

# THE SUSTAINABILITY CONCEPT IN THE CONSUMER PURCHASE CONTRACT – IS THE R2R DIRECTIVE SUSTAINABLE ENOUGH?

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VÍTOVÁ, Blanka. The Sustainability Concept in the Consumer Purchase Contract – Is the R2R Directive Sustainable Enough? *International and Comparative Law Review*, 2024, vol. 24, no. 2, pp. 84–105. DOI: 10.2478/iclr-2024-0019

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**Summary:** The article deals with the legal analysis of Directive (EU) 2024/1799 (so called Right to Repair Directive), which represents a key step in the regulation of the right to repair of goods in the European Union. The Directive aims to promote sustainable consumer behaviour, extend the lifetime of products and contribute to the objectives of the circular economy. The article focuses on the key provisions of the Directive, analyses its benefits and weaknesses, and identifies the legal challenges associated with implementation, including the impact of intellectual property rights, economic and cultural barriers to repair, and the lack of a clear preference for repair over replacement of goods. The paper concludes by assessing that the Directive represents a significant step in the right direction, but that its effectiveness depends on further adjustments to strengthen its impact and meet the European Union's ambitious sustainability objectives.

**Keywords:** Right to repair (R2R); EU Directive 2024/1799; sustainability; circular economy; planned obsolescence; intellectual property rights; independent repairers; compatible spare parts; consumer law

**Acknowledgements:** This work is the outcome of research activities within the ENDE – European Network on Digitalization and E-governance, Jean Monnet Networks project no. 101127038, ERASMUS-JMO-2023-NETWORKS.

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## 1 Introduction

Consumer law has historically evolved as a response to certain imbalances between private individuals and businesses within the market environment. It has responded to the fact that consumers, unlike businesses, often do not have sufficient information<sup>1</sup>, expertise or bargaining power to secure fair terms when entering into contracts or purchasing products and services. This asymmetry makes consumers vulnerable to unfair practices, which may include not only

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1 TREBILCOCK, Michael. *The limits of freedom of contract*. Cambridge, MA: Harvard. University Press, 1993, pp. 310.

misleading information but also abusive contractual provisions or even threats to their health and safety.

A key principle of consumer law is the right to information, so that consumers can make informed and considered decisions. Consumers must have access to accurate, comprehensible and complete information about the products and services they buy. This information includes not only the price, but also the characteristics, composition and possible risks associated with the product in question; in today's technologically advanced age, this includes information about the use of personal data in the use of digital technologies.<sup>2</sup> Consumers who do not have the same access to this information or who do not have the appropriate expertise are at a disadvantage. This difference in information may lead to unfair treatment, where consumers are unable to make a fully informed decision or may be directly misled. Consumer protection therefore plays a key role in redressing this imbalance, ensuring that consumers have access to sufficient, accurate and transparent information.

This area is also linked to ensuring contractual fairness, legal certainty and promoting fair competition, which is closely linked to consumer protection. Consumer contracts, and not just standardised ones, may contain terms that are unfavourable or even abusive to consumers. Therefore, consumer law provides rules to prevent the inclusion of unfair terms in contracts and to provide mechanisms for declaring such terms ineffective.

Another key area of focus in consumer law is protection against unfair practices. In this context, consumer law has introduced, and continues to revise and extend, rules to prevent businesses from using manipulative business tactics or aggressive practices that could lead consumers to make unfavourable decisions. Without legal regulation, unfair practices by some businesses can distort the market, harm honest traders and reduce the overall quality of the products and services offered. Legal protection of consumers thus helps to create an environment where competition is based on quality, innovation and fair dealing, which benefits both consumers and the market itself.

In the context of the growth of e-commerce and modern distribution channels, consumer law also focuses on the protection of consumers when concluding contracts at a distance, in particular via the internet. This protection includes not only an enhanced right to information, but also a right to withdraw from the contract without giving reasons, giving consumers the opportunity to reconsider their decision. Special emphasis is also placed on the protection of personal data<sup>3</sup>, which can easily be misused in online transactions.

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2 ANDRAŠKO, Jozef, HAMULÁK, Ondrej, MESARČÍK, Matúš, KERIKMÄE, Tanel, KAJANDER, Aleks. Sustainable Data Governance for Cooperative, Connected and Automated Mobility in the European Union. *Sustainability*, 2021, vol. 13, no. 19, 10610.

3 ANDRAŠKO, Jozef, MESARČÍK, Matúš, HAMULÁK, Ondrej. The regulatory intersections between artificial intelligence, data protection and cyber security: challenges and opportunities for the EU legal framework. *AI & Society*. 2021, vol. 36, no. 2, pp. 623–636.

An equally important area of consumer law is the protection of the health and safety of consumers and products, i.e. ensuring that products placed on the European market are safe for consumers. Without this regulation, there would be a risk that some businesses would prioritise cost reduction at the expense of quality, which could lead to the proliferation of unsafe products on the market. Consumer law has therefore set safety and quality standards that products and services must meet, and creates mechanisms that allow unsafe products to be withdrawn from the market and protected from harm.

The law protects consumers for several fundamental reasons that are key to the functioning of a modern market economy and to ensuring a fair and sustainable economic environment. Consumers are the largest group of market participants whose trust and protection have a major impact on the economy and society as a whole. Without adequate protection, consumers could be exposed to practices that not only harm individuals but also distort fair competition and destabilise markets.<sup>4</sup> Consumer law has therefore evolved over time to introduce and implement a comprehensive system of rules designed to balance the position of consumers and businesses in the marketplace, protect consumers from risks and ensure the fair and transparent functioning of the market environment.

However, this traditional framework of protection has increasingly come into conflict with new challenges over the last few years, including the requirements of sustainability<sup>5</sup> and the circular economy, suggesting the need for further development and modernisation of this area of law.

It is becoming increasingly evident that consumers (as well as businesses) are becoming aware of the impact of consumption on environmental sustainability and that even the choice of a product with regard to its quality, durability or interoperability can have a major impact at an individual level. Unlike natural ecosystems, which function in loops known as “closed systems” in the sense that they contribute to their own resilience by optimizing the recycling of non-renewable resources, the industrial economy is largely linear<sup>6</sup>. The European legislator is acutely aware of this issue and has therefore focused its efforts, not only in the field of consumer law, on strengthening sustainability in various areas of societal development.

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4 PETROV KŘIVÁČKOVÁ, Jana, HAMUŤÁKOVÁ, Klára. Procedural specifics of resolving consumer disputes in individual civil court proceedings in the Czech Republic. *International and Comparative Law Review*, 2022, vol. 22, no. 1, pp. 8–31.

