointed

**IMCO** Internal Market and Consumer Protection

The committee decided not to give an opinion.

### Committee for opinion on the recast technique

**JURI** Legal Affairs

### Rapporteur for opinion

ADAMOWICZ Magdalena (EPP)

### Appointed

01/07/2023

Council of the European Union		
European Commission	Commission DG	Commissioner
	Internal Market, Industry, Entrepreneurship and SMEs	BRETON Thierry
European Economic and Social Committee		

Key events			
Date	Event	Reference	Summary
28/11/2022	Legislative proposal published	COM(2022)0667 	
12/12/2022	Committee referral announced in Parliament, 1st reading		
24/10/2023	Vote in committee, 1st reading		
24/10/2023	Committee decision to open interinstitutional negotiations with report adopted in committee		
30/10/2023	Committee report tabled for plenary, 1st reading	A9-0317/2023	Summary
08/11/2023	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)		
09/11/2023	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71)		
24/01/2024	Approval in committee of the text agreed at 1st reading interinstitutional negotiations		
14/03/2024	Decision by Parliament, 1st reading	T9-0165/2024	Summary
14/03/2024	Results of vote in Parliament		
10/10/2024	Act adopted by Council after Parliament's 1st reading		
23/10/2024	Final act signed		
18/11/2024	Final act published in Official Journal		

Technical information	
Procedure reference	2022/0392(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Recast
Legislative instrument	Directive
Amendments and repeals	Repealing Directive 1998/71 <a href="#">1993/0464(COD)</a>
Legal basis	Rules of Procedure EP 113 Treaty on the Functioning of the European Union TFEU 114-p1
Other legal basis	Rules of Procedure EP 165
Mandatory consultation of other institutions	<a href="#">European Economic and Social Committee</a>
Stage reached in procedure	Procedure completed

Committee dossier	JURI/9/10812
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[Documentation gateway](#)

**European Parliament**

Document type	Committee	Reference	Date	Summary
Committee draft report		<a href="#">PE749.961</a>	16/06/2023	
Committee draft report		<a href="#">PE751.740</a>	12/07/2023	
Amendments tabled in committee		<a href="#">PE751.775</a>	13/07/2023	
Specific opinion	<a href="#">JURI</a>	<a href="#">PE752.970</a>	12/09/2023	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A9-0317/2023</a>	30/10/2023	<a href="#">Summary</a>
Text adopted by Parliament, 1st reading/single reading		<a href="#">T9-0165/2024</a>	14/03/2024	<a href="#">Summary</a>

**Council of the EU**

Document type	Reference	Date	Summary
Draft final act	<a href="#">00097/2023/LEX</a>	23/10/2024	

**European Commission**

Document type	Reference	Date	Summary
Legislative proposal	<a href="#">COM(2022)0667</a> 	28/11/2022	
Document attached to the procedure	<a href="#">SWD(2022)0367</a> 	28/11/2022	
Document attached to the procedure	<a href="#">SWD(2022)0368</a> 	28/11/2022	
Document attached to the procedure	<a href="#">SWD(2022)0369</a> 	28/11/2022	
Commission response to text adopted in plenary	<a href="#">SP(2024)350</a>	22/07/2024	

**National parliaments**

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	<a href="#">ES_PARLIAMENT</a>	<a href="#">COM(2022)0667</a>	15/02/2023	

**Other institutions and bodies**

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	<a href="#">CES0101/2023</a>	22/03/2023	

Additional information		
Source	Document	Date
EP Research Service	Briefing	09/01/2024
European Commission	EUR-Lex	

## Meetings with interest representatives published in line with the Rules of Procedure

### Rapporteurs, Shadow Rapporteurs and Committee Chairs

Transparency				
Name	Role	Committee	Date	Interest representatives
KARLESKIND Pierre	Shadow rapporteur	JURI	27/11/2023	ECAR - Freedom of repair

Final act	
<a href="#">Directive 2024/2823</a> <a href="#">OJ OJ L 18.11.2024</a>	<a href="#">Summary</a>

## Industrial property: legal protection of designs. Recast

2022/0392(COD) - 30/10/2023 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Legal Affairs adopted the report by Gilles LEBRETON (ID, FR) on the proposal for a directive of the European Parliament and of the Council on the legal protection of designs (recast).

