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OPINION

European Economic and Social Committee

The right to repair

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 and Directives (EU) 2019/771 and (EU) 2020/1828
[COM(2023) 155 final – 2023/0083 (COD)]

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Legal basis	Article 114 of the Treaty on the Functioning of the European Union
Section responsible	Section for Single Market, Production and Consumption
Adopted in section	02/06/2023
Outcome of vote (for/against/abstentions)	66/0/0
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Plenary session No	579
Outcome of vote (for/against/abstentions)	178/1/1

1. Conclusions and recommendations

1.1 The European Economic and Social Committee (EESC) welcomes the Commission's package of proposals aimed at facilitating product repairability and at making the possibility to repair effective and timely, by taking action from the design stage to the end of a product's life cycle.

1.2 The EESC believes that some of the measures described in more detail below could help to strengthen the effectiveness of this right to repair.

1.3 Ensuring that consumers are better informed can undoubtedly help strengthen the right to repair. The establishment of a national platform compiling all this information is therefore a positive move, but the conditions for setting it up and updating it need to be set out in more detail.

1.4 Secondly, in order to make access to repairs easier, the EESC welcomes the balance that has been struck between measures relating to the legal guarantee, which strengthens the obligation to repair while also retaining consumers' right to replace in the case of major inconveniences. However, the Committee believes that this strengthening of distributors' obligation to repair should come with proper implementation of distributors' right to full recourse against manufacturers, especially with regard to spare parts and costs. Distributors act as an interface with consumers, and it must be possible to support them in this regard.

1.5 In order to facilitate access to repairs outside the legal guarantee, it is essential to support repair service providers in setting up, for example in the form of professional training and by ensuring that all repairers have access to essential information on repair and maintenance, as well as to the necessary parts at a reasonable price.

1.6 Promoting the repairability of products by design is the subject of a separate draft regulation. Repairability should also be supported beyond the design stage, after the sale has taken place. To this end, the EESC calls on the Commission to assess the possibility of supporting data sharing for spare parts and product repairability, as part of the ongoing modernisation of the intellectual property framework[1]. Additionally, access to 3D-printed parts or to reliable second-hand parts and support for refurbished products also need to be strengthened.

1.7 For the sake of consistency, this right to repair should also involve a ban on intentional practices, such as serialisation, which hinder the right to repair, in those cases where it is obvious that these practices are applied in order to obstruct competition in the spare parts market.

1.8 In short, the quality, safety and cost of repair need to be addressed. Competitive tendering between repair service providers using the harmonised form on the basis of comparative information would be a good tool for developing the market. However, the EESC believes that it is essential to go further, and that there is a need to determine which financial tools are most likely to encourage consumers to have their products repaired, based on past experiences at national level.

1 https://single-market-economy.ec.europa.eu/industry/strategy/intellectual-property/industrial-design-protection_en.

1.9 The EESC points out that the issue of repair concerns not only businesses but all stakeholders. It calls on the Commission to promote consumer awareness-raising campaigns on product maintenance and use, as well as on repair.

2. Gist of the Commission document

2.1 The proposal for a directive is part of a group of texts designed to foster the consumer's role in the green transition. It is consistent with a series of texts, including the European Green Deal (December 2019), the circular economy action plan (March 2020) and the new consumer agenda (November 2020).

2.2 In order to foster the practice of repairing non-compliant goods, the European Commission is seeking to give power back to consumers by providing them the tools to choose the circular economy at two key stages:

1. at the time of purchase, pursuant to:
   a) the proposal for an ecodesign for sustainable products regulation, including requirements on product design and the availability of spare parts; and
   b) the proposal for a directive on empowering consumers for the green transition, which includes requirements for information on the durability and repairability of products at the point of sale;

2. and after purchase:
   a) pursuant to the directive laying down the legal guarantee, during the guarantee period following purchase of the product, consumers may, in cases involving a defective product, choose between repairing or replacing non-compliant products free of charge. A choice not to repair can be made in cases where it is not possible or where the cost to do so for the distributor is disproportionate, or where it causes significant inconvenience for the consumer;
   b) this initiative on repairability also covers the after-sale period.

2.3 The proposal for a directive establishing common rules promoting the repair of goods concerns cases which involve product defects or damage to products in parallel with and beyond the legal guarantee period. It primarily lays down four obligations:

- a general obligation to repair;
- the requirement to provide information forms on repairs and repairers;
- the requirement to provide information on repairing;
- the requirement to create a national platform for information on repairs and on repairers.

