

Shaping a circular future:

Key elements of the
Ecodesign Regulation for
transforming product design



Design plays a crucial role in determining the circularity of a product, including factors such as repairability, recyclability, or potential for refurbishment and remanufacturing. The Ecodesign for Sustainable Product Regulation (ESPR) establishes a new framework for setting ecodesign requirements for products and is therefore crucial to enable a circular economy. At present, the EU Commission, the Council, and the European Parliament are negotiating the ESPR in the so-called trilogue. In the following, we compare the positions of these three institutions and highlight the essential elements that must be included in the final regulation to make it effective. The ESPR will be the basis for the development of product-specific delegated acts and will define both the scope and the requirements of these acts.

To make the Regulation effective and a true quantum leap in the transition to a circular economy—and thereby ending the era of non-repairable products—the following aspects are essential for the ESPR:

1. Close the loopholes to ensure that effective ecodesign requirements apply to all relevant products

Exemptions for repairability and durability requirements must remain an absolute exception, strictly justified by stringent criteria. Similarly, the Commission's ability to define *no* performance or *no* information requirements for certain product groups or subsets should be strictly limited. Generally speaking, we demand the elimination of any loopholes that could ultimately allow non-repairable, non-durable and non-circular products in the market!

2. Ensure that the requirements for the most relevant product groups are implemented quickly and effectively

One of the lessons learnt from the Ecodesign Directive, which has been in effect since 2009, is that the EU Commission has been slow to specify the implementation measures of the Directive for specific products, taking a 'product by product' approach. Even though essential for certain high-impact products such as white goods and other resource-intensive electronics, this approach lacks the efficiency needed to ensure that all products placed on the EU market meet minimum durability requirements. Consequently, the ESPR should allow for the timely introduction of horizontal requirements applicable to larger product groups such as electrical and electronic equipment. Information and Communication Technology products and other electronics should be among the first product groups to be covered by horizontal requirements.

3. Rapidly make the destruction of unsold goods a practice of the past

We are delighted that all EU institutions want to address the appalling practice of destroying unsold goods. Swift and effective implementation of the prohibition of the destruction of unsold goods for key product groups such as electronic and electric equipment, as well as apparel or clothing accessories, is imperative and should not be delayed. Exceptions based on broad criteria such as bureaucratic hurdles should not be allowed to apply.

4. Ensure that relevant actors in the value chain, such as consumers, repairers, and refurbishers, have access to the information they need to prolong a product's lifetime

The Digital Product Passport, to be established by the ESPR, has the potential to be a game-changer for the circular economy as it would resolve the information deficit along a circular value chain. It could enable a comprehensive and reliable knowledge transfer along the entire value chain by providing key information to (independent) repairers, refurbishers, or recyclers and keeping products and their components within the cycle at their highest value. Therefore, the ESPR needs to ensure easy access to vital information for those committed to product reusability, such as repairers or refurbishers. A simple reference to business secrets should not allow for an exemption from information requirements for manufacturers. If the information is properly prepared, the DPP also has the potential to help customers make sustainable purchasing decisions (for example by buying a product which has a high repairability score).

5. Exploit the potential to reduce the need for (critical) raw materials

The EU and its member states are scaling up their efforts to ensure that the resources needed for the so-called green and digital transition are sufficiently available to their industries (most notably through the Critical Raw Materials Act¹). The Critical Raw Materials Act (CRMA) focusses on securing the supply of key raw materials. However, it largely overlooks opportunities to simultaneously temper the increasing demand for these raw materials while still satisfying the raw material needs for central transitions like the energy transition. Thus, the CMRA is currently far from sufficiently addressing the demand side to ensure less exploitation of natural resources and security of supply. The ESPR should be established as a meaningful step towards reducing the demand for (critical and strategic) raw materials, thus realising the potential for synergies in this regard.

1 The European Critical Raw Materials Act aims to secure the supply of key raw materials for the industry in the field of energy transition, digitalization, defense and space in the EU.

Details on the implementation of our key elements for the ESPR:

1. Close the loopholes to ensure that effective ecodesign requirements apply to all relevant products

The ESPR positions of the Council, the European Parliament, and the European Commission include noteworthy proposals but also introduce several suggestions that could potentially create significant loopholes, undermining the regulation's core objective of making circular and repairable products the standard. Other amendment proposals, however, could also (partially) close these loopholes. The following measures are imperative to prevent substantial loopholes:

- The Commission's ability to define *no* performance or *no* information requirements for certain product groups should be strictly limited.
→ *Keep Art. 4, second and third sub-paragraph of the Council's position*
- Exemptions and exclusions from ecodesign requirements, as defined in delegated acts, should not be a recipe for wide-range exemptions based on general criteria such as 'the volume of sales and the way in which products are marketed'. If the volume of sales is high, this should be an additional reason for strict implementation.
→ *Delete Art. 5 (2) of the Council's position*
- The broad reference to 'product safety' as grounds for exemptions related to repairability and durability is susceptible to misuse and should thus be deleted.
→ *Delete the respective amendment suggestions by the Parliament in Annex I.e*
- The Council's suggestion that ecodesign requirements should not have a 'significant negative impact on consumers in terms of [...] the cost, including life cycle cost of products', as opposed to the Commission's sole reference to life cycle costs, is misleading. It is legitimate that the cost of purchasing a product may be higher if the life cycle costs do not increase (or in most cases decrease).
→ *Delete the amendment suggestion of the Council to Art. 5 (5c) on the costs*
- Both the Commission and the Parliament seek to focus on products whose environmental impacts, energy consumption, and waste generation across the entire value chain take place mainly within the European Union. This would undermine the full potential environmental impact of the ESPR, incentivise environmental impact leakages to third countries and would not be in line with the SDGs.
→ *Delete the respective wording in Art. 16 (1c) of the Commission's proposal as suggested by both the Parliament and the Council*

2. Ensure that the requirements for the most relevant product groups are implemented quickly and effectively

Horizontal requirements applicable to larger product groups such as electronic and electric equipment must be introduced in a timely manner. Information and Communication Technology products and other electronics should be among the first product groups to be covered by horizontal requirements.