5 TERRY, Evelyne. A Right to Repair? Towards Sustainable Remedies in Consumer Law. *European Review of Private Law*. 2019, vol. 853, no. 4, pp. 851–873.

6 MOESLINGER Margot, ALMÁSY Kristof, JAMARD Marion, DE MAUPEOU Hugues. *Towards an Effective Right to Repair for Electronics*. Publications Office of the European Union, Luxembourg, 2022, pp. 3.

## 2 Changing the EU's direction towards sustainability

In recent decades, the European Union has undergone a fundamental transformation in its approach to protecting the environment and promoting sustainable development<sup>7</sup>. Although various calls for a greater commitment to sustainability have been made before<sup>8</sup>, a key milestone in this change has been the adoption of the Green Deal for Europe<sup>9</sup>, which serves as a strategic framework for achieving climate neutrality and sustainable growth and is intended to respond to pressing environmental and climate challenges that threaten not only ecosystems but also the foundations of economic and social life. The aim of the Green Deal for Europe is not only to reduce Europe's environmental impact, but also to create a new model for economic growth that would ensure the European Union's climate neutrality by 2050, strengthen its competitiveness and improve the quality of life of its citizens. The transformation includes a wide range of measures, from switching to renewable energy to promoting a circular economy and protecting biodiversity. The plan also highlights the importance of innovation and energy efficiency as key tools to achieve these goals.

For consumers, the Green Deal has been the driving force behind several key steps that have a major impact on their rights and options. Consumers have played, and continue to play, a key role in the transition to a more sustainable economy, as their decisions directly influence the demand for products and services. In particular, the Green Deal is intended to ensure that consumers have better access to information on the environmental and social impacts of products, enabling them to make more informed purchasing decisions. For example, the introduction of data on the carbon footprint of products or their reparability is intended to give consumers the tools to prioritise sustainable products.

The Green Deal has brought a number of concrete measures aimed at consumers and their protection. One of the first steps was A new Circular

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7 SIMON, Rita. Final consumption and sustainability – contribution of consumer law to SDG 12. In *Climate Law and Litigation: Planetary, Regional, and Societal Perspectives. Selected Contributions from the ClimLaw: Graz 1st Annual PhD Workshop on Climate Law and Litigation*. Research Center for Climate Law, Faculty of Law, University of Graz, 2023, pp. 123–151.

8 E.g. a proposal by the European Economic and Social Committee of 17 October 2013 called "Towards more sustainable consumption: The life cycle of industrial products and consumer information for the sake of restored confidence" ((2014/C 67/05)), Report of the European Parliament of 9 June 2017 on products with a longer lifespan: benefits for consumers and businesses ((2016/2272(INI))), Resolution of the European Parliament of 4 July 2017 on products with a longer lifespan: benefits for consumers and businesses (2016/2272(INI)). Udržitelnost se promítla rovněž do několika různých směrnic (např. Directive 2002/96/EC, on waste electrical and electronic equipment (Directive 2002/96/EC, on waste electrical and electronic equipment, resp. Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment; Directive 2005/29/EC on unfair commercial practices; Directive 2006/66/EC on batteries and accumulators; Directive 2008/98/EC on waste; and Directive 2009/125/EC on establishing a framework for the setting of eco-design, etc.).

9 Communication from the Commission of 11.12.2019, The European Green Deal. COM(2019) 640 final. [online]. Available at: <<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52019DC0640>>. Accessed: 21.12.2024.

Economy Action Plan For a cleaner and more competitive Europe (2020)<sup>10</sup>, which set out to support the European Union's transition to a more sustainable, climate-neutral and resource-efficient and competitive economy. The circular economy is a collection of strategies — such as reducing, reusing, and recycling, renting rather than owning things — that together are meant to reshape the global economy, decoupling of material consumption from environmental impacts by keeping materials inside the loop to eliminate waste.<sup>11</sup> The Plan focuses on the entire life cycle of products, with an emphasis on sustainable design, promoting circular business models and empowering consumers. Key initiatives include extending the eco-design framework to a wider range of products, ensuring they last longer and are easier to repair and recycle. It also promotes the use of recycled materials and waste reduction, particularly in resource-intensive sectors such as electronics, batteries, packaging, plastics, textiles, construction and food. For consumers, the Action Plan focused on regulation for better quality and more sustainable products, better information and protection against unfair practices misleading about sustainability. It also supported the introduction of measures to promote the reparability and re-use of products to enable consumers to extend the life of purchased products, thereby reducing costs and the environmental footprint.

The Green Deal for Europe and A new Circular Economy Action Plan For a cleaner and more competitive Europe were subsequently complemented by the New Consumer Agenda Strengthening consumer resilience for sustainable recovery<sup>12</sup>, which focused in particular on green and digital transformation in the context of sustainability. Key activities of this initiative include strengthening consumer access to information on the environmental performance of products (in particular durability, reparability or upgradability), as well as the reliability and comparability of such information, both in the context of general product information requirements and the obligation to provide specific information for certain selected products<sup>13</sup>. The aim was also to protect consumers from false or misleading information that may give consumers the inaccurate impression that a product, service or business is more environmentally friendly (so-called

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10 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. A new Circular Economy Action Plan For a cleaner and more competitive Europe. COM/2020/98 final. [online]. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1583933814386&uri=COM:2020:98:FIN>. Accessed: 21.12.2024.

11 MOESLINGER Margot, ALMASY Kristof, JAMARD Marion, DE MAUPEOU Hugues. *Towards an Effective Right to Repair for Electronics*. Publications Office of the European Union, Luxembourg, 2022, pp. 3.

12 Communication from the Commission to the European Parliament and the Council. New Consumer Agenda Strengthening consumer resilience for sustainable recovery. COM/2020/696 final. [online]. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0696>. Accessed: 21.12.2024.

13 PIHLAJARINNE, Taina. *European Steps to the Right to Repair: Towards a Comprehensive Approach to a Sustainable Lifespan of Products and Materials?* University of Oslo Faculty of Law, 2020, Research Paper No. 2020-32. [online]. Available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3708221](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3708221). Accessed: 21.12.2024.

“greenwashing”). Similarly, in the context of the digital transformation, the initiative aimed to strengthen the fight against practices that do not respect consumers’ right to informed choice, exploit their behavioural biases or distort their decision-making processes (e.g. the use of “dark” designs, personalisation often based on profiling, hidden advertising, the use of fraudulent, false or misleading information and manipulated “consumer” reviews either paid for by businesses or written by businesses themselves).