There is also an article amending Directive 2019/771 on consumer remedies provisions for non-conformity (legal guarantee). Priority is given to repair over replacement where the cost of repair would be lower or equal to replacing the product.

3. General comments

3.1 The EESC welcomes the objectives of the proposal for a directive, specifically to promote a true European right to repair. It considers that this text builds on previous texts on product ecodesign, on empowering European consumers, and on information for consumers about environmental claims.

3.2 However, developing the repair sector must be made a European priority, as the Commission has well understood. Repairing is at the heart of the economic model that the EU needs to promote, together with economic operators (manufacturers, distributors, etc.), consumers, and, more broadly, European citizens. The EESC would thus like to share a vision on the "right to repair": this cannot simply be a "formal" or "theoretical" right. European legislation must be based on the principle of safeguarding the availability of and the demand for quality repairs by ensuring effective access to repairs and encouraging consumers to avail of it.

3.3 From an environmental point of view, extending product lifespans is a key measure in reducing the impact of consumption. Of course, this extension must take into account life-cycle analyses, as not all products can be used for prolonged periods of time. The EESC therefore supports the measure linking the right to repair to the lifespan of products defined by product category in the delegated acts adopted in the framework of the future regulation on the ecodesign of products.

3.4 Additionally, the EESC endorses the first list of products concerned set out in Annex 2. It also supports the idea to include in this list product categories defined in the delegated acts referred to in point 3.3. Product design and repairability would thus automatically be linked to the information provided to consumers and to the right to repair.

3.5 From a social and economic point of view, the repair sector creates value and high-quality jobs in Europe. According to a GAIA study[2], the repair sector created 404 jobs per 10 000 tonnes of repaired materials – 50 times more than disposing as waste. However, the EESC is concerned that the vocational training and technical skills needed to make this right to repair effective are currently insufficient. It therefore calls on the Commission to implement, in close cooperation with professional organisations, all the tools necessary to develop initial and continuing training in the repair business.

3.6 Additionally, choosing to repair has great potential to boost purchasing power, particularly for the most disadvantaged groups, who are generally forced to re-purchase goods prematurely.

3.7 The EESC welcomes the fact that in the proposal for a directive, the Commission has taken due account of the need to take action both on the guarantee framework and on the non-guarantee period. This is all the more important given that the framework regulating the duration of the legal guarantee varies across the EU (two years in most countries, three years in Greece, and for the product's estimated lifespan in Finland and the Netherlands). Greater transparency and clarity concerning repair practices at European level – or even top-down harmonisation of the legal frameworks – is also essential in order to lay the ground for the right to repair.

2 GAIA, *Zero Waste and Economic Recovery, The job creation potential of zero waste solutions*, 2021.

4. Specific comments

This section sets out avenues for improvement based on the Commission's proposals in light of the objective to make repair more appealing than replacement in the eyes of consumers.

4.1 Improving information for consumers

4.1.1 The EESC welcomes the Commission's proposal to improve information for consumers by ensuring, in each Member State, a platform to identify repair solutions. It is important to specify the conditions for setting up and managing this platform to ensure that the information is complete and up to date.

4.1.2 In order to repair, the conditions associated with repairing (as opposed to replacing) need to be understood. Opening repair services up to competition and ensuring transparency in the pricing, terms and conditions, and quality of repairs through the obligation to provide a repair form will improve the offer of repair work available to consumers, and thus increase the number of repairs. The EESC therefore welcomes the willingness to harmonise the information provided by repairers by proposing a European repair form. It invites co-legislators to ensure consistency between this proposal, the proposal concerning the ecodesign of sustainable products, and those on environmental claims.

4.1.3 The EESC also supports the creation of a common repairability index at EU level for each product category, as provided for by the draft regulation on product ecodesign and in line with the EESC's recommendations. It calls on the Member States to commit to setting up this index in line with the European project, otherwise it will lead to increased costs for stakeholders and confusion among consumers.

4.1.4 In short, an information and awareness-raising campaign at EU level is needed to raise awareness of the benefits of repairing and of the "don't buy more, buy better" principle. This awareness-raising campaign should aim to clarify information on the maintenance that consumers need to carry out. In this vein, the EESC supports the measures put forward by the proposal for a directive on green claims.