The proposed directive aims to repeal and replaces the existing Directive 98/71/EC. It has the merit of adapting design protection to the evolution of digital technologies, in particular the appearance of 3D printers. It also seeks to further align national laws in order to enhance their interoperability and complementarity with the Community design system. Lastly, it aims to complete the single market in repair spare parts by introducing a repair clause into the directive.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

The proposed changes to the text seek to enhance legal certainty and update rules in relation to market developments brought about by the developments regarding information technology and artificial intelligence, in particular the appearance of 3D printers.

### **Manufacturer's identity**

With a view to clarifying the manufacturer's identity, Members proposed that the indication of the manufacturer's identity should include at least the name of the manufacturer, the geographical address of his registered place of business and, where appropriate, his telephone number or e-mail address.

### **Repair clause**

The text aims to complete the single market in repair spare parts by introducing a repair clause into the Directive. It is stated that protection should not be conferred on a registered design which constitutes a component part of a complex product, which is used within the meaning of Article 16(1) for the sole purpose of the repair of that complex product so as to restore its original appearance. The use of such a component part for the aforementioned repair purpose should be presumed.

Moreover, that protection should last 10 years from the date of entry into force of this Directive, unless that Member State prefers to opt for a shorter period of at least three years.

# Industrial property: legal protection of designs. Recast

2022/0392(COD) - 18/11/2024 - Final act

PURPOSE: to improve the protection of EU industrial designs.

LEGISLATIVE ACT: Directive (EU) 2024/2823 of the European Parliament and of the Council on the legal protection of designs (recast).

CONTENT: the revised directive on the legal protection of designs and the amended [regulation](#) on community designs - update the current design legislation to improve the protection of industrial designs in the era of digital designs and 3D printing.

## **Objectives**

The directive and regulation will make the procedure to register designs at EU level cheaper and easier and will harmonise procedures between European and national systems.

The revised directive meets the following objectives:

- **modernise and improve the existing provisions** of the directive, by amending obsolete provisions, increasing legal certainty and clarifying the rights associated with designs as regards their scope and limits;
- further align national laws to enhance their interoperability and complementarity with the Community design system through new substantive rules and the introduction of basic procedural rules in the directive in line with those in the Regulation;
- **complete the single market in repair spare parts** by introducing a repair clause into the directive, similar to that already provided for in the Regulation.

The main elements of the revised directive are:

## **Protection requirements**

Member States will protect designs solely through the registration of those designs, and will confer exclusive rights upon their holders in accordance with this directive. A design will be protected by a design right if it is new and has individual character.

A design applied to or incorporated in a product which constitutes a component part of a complex product will only be considered to be new and to have individual character: (i) if the component part, once it has been incorporated into the complex product, remains visible during normal use of the latter; and (ii) to the extent that those visible features of the component part fulfil in themselves the requirements as to novelty and individual character.

## **Term of protection**

A design will be registered for a period of **five years** calculated from the date of filing of the application for registration. The right holder may renew the registration, for one or more periods of five years each, up to a total term of protection of 25 years from the date of filing of the application for registration. Protection will be conferred for those features of appearance of a registered design which are **shown visibly** in the application for registration.

The registration of a design will confer on its holder the exclusive right to use it and to prevent any third party not having the consent of the holder from using it.

## **Repair clause**

The directive introduces a "repair clause" with new rules to exempt from design protection **spare parts** used for the repair of complex products (such as spare parts used in the automobile repair sector) .

The repair clause will not be invoked by the manufacturer or the seller of a component part of a complex product who failed to duly inform consumers, through a clear and visible indication on the product or in another appropriate form, about the **commercial origin**, and the **identity of the manufacturer**, of the product to be used for the purpose of the repair of the complex product, so that they can make an informed choice between competing products that can be used for the repair.