Among the specific outcomes set out in the above-mentioned documents, which were gradually developed and adopted in the following years, are in particular Regulation 2024/1781 establishing a framework for the setting of ecodesign requirements for sustainable products<sup>14</sup>, Directive 2024/825 as regards empowering consumers for the green transition through better protection against unfair practices and through better information<sup>15</sup> or Directive 2024/1799 on common rules promoting the repair of goods<sup>16</sup>. It is evident from an analysis of the documentation that the mentioned legislation signifies a substantial progression in the reinforcement of consumers’ rights, thereby empowering them to confront environmental challenges and contribute to the construction of a more sustainable future.

### **3 Right to repair**

The right to repair is embedded in a broader framework of consumer rights linked to the concept of sustainability under the so-called ecodesign legislation<sup>17</sup>. Although eco-design legislation may not only influence conformity standards, it may also contain information obligations as to repair and reparability of goods

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14 Regulation (EU) 2024/1781 of the European Parliament and of the Council of 13 June 2024 establishing a framework for the setting of ecodesign requirements for sustainable products, amending Directive (EU) 2020/1828 and Regulation (EU) 2023/1542 and repealing Directive 2009/125/EC.

15 Directive (EU) 2024/825 of the European Parliament and of the Council of 28 February 2024 amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and through better information.

16 Directive (EU) 2024/1799 of the European Parliament and of the Council of 13 June 2024 on common rules promoting the repair of goods and amending Regulation (EU) 2017/2394 and Directives (EU) 2019/771 and (EU) 2020/1828.

17 Regulation 2024/1781 of the European Parliament and of the Council of 13 June 2024 establishing a framework for the setting of ecodesign requirements for sustainable products, amending Directive (EU) 2020/1828 and Regulation (EU) 2023/1542 and repealing Directive 2009/125/EC.; Directive (EU) 2018/2002 of the European Parliament and of the Council of 11 December 2018 amending Directive 2012/27/EU on energy efficiency.; Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles.; Directive 2005/64/EC of the European Parliament and of the Council of 26 October 2005 on the type-approval of motor vehicles with regard to their reusability, recyclability and recoverability and amending Council Directive 70/156/EEC.; Directive (EU) 2024/1275 of the European Parliament and of the Council of 24 April 2024 on the energy performance of buildings.; Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives.; and many others.

and obligations to provide spare parts for a period far exceeding the conformity period. This clearly contributes to European law's aim of stimulating repair<sup>18</sup>. According to Regulation 2024/1781 establishing a framework for the setting of ecodesign requirements for sustainable products, which aims to set ecodesign requirements for products to improve the environmental sustainability of products so that sustainable products become the norm and to reduce the overall carbon and environmental footprint of products over their life cycle, repair is one or more activities carried out to return a defective product or waste to a state in which it is fit for its intended purpose.

The aim of the right to repair is to empower consumers by ensuring that they can repair and maintain the products they own without having to rely solely on manufacturers or their authorised repair networks or having to buy new goods every single time. This concept links the key issues of consumer autonomy, competition and environmental sustainability and challenges the increasingly common practices in product sales and commercial schemes that favour planned obsolescence<sup>19</sup>, limited access to spare parts and over-reliance on manufacturer-prescribed repairs.<sup>20</sup> Product repairability may also lead to new opportunities for artisans and small businesses, i.e. segments that have suffered over the last decades<sup>21</sup>.

The right to have a defective item repaired can be activated at different stages of the purchase or use of the item. When taking possession of the item at the time of purchase under Directive 2019/771, the seller is liable to the buying consumer that the product meets the subjective and objective requirements for conformity. Under the subjective requirements (Article 6), the goods must comply with

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18 LOOS, Marco. *Repairing Consumer Sales Law*. Amsterdam Law School, 2024, Research Paper No. 2024-38, Amsterdam Centre for Transformative Private Law Working Paper No. 2024-03. [online]. Available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4983658](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4983658). Accessed: 21.12.2024.

19 Obsolescence is related to the artificial interruption of the life cycle of a product, either in objective terms (limiting its capabilities), falling short of existing technological means, or subjective (in the perception of the consumer). See ATAÍDE, Rui, BARROSO RODRIGUES, António. Consumer Protection in the European Union Regarding Planned Obsolescence and the Right to Repair. Centro de Investigação de Direito Privado (CIDP), 2023, Research Paper No. 01/2023, Originally published in "Consumer Protection in the European Union: Challenges and Opportunities (coord. Cayetana Santaolalla Montoya), European Commission, 2023.; MAITRE-EKERN, Eléonore, DALHAMMAR, Carl. Regulating Planned Obsolescence: A Review of Legal Approaches to Increase Product Durability and Reparability in Europe. *Review of European, Comparative and International Environmental Law*, 2016, vol. 25. no. 3, pp. 387–394.

20 Manufacturers enjoy a de facto dominant position in their products' repair markets and some have been accused of restricting access to spare parts or limiting them to authorized re-sellers only. See MOESLINGER Margot, ALMASY Kristof, JAMARD Marion, DE MAUPEOU Hugues. *Towards an Effective Right to Repair for Electronics*. Publications Office of the European Union, Luxembourg, 2022, pp. 15.

21 SALERNO, Francesco. The challenges of the "right to repair" in the eu legal framework. In AMATUCCI, Carlo. (Ed.) *New legal reality: challenges and perspectives*. Collection of research papers in conjunction with the 8th International Scientific Conference of the Faculty of Law of the University of Latvia. University of Latvia Press, 2021, pp. 104–114.



the characteristics of the thing agreed between the seller and the buyer in the purchase contract (including its functionality, compatibility, interoperability), be fit for the purpose for which the consumer requires them, be delivered with all accessories and instructions, and be delivered with updates to prevent premature obsolescence<sup>22</sup>. The objective requirements (Article 7) then refer to the more general characteristics of the thing (the thing must be suitable for the purposes for which goods of the same kind would normally be used, correspond to the sample or model available to the consumer before the conclusion of the contract, be supplied with the accessories that the consumer can reasonably expect, and be of a quantity and quality with respect to durability, functionality, compatibility and safety that are usual for goods of the same kind).

