



European Parliament

LEGISLATIVE TRAIN 12.2022

2 A EUROPE FIT FOR THE DIGITAL AGE

REVISION OF THE DESIGN DIRECTIVE AND OF THE COMMUNITY DESIGN REGULATION Q4 2022

[DEPARTURES]

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CONTENT

On 28 November 2022, the European Commission published two package proposals to revise both the Design Directive (Dir. 98/71/EC) and the Community Design Regulation (Council Regulation (EC) No 6/2002) as steps to create a coherent package for the implementation of the Intellectual Property Action Plan published in November 2020. The proposals had been previously announced in the Commission's regulatory fitness and performance (REFIT) work programme for 2022. Main objectives of this REFIT is to (i) make the framework fit for purpose in the digital age and (ii) simplification of registering procedures and reduction of administrative burden (including fees to be paid).

Main changes that the revised proposals would bring are:

- A broadened definition of "Design" - to include the appearance of whole or part of a product including "the movement, transition or any other sort of animation of those features".
- A broadened definition of "Product" - to include the advent of new designs not being embodied in physical products and objects materializing in digital forms.
- Adjust the scope of design by extending it to "3D printing" - by clarifying that also "creation, downloading, copying and making available of any medium or software recording the design amounts to use of the design".
- A new repair clause (spare parts) - to clarify that there is no protection for a design which constitutes a component part of a complex product for the purpose of the repair of that complex product so as to restore its original appearance.
- Multiple design applications - to remove the "unity of class" requirement in place now and allow to add more designs in a single application.
- Adjust and optimize the level and structure of payable fees - by repealing the Fees Regulation (Council Regulation (EC) No 2246/2002) and integrate them in Community Design Regulation.

The two proposals will now be passed to the European Parliament and the Council for adoption under the ordinary legislative procedure. When the new proposals are adopted:

- the new rules of the Design Directive will be transposed into the national law within two years.
- Regarding the Community Design Regulation, part of the changes will become applicable within 3 months after its entry into force, and the rest will when the delegated and implementing acts are enacted (18 months after entry into force).

References:

- EP Legislative Observatory, [Industrial property: protection of Community design](#), 2022/0391(COD)
- European Commission, [Proposal for a Directive on the legal protection of designs](#) (recast), COM(2022) 667 final
 - European Commission, [Proposal for a Regulation amending Council Regulation \(EC\) No 6/2002 on Community designs and repealing Commission Regulation \(EC\) No 2246/2002](#), COM(2022) 666 final
- Commission work programme 2022, Making Europe stronger together, [Annex II](#)
- About [REFIT](#) programme
- Commission [Inception Impact Assessment](#)
- [Evaluation](#) of EU legislation on design protection

Further readings:

- European Parliament, EPRS, [Revision of Directive 98/71/EC on the legal protection of designs and of Regulation \(EC\) No 6/2002 on Community designs](#), May 2022

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