4.2 Facilitating repair work

4.2.1 Repair works may be first carried out during the guarantee period. In this respect, the prevalence of repair over buying new (which is already supported by the EESC in its opinion on empowering consumers for the green transition[3]), is being implemented at a convenient moment. Sellers must repair goods at a cost equivalent to or lower than replacing them, unless the costs for doing so are disproportionate or the goods are irreparable. The choice of consumers to either replace or repair is therefore also affected. However, they are still able to request a replacement in the event of significant inconvenience, which could arise in cases involving products they need for their daily or professional lives.

3 OJ C 443, 22.11.2022, p. 75.

4.2.2 Additionally, the EESC believes that the possibility for distributors to have recourse against manufacturers should be embedded in mandatory law and therefore guaranteed in order for this measure to work and be economically viable. Distributors' obligation to repair, whatever the cost, must come with effective recourse for them against manufacturers with respect to access to spare parts and cost sharing. This obligation must be simple enough to implement that SMEs are able to comply with it.

4.2.3 Another of the key steps forward of the text is that of the obligation for producers to repair their goods beyond the legal guarantee period. For reasons of competitiveness, it is essential that this obligation also apply to non-EU producers. The EESC therefore reiterates the need to implement liability for authorised representatives and fulfilment centres.

4.2.4 The territorial coverage of repair services is also a strong factor in encouraging people to repair. In the EESC's view, more repairers are needed in Europe, which requires a proactive policy on vocational repair training. This policy is all the more necessary now that the job profile of repairers has evolved considerably, following the rise of the digital sphere and of connected devices. Apart from training, there will also be a need for well-paid quality jobs, as many Member States are already suffering from a shortage of skilled workers, particularly when it comes to crafts and skilled trades.

4.2.5 Developing repair services means affording independent repairers the same opportunities as repairers authorised by producers. The EESC also believes that the Commission should help and encourage the development of new economic models, such as professional repair services, repair shops, "repair cafés", etc. The EESC therefore calls for more access points for repairs.

4.3 **Promoting product repairability at the design stage and beyond**

4.3.1 Although planned obsolescence practices are indeed obstacles to repair, the EESC believes they are more specifically addressed by other directives.

4.3.2 However, it would be consistent for the Commission to build on this text in the area of repair by asking Member States to prohibit any practice of intentionally making products irreparable. There can be no right to repair if objects are designed to be irreparable.

4.3.3 The practices of serialisation and part pairing hinder or prevent the replacement of components of a product by marking certain parts with a serial number. When a serialised part is replaced, if the serial number does not correspond to the one registered on the motherboard, the motherboard changes the way the device works, or blocks it. This practice means that only the technical network approved or certified by the manufacturer can carry out repairs, to the detriment of independent repairers and refurbishers, and makes it impossible to use parts from the circular economy The EESC calls on the Commission and the Member States to prohibit and sanction such practices, which clearly present a barrier to repair.

4.3.4 The draft Ecodesign for Sustainable Products Regulation lays down the period during which spare parts, by product category, are to be available. However, in view of the challenges linked

to the shortage of raw materials, the EESC calls on the Commission to promote the production of spare parts using 3D printing. This implies producers publishing their 3D models when they stop producing the parts themselves; a practice that some producers have already taken up in recent years. As part of the forthcoming revision of the intellectual property framework, the EESC calls on the Commission to assess the possibility of supporting data sharing for these parts, and of supporting the dissemination of this information through the platform.

4.3.5 The EESC calls for the EU to support device refurbishing practices, to the extent that these pursue the same economic and environmental objectives as repairing.

4.4 **Acting on the cost of repairs**

4.4.1 Costs are one of the main barriers to repairing. It is therefore necessary to supplement the provisions of the proposal for a directive with proposals to reduce the cost of repairs for consumers.

4.4.2 Outside the legal guarantee framework, the EESC believes that the widespread use of an information form to communicate the price of repairs and to give fair competition to repairers encourages repair and lowers its cost.

4.4.3 To reduce the cost of repair, the EU could encourage the use of second-hand spare parts. The EESC regrets that the market for second-hand product materials and safe and recycled spare parts is currently rather limited and not very competitive due to a lack of infrastructure and of adequate legislation.

4.4.4 However, the Commission must go further by taking active steps to ensure that the price signal for repairs is more favourable. It must also require Member States to take measures in this direction. The EESC therefore considers it essential to promote tax incentives or other compensatory measures to promote repairs. On the basis of experience already gained at national level, the most appropriate tools for stimulating the second-hand and repair market should be identified.

Brussels, 14 June 2023.

Oliver Röpke
President of the European Economic and Social Committee