The seller is liable for the above requirements not only at the time of the conclusion of the contract but also at the subsequent stage of the contractual relationship, as the seller is liable to the consumer for any non-compliance that exists not only at the time of delivery but also for any non-compliance that becomes apparent within two years of delivery (Article 10 of Directive 2019/771). In this case, the consumer is entitled to have the goods brought into conformity, or to have the price reduced proportionately, or to have the contract terminated on terms (unless the non-conformity is only minor). Under Article 13, the consumer may choose between repair and replacement of the goods unless the chosen remedy is impossible or would cause the seller to incur costs that would be disproportionate compared to the other remedy. After this period, the seller may be obliged to bring the goods into conformity with the contract of sale if they have given the consumer a commercial guarantee (Article 17).

However, the repair may be important to the consumer even after the seller's obligation to bring the defective goods into conformity with the contract has ended. In these cases, the consumer may have a legitimate interest in being able to repair the defective item himself or through a third party (i.e. outside the seller, who is no longer liable for the defective performance). However, at this stage, there may be obstacles from the original manufacturer who, for various reasons (mainly economic, but also safety or protection of intellectual property, etc.), has no interest in the consumer repairing the defective item and prefers to force him to buy a new item.

The essence of the right to repair at this stage is therefore primarily to ensure that consumers and independent repairers have access to the necessary tools, information and spare parts needed to repair products<sup>23</sup>. This includes detailed repair manuals, diagnostic tools and software updates, which are often withheld

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22 Regular claims of 'planned obsolescence' accuse companies of intentionally shortening product life through software updates and design strategies to force consumers into buying new products. See MOESLINGER Margot, ALMASY Kristof, JAMARD Marion, DE MAUPEOU Hugues. *Towards an Effective Right to Repair for Electronics*. Publications Office of the European Union, Luxembourg, 2022, pp. 15.

23 See the Regulation 2024/1781 of the European Parliament and of the Council of 13 June 2024 establishing a framework for the setting of ecodesign requirements for sustainable products,



by manufacturers citing intellectual property rights protection or concerns about the safety of the products and consumers themselves. By requiring access to these resources, the right to repair seeks to create a fairer marketplace in which consumers are not forced to rely on costly repair solutions or prematurely replace products that they would still be able to use once repaired.

Thus, one of the key components of the right to repair is the availability of spare parts. Manufacturers often restrict the supply of essential parts or sell them at prices that make repairs uneconomic. For example, in consumer electronics, spare parts for products such as smartphones and laptops are often limited to authorised repair networks, thereby monopolising the repair process. This practice not only increases costs for consumers but also limits the ability of independent repair companies to compete.

Equally important is access to repair information. Many of today's products depend on complex software systems, making it impossible to perform even basic repairs without access to diagnostic codes, software updates or relevant tools. Right to Repair seeks to remove these barriers by requiring manufacturers to share this information transparently<sup>24</sup>.

The right to repair also directly addresses the problem of planned obsolescence, which is the practice of deliberately designing products with a limited lifespan or complicated repair options for economic advantages of the producer<sup>25</sup>. This strategy forces consumers to replace products more frequently<sup>26</sup>, thereby increasing profits for manufacturers, but also contributing to e-waste and environmental degradation. Legislative measures to promote the right to repair often include requirements that products be designed to facilitate repairs, for example through modular designs that allow the replacement of individual components. The objective and programmed obsolescence can occur in two distinct forms. First, manufacturers may directly interfere with the objective qualities of a product, anticipating the entropy cycle, where products are intentionally designed to degrade faster (they use fragile materials, reduce tolerances in wear zones, design products as consumables that cannot be reused or create artificial obstacles to a product's performance). The second form of interference is indirect and involves limiting the consumer's right to repair the product by restricting access to essential repair tools, parts, or information – manufacturers effectively make it difficult or

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amending Directive (EU) 2020/1828 and Regulation (EU) 2023/1542 and repealing Directive 2009/125/EC.

- 24 LÓPEZ-BERMÚDEZ, Francisco, VENCE, Xavier. A critical assessment of the European Directive proposal on the common rules promoting the repair of goods. *Resources, Conservation and Recycling*, 2015, vol. 212. [online]. Available at: <https://www.sciencedirect.com/science/article/pii/S0921344924005871>. Accessed: 21.11.2024.
- 25 IIZUKA, Toshiaki. An empirical Analysis of Planned Obsolescence. *Journal of Economics & Management Strategy*, 2007, vol. 16, no. 1, pp. 191–226.
- 26 MAGGIOLINO, Mariateresa. Planned Obsolescence: A Strategy in Search of Legal Rules. *IIC – International Review of Intellectual Property and Competition Law*, 2019, Vol. 50, pp. 405.

impossible for consumers or independent repairers to maintain the product.<sup>27</sup> A distinctive aspect of modern times is the ability to facilitate a new form of interference towards obsolescence: direct manipulation of a product's qualities after ownership has been transferred and often after the traditional warranty period has ended.<sup>28</sup> Planned obsolescence, on one side, can stimulate increased investments in research and development, driving innovation and providing consumers with access to new advancements. It may also contribute to sustained economic growth over the long term. However, on the other side, it can exacerbate consumer debt, heighten dissatisfaction with low-quality, short-lived products, and lead to greater waste of natural resources.<sup>29</sup>

Although the right to repair brings clear benefits for consumers and the environment, its introduction faces considerable resistance from manufacturers. They often argue that allowing independent repairs could compromise product safety, lead to infringement of intellectual property rights, or lead to poor quality repairs that damage brand reputation. Product warranties are also often formulated to discourage repairs outside authorised networks, and are often voided when repairs are carried out by third parties. In addition, the use of specific screws, seals, adhesives and integrated designs further complicates the repair process and creates unnecessary technical barriers.

## 4 Is the “Right to Repair Directive” Sustainable Enough?

### 4.1 Right to Repair Directive

Directive 2024/1799 on common rules promoting the repair of goods (so called “Right to Repair Directive” or simply “R2R Directive”)<sup>30</sup> is intended to be a major legislative instrument aimed at promoting repair services and extending the life of consumer goods. It was adopted in the context of the European Union's efforts to move towards a sustainable economy and to meet the objectives of the Green Deal for Europe, in particular with regard to reducing waste production and

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27 ATAÍDE, Rui, BARROSO RODRIGUES, António. *Consumer Protection in the European Union Regarding Planned Obsolescence and the Right to Repair*. Centro de Investigação de Direito Privado (CIDP), 2023, Research Paper No. 01/2023, Originally published in „Consumer Protection in the European Union: Challenges and Opportunities (coord. Cayetana Santaolalla Montoya), European Commission, 2023, pp. 5.