- *Keep the Parliament's amendment in Art. 16 (2b)*
- *Keep the Parliament's amendment in Art. 5 (2)*

3. Rapidly make the destruction of unsold goods a practice of the past

To rapidly and effectively ban the destruction of unsold goods and prevent any further easily avoidable environmental damage, the following points must be ensured:

- The prohibition must apply quickly to product groups known to be destroyed on a large scale. The prohibition should therefore apply to electronic and electrical equipment as well as textiles one year after the ESPR will have entered into force.
→ *Keep Art. 20a (1) as suggested by the Parliament*
- The Commission should prioritise and quickly implement the prohibition for further product groups. To ensure that the relevant delegated or implementing acts are developed and effective in a timely manner, the Commission should publish and regularly update a work plan.
→ *Keep the idea of Art. 20d of the Council's position*
- Broad and inappropriate criteria limiting the power of the Commission to prohibit the destruction of unsold goods should be deleted to ensure that the destruction of unsold goods becomes an absolute exception.
→ *Delete the wording suggested by the Commission that a prohibition shall only be introduced in case the destruction of unsold goods poses a 'significant environmental impact' (Art. 20 (3))*
→ *Delete the wording suggested by the Council that a prohibition shall only be introduced in case such a prohibition would not pose significant, disproportionate administrative burdens (Art. 20c (1b))*

4. Ensure that relevant actors in the value chain, such as consumers, repairers, and refurbishers, have access to the information they need to prolong a product's lifetime

The prospective Digital Product Passport, to be established in the ESPR, has the potential to effectively address the information deficit along circular value chains. To realise this potential, the ESPR must establish the following requirements:

- Information requirements should focus not only on the information needed for recycling, but also on the information needed for repair, refurbishing, remanufacturing, or repurposing.
 - *Keep the specifications on the information requirements in Art. 7 (2b) iia and iib and Art. 7 (5e) of the Parliament's position*
 - *Keep the specifications on the information requirements in Art. 7 (5e) and Annex II of the Council's position*

- It must be ensured that all relevant actors along the value chain (including actors such as independent repairers or refurbishers) have access to the information they need to ensure a product longevity and the proper processing of products.
 - *Keep the Parliament's amendments in Art. 8 (2f), Art. 8 (3a) and Art. 10b and ba*

- Compliance with the information requirements must be a condition for placing products on the market. Information is key for consumers and for the possibilities of preparing a product for re-use or recycling.
 - *Reject the Council's amendment to delete the respective clause in Art. 8 (1)*
 - *Keep the Parliament's amendment in Art. 8 (1) to specify that the information in the product passport must be accurate, complete and up to date*

- The information disclosed to consumers should be comprehensive and standardised. Presenting excessive and non-standardised information to consumers could diminish the potential of the DPP to guide informed purchasing decisions, potentially overwhelming consumers.
 - *Keep the Parliament's and the Council's specifications in Art. 7 on how the information for consumers should be prepared and displayed*
 - *Introduce compiled information regarding the reparability of a product by establishing a reparability score, as proposed by the Parliament (Art. 7 (4a)). When implementing a reparability score, it is crucial to ensure its accuracy and fairness, which requires the inclusion of the costs for spare parts in the assessment criteria*

- The Council and the Parliament intend to establish an online tool or a web portal so that stakeholders such as consumers, repairers, or recyclers can search for information included in the DPP. The Parliament's proposal to establish a publicly accessible tool is especially helpful, as it would enable consumers to compare products before making the purchase.
 - *Keep Art. 12a as suggested by the Parliament*

- Both the Council and the Parliament seek to specify that information requirements must respect business secrets. However, it has to be considered that measures to adequately protect business secrets are already provided for in the ESPR by granting graduated access rights depending on the type of information (Art. 8 (2) and Art. 10). This already strikes a balance between the protection of business or trade secrets and information requirements needed for the circular economy, so that no further restrictions should apply.
 - *Reject the respective amendments of the Parliament (Art. 8 (2a)) and the Council (Art. 8 (3d) and Art. 10 fa)*

5. Exploit the potential to reduce the need for (critical) raw materials

To ensure that the ESPR can actively address the demand side to ensure the security of supply of critical and particularly strategic raw materials, the ESPR must explicitly stipulate that measures such as recycled material input rates or substitution will be included in the delegated acts.

→ *Keep the Council's amendment in Art. 5 (1i) and (1ia)*

→ *Keep the specifications in Annex I of the Parliament (ha, hb, ma and qb) and the Council (g, h and q)*

We see the ESPR as a major step for the EU to take to facilitate the transition towards a circular economy. We call on the Council and the Members of the European Parliament to consider the five key requirements outlined above to make the regulation a success and enable a holistic circular economy.



The *Right to Repair Europe* coalition represents over 100 organisations from 21 European countries. It represents environmental NGOs and repair actors such as community repair groups, social economy actors, spare parts distributors, self-repairers, repair and refurbishing businesses, and any citizen who would like to advocate for their right to repair. This is a rapidly growing movement, and its objective to make repair affordable, accessible and mainstream is aligned with the objectives of the European Green Deal and the Circular Economy Action plan. Browse member organisations by country [here](#).

IMPRINT

Germanwatch e.V.

Contact: [Luisa Denter](#)

Stresemannstr. 72

D-10963 Berlin

You can download this paper here: <https://www.germanwatch.org/en/89117>

Published: August 2023