Where on 8 December 2024, the national law of a Member State provides protection for designs, the Member State will continue until **9 December 2032** to provide that protection for designs for which registration has been applied for before 8 December 2024.

## **Application requirements**

An application for registration of a design will contain at least all of the following:

- a request for registration;
- information identifying the applicant;
- a sufficiently clear representation of the design which permits the subject matter for which protection is sought to be determined;
- an indication of the products in which the design is intended to be incorporated or to which it is intended to be applied.

The design will be represented in any form of visual reproduction, either in black and white or in colour. The reproduction may be static, dynamic or animated and will be effected by any appropriate means, using generally available technology, including drawings, photographs, videos, computer imaging or computer modelling. The reproduction will show all the aspects of the design for which protection is sought.

### ***Cultural heritage***

The directive prohibits elements of cultural heritage of national interest (for example, the traditional costume of a region) from being protected as private designs. To define the limits of this provision, the directive plans to use the UNESCO definition of "cultural heritage".

### ***Administrative cooperation***

The offices are free to cooperate effectively with each other and with the European Union Intellectual Property Office in order to promote convergence of practices and tools in relation to the examination, registration and invalidation of designs.

ENTRY INTO FORCE: 8.12.2024.

TRANSPOSITION: 9.12.2027 at the latest.

## **Industrial property: legal protection of designs. Recast**

2022/0392(COD) - 14/03/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 455 votes to 7, with 68 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council on the legal protection of designs (recast).

The proposal to recast Directive 98/71/EC of the European Parliament and of the Council aims to ensure that the design protection system is adapted to the digital age (in particular the advent of 3D printers) and becomes significantly more accessible and effective for independent designers, SMEs and industries where designs play a major role, by lowering costs, simplifying procedures, making them faster and more predictable, and increasing legal certainty.

The proposal meets the following objectives:

- modernise and improve the existing provisions of the Directive, by amending obsolete provisions, increasing legal certainty and clarifying the rights associated with designs as regards their scope and limits;
- further align national laws in order to enhance their interoperability and complementarity with the Community design system through new substantive rules and the introduction of basic procedural rules in the Directive in line with those in the Regulation;
- complete the single market in repair spare parts by introducing a repair clause into the directive, similar to that already provided for in the Regulation..

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the proposal as follows:

### ***Right to the registered design***

The right to the registered design should vest in the designer or the designer's successor in title. It is stated that the right to the registered design should vest in the employer where a design is developed by an employee in the execution of their duties or following the instructions given by their employer, unless otherwise agreed between the parties concerned or laid down in national law.

### ***Grounds for invalidity***

Member States may provide that a design is to be refused registration where the design constitutes an improper use of badges, emblems and escutcheons other than those covered by Article 6ter of the Paris Convention and which are of a particular public interest in the Member State concerned, unless the consent of the competent authority to its registration has been given in conformity with the law of the Member State.

Member States may provide that a design is to be refused registration where it contains a total or partial reproduction of elements belonging to cultural heritage that are of national interest.

### ***Repair clause***

An amendment stipulated that the manufacturer or seller of a component part of a complex product should not be required to guarantee that the component parts they make or sell are ultimately used by end users for the sole purpose of repair so as to restore the original appearance of the complex product.

Where on the date of entry into force of this Directive, the national law of a Member State provides protection for designs, the Member State should continue until eight years after the date of entry into force of this Directive to provide that protection for designs for which registration has been applied before the date of entry into force of this Directive.

### ***Application requirements***

An application for registration of a design should contain at least all of the following: (a) a request for registration; (b) information identifying the applicant; (c) a sufficiently clear representation of the design which permits the subject matter for which protection is sought to be determined; (d) an indication of the products in which the design is intended to be incorporated or to which it is intended to be applied.

The date of filing of a design application may be accorded where one or more of the elements required by the Directive are missing, provided that the representation of the design as a whole is sufficiently clear.

The request for renewal must be submitted, and the renewal fees paid, within a period of at least six months immediately preceding the expiry of the registration.

The Directive will have to be transposed 36 months after its date of entry into force.