28 HODGES, Ann, TAYLOR, Porcher. The Business fallout from the rapid obsolescence and planned obsolescence of high-tech products: downsizing of noncompetition agreements. *Columbia Science and Technology Law Review*, 2005, vol. VI, no. 3, pp. 1–32. [online]. Available at: <https://scholarship.richmond.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1230&context=law-faculty-publications>. Accessed: 21.12.2024.

29 MAYCROFT, Neil. *Consumption, Planned Obsolescence and Waste*. University of Lincoln Working Paper, 2009. [online]. Available at: [https://www.academia.edu/429782/Consumption\\_Planned\\_Obsolescence\\_and\\_Waste](https://www.academia.edu/429782/Consumption_Planned_Obsolescence_and_Waste). Accessed: 21.12.2024.

30 Directive (EU) 2024/1799 of the European Parliament and of the Council of 13 June 2024 on common rules promoting the repair of goods and amending Regulation (EU) 2017/2394 and Directives (EU) 2019/771 and (EU) 2020/1828.

maximising the use of resources in the context of the circular economy. The Directive is an introduction to addressing the problems that the current practice of repairing goods poses for consumers, service providers and the environment itself. Strengthening the right to repair should reduce the amount of waste caused by discarded goods, reduce the demand for resources and the amount of energy needed not only to produce but also to sell and deliver new goods to replace defective goods, leading, among other things, to a reduction in the amount of waste generated by the goods. The R2R Directive thus complements other key legal standards aimed at enhancing sustainability, in particular Regulation 2024/1781, which regulates the requirements of 'eco-design', i.e. requirements for more sustainable product design already at the production stage. Further regulation is provided for in Directive 2024/825, which regulates the fight against unfair commercial practices that mislead consumers and prevent them from making sustainable consumption choices, such as practices linked to premature obsolescence of goods, misleading environmental claims ("greenwashing"), misleading information about the social attributes of products or businesses of traders, or non-transparent and non-credible sustainability labelling. The R2R complements this regulation by encouraging repair and reuse at the after-sales stage outside the scope of seller responsibility and amends Directive 2019/771 to further encourage repair within the scope of seller responsibility.

The Directive focuses on several key areas. One of them is the creation of a uniform framework for the repair of goods that fall under the seller's liability under Directive (EU) 2019/771 on certain aspects of contracts for the sale of goods. These rules apply to situations where goods are defective and the seller is obliged to arrange for their repair or replacement. However, R2R Directive goes further and regulates repairs outside the scope of this legal responsibility, for example after the expiry of the warranty period, thereby attempting to ensure that consumers have access to more affordable and transparent repairs in a broader context.

Another key area of regulation is the introduction of legal obligations that promote consumer awareness of repair options. The Directive requires manufacturers, sellers and repair service providers to provide clear and understandable information on the availability of repair services, including repair costs, availability of spare parts and the expected lifetime of the goods. These measures aim to address the lack of information that often discourages consumers from availing themselves of repairs and leads them to prefer to buy new goods.

The Directive also attempts to provide a framework for creating conditions to support the repair sector. These include measures to promote cross-border cooperation between repair service providers, the removal of administrative barriers and the harmonisation of standards to facilitate the functioning of the internal market. Emphasis is placed on supporting small and medium-sized enterprises, which make up the bulk of the repair sector and often face problems linked to a lack of legal certainty or high costs. The Directive attempts to contribute to the strategic objectives of the European Union, including reducing

the ecological footprint of the economy, promoting a circular economy and protecting consumer rights.

While its adoption signals a paradigm shift in the way the EU approaches sustainability and highlights the importance of extending the life cycle of products as a key factor in building a sustainable economy, there are several problematic aspects which cause that the intended purpose of this directive – to strengthen and prioritise the repair of defective goods over their replacement – will not have such an effect in practice.

#### **4.2 Problematic aspects of the Right to Repair Directive – A Missed Opportunity?**

The Right to Repair Directive, although a significant step towards a more sustainable circular economy, faces many legal and practical challenges that limit its effectiveness and the achievement of its stated objectives. These problems can be divided into several interrelated areas, which include legislative constraints, technical and economic barriers, the impact of intellectual property rights and the lack of support for cultural change in individual Member States.

##### *4.2.1 Lack of prioritisation of repairs and limited scope of the Directive*

R2R Directive amends Directive 2019/771 by adding the reparability criterion as one of the important objective requirements for compliance. In other words, if the goods are not in conformity with the requirement of reparability, they will be defective. Whether or not the consumer may expect that the goods can be repaired, will depend of course on the nature of the goods.<sup>31</sup> However, this does not explicitly answer the question whether for example the consumer may expect spare parts to be available<sup>32</sup>.

Still, one of the main problems with R2R Directive is that it did not clearly state in Directive 2019/771 the preference for repair as the primary remedy for defective performance. Thus, consumers still have a formal right to make a primary choice between repair and replacement, but there are no specific rules giving priority to repair. In addition, Directive 2019/771 continues to allow sellers to refuse to repair if repair would not be possible or if repair would cause disproportionate costs for the seller taking into account all the circumstances (including criteria such as the value the goods would have if they were in conformity or the severity of the non-conformity). This legislative shortcoming could lead to a preference

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31 LOOS, Marco. *Repairing Consumer Sales Law*. Amsterdam Law School, 2024, Research Paper No. 2024-38, Amsterdam Centre for Transformative Private Law Working Paper No. 2024-03. [online]. Available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4983658](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4983658) . Accessed: 21.12.2024.

32 JOKANOVIĆ, Ivan. Lack of conformity of goods with the contract and sustainability issue – Directive (EU) 2019/771. *Central European Academy Law Review*, 2023, vol. 1, no.1, pp. 88.

for choosing replacement over repair<sup>33</sup>, which undermines the sustainability objectives. At least the legislator tries to compensate for this with some advantages, in particular by extending the seller's liability for compliance by twelve months and the possibility (not the obligation) for the seller to lend the consumer free of charge other goods, including refurbished goods, during the repair period. The seller may also (but only at the express request of the consumer) provide the consumer with refurbished goods to fulfil their obligation to replace the goods in the event of defective performance<sup>34</sup>. In order to increase the likelihood that the consumer will request repair before replacement with new goods, there is a new obligation on the seller to inform the consumer of the consumer's right to choose between repair and replacement, as well as the possibility of extending the liability period if the consumer chooses repair.

However, the scope of the Directive is limited because the obligation for manufacturers to repair only applies to specific products listed in the Annex to the Directive. While some products that contribute significantly to environmental impact have been added in the legislative process, this is still a limited list of products covered by the rules. On the other hand, the European Commission has indicated that the list can be extended in the future if needed and if the regulation proves to be successful. The Directive also depends on support from other legal instruments, such as ecodesign regulation<sup>35</sup>, which may significantly limit its effectiveness.

