













Fiche de procédure

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Awaiting Council's 1st reading position
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	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Legal Affairs		28/02/2023
		 LEBRETON Gilles	
		Shadow rapporteur	
		 MANDERS Antonius	
		 GARCÍA DEL BLANCO Ibán	
		 KARLESKIND Pierre	
		 BREYER Patrick	
		 STANCANELLI Raffaele	
		 MAUREL Emmanuel	
	Committee for opinion	Rapporteur for opinion	Appointed
	 Economic and Monetary Affairs	The committee decided not to give an opinion.	
	 Internal Market and Consumer Protection	The committee decided not to give an opinion.	
	Committee for opinion on the recast technique	Rapporteur for opinion	Appointed
	 Legal Affairs		01/07/2023
		 ADAMOWICZ Magdalena	

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

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	Results of vote in Parliament		
14/03/2024	Decision by Parliament, 1st reading	T9-0165/2024	Summary

Technical information

Procedure reference	2022/0392(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Recast
Legislative instrument	Directive
	Repealing Directive 1998/71 1993/0464(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 114-p1; Rules of Procedure EP 110
Other legal basis	Rules of Procedure EP 159
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Awaiting Council's 1st reading position
Committee dossier	JURI/9/10812

Documentation gateway

Legislative proposal		COM(2022)0667	28/11/2022	EC	
Document attached to the procedure		SWD(2022)0367	28/11/2022	EC	
Document attached to the procedure		SWD(2022)0368	28/11/2022	EC	

Document attached to the procedure		SWD(2022)0369	28/11/2022	EC	
Economic and Social Committee: opinion, report		CES0101/2023	22/03/2023	ESC	
Committee draft report		PE749.961	16/06/2023	EP	
Opinion on the recast technique		PE751.740	12/07/2023	EP	
Amendments tabled in committee		PE751.775	13/07/2023	EP	
Specific opinion	JURI	PE752.970	12/09/2023	EP	
Committee report tabled for plenary, 1st reading/single reading		A9-0317/2023	30/10/2023	EP	Summary
Text adopted by Parliament, 1st reading/single reading		T9-0165/2024	14/03/2024	EP	Summary

Additional information		
Research document	Briefing	09/01/2024

Industrial property: legal protection of designs. Recast

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.

Manufacturers identity

With a view to clarifying the manufacturers identity, Members proposed that the indication of the manufacturers 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

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 designers 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.

Transparency				
KARLESKIND Pierre	Shadow rapporteur	JURI	27/11/2023	ECAR - Freedom of repair