#### 4.2.2 Cultural and behavioural barriers

As the preceding chapter shows, R2R Directive is insufficiently ambitious in its adaptation of Directive 2019/771. It still leaves it to the consumer's choice whether, in the event of a defective performance, to demand a new item that is likely to have a longer lifetime<sup>36</sup>, or to choose to have the item repaired and perhaps risk the item breaking down again. The Directive therefore fails to take into account the consumers' cultural and behavioural factors, which often lead to a preference

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33 STOPPE, Pia. Vorschlag für eine Änderung der Richtlinie 771/2019 – Änderung des Wahlrechts zwischen Nachlieferung und Nachbesserung aus der Sicht der Umweltverträglichkeit. *Transformacje Prawa Prywatnego*, 2024, no. 2, pp. 93–118.

34 Although the consumer has little reason to ask for a refurbished good instead of a new goods. See LOOS, Marco. *Repairing Consumer Sales Law*. Amsterdam Law School, 2024, Research Paper No. 2024-38, Amsterdam Centre for Transformative Private Law Working Paper No. 2024-03. [online]. Available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4983658](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4983658). Accessed: 21.12.2024.

35 PUENTES COCIÑA, Beltrán. The New Ecodesign Regulations: Towards More Circular Products? *Revista Galega De Economía*. 2024, vol. 33, no. 2, pp. 1–23.

36 Commission staff working document impact assessment report. Accompanying the document 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, Directives (EU) 2019/771 and (EU) 2020/1828, 2023, SWD(2023) 59 final, pp. 15.

for buying new products rather than repairs<sup>37</sup>. Although some research suggests that consumers would prefer to repair a product rather than replace it, it is worth looking at the way the question is asked in these studies, because it does not give an indication as to how often consumers make an effort to get broken appliances repaired before buying new ones, or with regard to what goods.<sup>38</sup> Consumer behaviour is often based on a lack of awareness of repair options<sup>39</sup> (which is counterbalanced by the seller's increased information obligation about repair options), high levels of consumerism<sup>40</sup> and low emotional attachment to products<sup>41</sup>, or practical preferences such as speed and convenience<sup>42</sup> of buying new goods<sup>43</sup>. These consumption patterns are known as subjective or psychological obsolescence<sup>44</sup>.

The fundamental problem is that consumers take into account not only the cost but also the reliability of the repaired product and concerns about its future functionality when deciding whether to repair or replace goods. R2R Directive does not address the issue of consumer trust in the quality of repairs. If a consumer chooses repair, they may be discouraged by the possibility that the product will soon be defective again, increasing their costs and frustration. Conversely, opting for a replacement with a new product, which is often perceived as more reliable and longer lasting, gives a safer and more rational impression<sup>45</sup>. In doing so, the Directive indirectly encourages consumer behaviour that is contrary to the objectives of sustainability and the circular economy.

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- 37 MOESLINGER Margot, ALMASY Kristof, JAMARD Marion, DE MAUPEOU Hugues. *Towards an Effective Right to Repair for Electronics*. Publications Office of the European Union, Luxembourg, 2022, pp. 23.
  - 38 LOOS, Marco. *Repairing Consumer Sales Law*. Amsterdam Law School, 2024, Research Paper No. 2024-38, Amsterdam Centre for Transformative Private Law Working Paper No. 2024-03. [online]. Available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4983658](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4983658). Accessed: 21.12.2024.
  - 39 See HERNANDEZ, Ricardo, MIRANDA, Constanza, GOÑI, Julian. Empowering sustainable consumption by giving back to consumers the 'right to repair'. *Sustainability*, 2020, vol. 12, no. 3. [online]. Available at: <https://www.mdpi.com/2071-1050/12/3/850>. Accessed: 15.10.2024.
  - 40 See MCCOLLOUGH, John. Consumer Discount Rates and the Decision to Repair or Replace a Durable Product: A Sustainable Consumption Issue. *Journal of Economic Issues*, 2010, vol. 44, no. 1, pp. 183–204.
  - 41 CHAPMAN, Jonathan. *Emotionally durable design: Objects, experiences and empathy*. Routledge, 2015.
  - 42 WIESER, Harald, TRÖGER, Nina. Exploring the inner loops of the circular economy: Replacement, repair, and reuse of mobile phones in Austria. *Journal of Cleaner Production*, 2018, no. 172, pp. 3042–3055.
  - 43 These consumption patterns are sometimes called subjective or psychological obsolescence.
  - 44 ATAÍDE, Rui, BARROSO RODRIGUES, António. *Consumer Protection in the European Union Regarding Planned Obsolescence and the Right to Repair*. Centro de Investigação de Direito Privado (CIDP), 2023, Research Paper No. 01/2023, Originally published in „Consumer Protection in the European Union: Challenges and Opportunities (coord. Cayetana Santaolalla Montoya), European Commission, 2023.
  - 45 KRYLA-CUDNA, Katarzyna. Sales Contracts and the Circular Economy. *European Review of Private Law*, 2020, vol. 28, no. 6, pp. 1211–1212.

Another neglected aspect is the issue of cultural and behavioural patterns<sup>46</sup>. There is a strong tendency in modern consumer societies to favour new goods as a symbol of quality, prestige and technological progress. This preference is supported by the marketing strategies of manufacturers, who emphasise the advantages of new products and minimise the importance of repair as an attractive solution. While R2R Directive puts forward some information measures to help change these cultural patterns (it includes an obligation for Member States to ensure that information on consumer rights is available to consumers and introduces a European online repair platform to make it easier for consumers to find a repairer in particular), it also obliges Member States to take only one measure to promote repairs, whether financial or non-financial. Recital 36 gives examples of such measures – non-financial measures can be information campaigns, support for community-led repair initiatives (repair cafés<sup>47</sup>); financial measures can take the form of e.g. repair vouchers, repair funds, support or creation of local or regional online repair platforms, organisation or funding of training programmes for specific repair skills<sup>48</sup> and tax measures, setting a reduced rate of value added tax for the provision of repair services relating to selected products.

In practice, R2R Directive thus only regulates the conditions for a real change in consumer behaviour towards repair in a limited way. While it declares the promotion of repairs as a means to extend the life cycle of products, its implementation remains weakened by the absence of specific rules and measures to give repairs a clear preference over replacement. To be truly effective, the Directive must take account of the use instruments that increase confidence in the reliability of repairs and the economic attractiveness of this solution.

#### 4.2.3 Technical and economic aspects of repairs

R2R Directive applies to the repair of goods purchased by a consumer in the event of a defect in the goods which occurs outside the scope of the seller's liability under Directive 2019/771 and, conversely, imposes an obligation on the manufacturer<sup>49</sup> to repair the goods listed in Annex II of the Directive at the request of the consumer. On one hand, the manufacturer is not obliged to repair such

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46 TERZIOĞLU, Nazli. Repair motivation and barriers model: Investigating user perspectives related to product repair towards a circular economy. *Journal of Cleaner Production*, 2021, vol. 289. [online]. Available at: <https://www.sciencedirect.com/science/article/pii/S0959652620356900>. Accessed: 15.10.2024.

47 LLORENTE-GONZALEZ, Leandro Javier, VENCE, Xavier. How labour-intensive is the circular economy? A policy-orientated structural analysis of the repair, reuse and recycling activities in the European Union. *Resources, Conservation and Recycling*, 2020, vol. 162. [online]. Available at: <https://www.sciencedirect.com/science/article/pii/S0921344920303505>. Accessed: 1.10.2024.

48 See LECHNER, Gernot, WAGNER, Marcel Josef, TENA, Anna Diaz, FLECK, Christopher. REIMANN, Marc. Exploring a regional repair network with a public funding scheme for customer repairs: The 'GRAZ repariert'-case. *Journal of Cleaner Production*, 2021, vol. 288, no. 3.

49 If the manufacturer who is obliged to carry out the repair is located outside the EU, the manufacturer's authorised representative is obliged to do so. If the manufacturer does not have an authorised representative, the importer of the goods concerned shall fulfil the obligation of



goods if repair is not factually or legally possible (in such cases, however, the manufacturer may offer the consumer refurbished goods). On the other hand, the manufacturer cannot refuse the repair solely on economic grounds (e.g. higher costs for spare parts) or because the previous repair was carried out by another “unauthorised” repairer or by the consumer himself<sup>50</sup>. The repair must be carried out either free of charge or at a reasonable price<sup>51</sup>, within a reasonable time and, for the duration of the repair, the manufacturer may (but is not obliged to) lend the consumer replacement goods free of charge or for a reasonable fee.

One of the key issues for repairs can be the limited availability of spare parts, its price and technical information. Manufacturers can control access to these resources, limiting the options for independent repairers and consumers. The obstacles can be caused by the technical constraints such as security or performance, or to deliberate choices by the manufacturer to increase sales (premature and planned obsolescence). Miniaturisation, the choice of materials and components, the fastening methods, as well as the lack of compatibility or modularity in a device affect its fragility, prevent or complicate the disassembly and replacement of parts, and thereby determine the ease with which they can be repaired and upgraded.<sup>52</sup>

Therefore, R2R Directive establishes an obligation, following the obligations laid down in Regulation 2024/1781 and Directive 2009/125/EC, to provide access to spare parts, repair and maintenance information or any software tools, firmware or similar repair-related aids, and to offer these spare parts and tools at a reasonable price that would not discourage consumers from choosing repair over the supply of new goods. The reasonable price criterion introduced by R2R Directive for the supply of spare parts and tools is a crucial mechanism for promoting repairs and extending the lifetime of products. Nevertheless, this rule faces several challenges which may significantly affect its practical application and the achievement of the stated objectives of the Directive. One of the key challenges is the lack of a clear definition of a reasonable price. The Directive does not specify the specific parameters against which price should be judged, which may lead to different interpretations between Member States and between different actors such as manufacturers, consumers and repairers. This legal ambiguity may give

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the manufacturer and, if there is no such representative, the distributor of the goods concerned shall fulfil the obligation of the manufacturer.

50 If a trader claims that a repair carried out by an unqualified (unauthorised) repairer or by the consumer himself creates safety risks, he would be committing consumer deception as an unfair commercial practice under Directive 2005/29/EC.

51 There must be competitive repair, implying that the total price of repair and other competitive factors do not deter consumers from choosing repair as an economic and convenient option. See MOESLINGER Margot, ALMASY Kristof, JAMARD Marion, DE MAUPEOU Hugues. *Towards an Effective Right to Repair for Electronics*. Publications Office of the European Union, Luxembourg, 2022, pp. 16.

52 MOESLINGER Margot, ALMASY Kristof, JAMARD Marion, DE MAUPEOU Hugues. *Towards an Effective Right to Repair for Electronics*. Publications Office of the European Union, Luxembourg, 2022, pp. 23.

rise to disputes. For example, consumers may argue that the prices of parts are unreasonably high, while manufacturers may argue that their pricing is objectively justified in terms of production or distribution costs. Another important issue is the unevenness of economic conditions across EU Member States. What is considered a fair price can vary substantially depending on the income level in a given country. In lower income countries, prices that are considered reasonable in more economically powerful countries may be perceived as too high and unaffordable for most consumers. This disparity may lead to inequalities in access to repairs across the Union, which is contrary to the Directive's objective of creating a single and fair repair market. The reasonable price criterion also opens the door to its potential abuse by manufacturers. Manufacturers may set the price of spare parts at the limit of reasonableness in order to formally comply with the requirements of the Directive, but de facto repairs would remain economically unattractive compared to the purchase of new goods. This approach would undermine the key objective of the Directive, which is to promote repair and reduce environmental burdens.

#### 4.2.4 *Impact of intellectual property rights*

Intellectual property rights, such as patents and trademarks, are another important obstacle to the right to rectification. As soon as the enactment of right to repair laws was considered, manufacturers began lobbying legislators to stop the enactment of these repair laws based on various concerns, including how these laws might interfere with their intellectual property rights.<sup>53</sup> As a result, the legislation in R2R Directive on repair and modification of goods often prioritises the interests of intellectual property right holders<sup>54</sup>, limiting the possibilities of using unauthorised parts or making modifications to products.

Under R2R Directive, manufacturers may not use any contractual provisions or hardware or software techniques that prevent the repair of goods. However, there is an exception based on justified legitimate and objective factors, including the protection of intellectual property rights under EU and national law. Similarly, manufacturers may not prevent independent repairers from using original or used spare parts, compatible spare parts and 3D printed spare parts, but only if they comply with EU or national product safety and intellectual property law requirements.

This rule represents an important step towards promoting the right to repair, but its practical application is weakened by a number of exceptions and conditions

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53 GRINVALD, Leah, Chan, TUR-SINAI, Ofer. Intellectual Property Law and the Right to Repair. *Fordham Law Review*, 2019, vol. 88, no. 1, pp. 63–128.

54 AUGENHOFER, Susanne, ATAMER, Yeşim, POLUDNIAK GIERZ, Katarzyna. *European Commission's Proposal for a Directive on Common Rules Promoting the Repair of Goods (COM(2023) 155 final) – Feedback of the European Law Institute*. European Law Institute. 1 July 2023 – 2 July 2023. [online]. Available at: [https://www.europeanlawinstitute.eu/fileadmin/user\\_upload/p\\_eli/Publications/ELI\\_Feedback\\_Right\\_to\\_Repair.pdf](https://www.europeanlawinstitute.eu/fileadmin/user_upload/p_eli/Publications/ELI_Feedback_Right_to_Repair.pdf). Accessed: 21.11.2024.

that may substantially limit its effectiveness. One of the main exceptions is the possibility to justify the limitation of repairs by the protection of intellectual property rights, in particular under Directives 2001/29/EC, 2004/48/EC and (EU) 2019/790. These legislative frameworks, while ensuring the protection of the rights of owners, also constitute a significant barrier to the right of repair<sup>55</sup>.

The intellectual property right exemption allows manufacturers to restrict access to technical information, spare parts or software necessary for repairs. Thus, manufacturers can prevent independent repairers and consumers themselves from carrying out repairs efficiently, for example by preventing access to software keys that are necessary to unlock the device for repair<sup>56</sup> or by restricting the use of non-original spare parts.

Another problematic aspect is the rule that manufacturers may not prevent the use of compatible or 3D printed spare parts, but only on condition that these parts comply with EU or national safety regulations and do not infringe intellectual property rights. This condition creates practical and legal obstacles as compatible and 3D printed parts should be subject of demanding and costly certification processes. This limits the availability of these alternatives on the market. At the same time, legal uncertainty increases, as the assessment of the compliance of parts can lead to frequent disputes between manufacturers and repairers, which discourages independent repairers from using them.

For consumers and independent repairers, these exemptions have serious implications. Limited access to technical information and spare parts leads to repairs remaining more costly and less accessible. This weakens competition in the repair market and consumers often have no choice but to turn to authorised repairers who may charge higher prices. In addition, independent repairers face legal risks if their activities involve the use of parts that manufacturers consider unauthorised. This legal uncertainty may lead to a decline in the number of independent repair providers, further limiting the availability of affordable services for consumers.

Although R2R Directive brings major legislative innovations, its implementation is weakened by exceptions that allow intellectual property rights to override the right to rectification. In order to effectively promote repair, it is necessary to rethink the balance between these interests and to introduce clearer rules defining the limits of the exceptions<sup>57</sup>. Enhancing the availability of

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55 GRINVALD, Leah, Chan, TUR-SINAI, Ofer. The Right to Repair: Perspectives from the United States. *Australian Intellectual Property Journal*, 2020, vol. 98, pp. 98–110.

56 The rise of techenabled products means that much of the information required to diagnose or fix a fault is digital, embedded into the product itself and held being 'digital locks', requiring passwords or special tools to bypass. MOESLINGER Margot, ALMASY Kristof, JAMARD Marion, DE MAUPEOU Hugues. *Towards an Effective Right to Repair for Electronics*. Publications Office of the European Union, Luxembourg, 2022, pp. 16.

57 GRINVALD, Leah, Chan, TUR-SINAI, Ofer. Intellectual Property Law and the Right to Repair. *Fordham Law Review*, 2019, vol. 88, no. 1, pp. 63–128.

compatible and 3D printed parts and creating greater protection for independent repairers may be key steps towards achieving the objectives of this Directive.

#### *4.2.5 Options for extending regulation by Member States*

The Directive is designed as a full harmonisation instrument, which means that Member States are obliged to implement its provisions exactly as they are formulated, without the possibility of introducing stricter or different measures (unless stated otherwise). This approach aims to create a single legal framework across the Union, avoiding legal fragmentation and facilitating the functioning of the internal market.<sup>58</sup> Full harmonisation may thus limit the flexibility of Member States to respond to the specific needs of their markets and consumers. For example, Member States wishing to adopt more ambitious measures to promote repair and sustainability may face legislative obstacles, as some deviation from the Directive could conflict with EU law. This may hinder innovative approaches and slow down progress in areas where some Member States would like to go beyond the minimum requirements set by the Directive. Moreover, full harmonisation may lead to situations where uniform rules are not fully compatible with national legal traditions or socio-economic conditions, which may cause difficulties in implementing and enforcing the Directive at national level.

## **5 Conclusions**

In conclusion, the R2R Directive represents a significant step forward in regulating the right to repair and promoting sustainable consumer behaviour. With this legislative instrument, the European Union is declaring its commitment to extending the life cycle of products, reducing waste and achieving the objectives of the circular economy. In this article we have described the key aspects of the Directive, including the positive introduction of rules to protect repairers, consumers and independent service providers. Nevertheless, the Directive faces major challenges stemming from the exceptions related to the protection of intellectual property rights, the lack of preference for repair as a primary remedy and the absence of economic and cultural incentives to change consumer behaviour.

We have highlighted that the lack of clear rules for prioritising repair over replacement, the legal uncertainty around the use of compatible or 3D printed spare parts and limited access to technical information are major obstacles to achieving the stated objectives of the Directive. Moreover, the Directive does not sufficiently take into account the cultural and behavioural factors that often lead consumers to prefer new products over repairs, which undermines sustainability principles.

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<sup>58</sup> See KNOBLOCHOVÁ, Věra. Plná harmonizace a z ní vyplývající povinnosti pro členský stát. *Jurisprudence*, 2013, no. 1, pp. 28–33.

The European Union is undoubtedly moving in the right direction in regulating the right to repair. The R2R Directive provides a solid basis that can contribute to building a sustainable economy. However, as we have shown in this article, further refinement of the legislation is necessary. Introducing clear incentives for consumers, limiting the abuse of intellectual property rights and supporting independent repairers should be a priority for future legislative changes. Only in this way can the EU achieve its ambitious sustainability goals and truly strengthen the right to repair as a key pillar of the circular economy.

While the Right to Repair Directive is an important legislative step, its effectiveness is undermined by legal, economic and cultural challenges. In order to achieve sustainability objectives, it is necessary to broaden its scope, remove legislative and technical barriers, make resources more accessible and overcome conflicts with intellectual property rights. At the same time, it is important to promote cultural changes that make it easier for consumers to choose repair as an attractive and sustainable solution.

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