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Productgarantie: van vervanging naar herstel (En)

La garantie après-vente : du remplacement vers la réparation (En)

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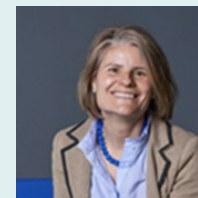
Product warranty

From replacement to repair

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Boosting repair within and outside the legal warranty

- Obligations of manufacturer / seller
- What's new?
 - Ecodesign for Sustainable Products Regulation
 - Right to Repair Directive
- Legal framework consumer goods
 - repair within the legal warranty
 - repair outside the legal warranty
- How to boost repair?



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Obligations of manufacturer / seller

CE marking

= allow access to EU market

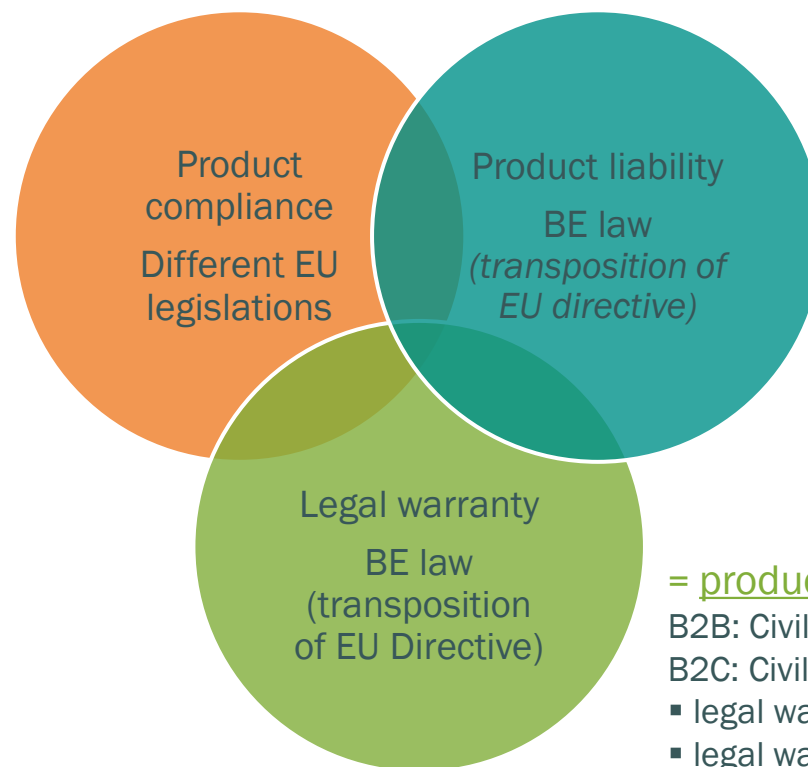
= product conformity with EU legislation:
sector specific EU harmonised legislation
(e.g. safety, ecodesign, EMC, RoHS, ...)

New regulation: Ecodesign for Sustainable
Products Regulation (ESPR) ([2024/1781](#))



*applies not only to new products,
but also to used and second-hand products
imported from a third country when they
first enter the EU market*

General Product Safety Regulation ([2023/988](#))
safety net for products which are not covered by
sector specific legislation



= strict liability of producer for damages caused by unsafe products

BE Law: Book 6 Civil Code

- Damages caused by unsafe products
- Expiry period 10 years
- Based on EU directive liability for defective products

New directive: Product Liability Directive ([2024/2853](#))

- Broadening scope and updated definitions
- Transposition by end 2026, update in Book 6 CC

= product guarantee against hidden defects

B2B: Civil Code art.1641 → contractual

B2C: Civil Code art.1649bis

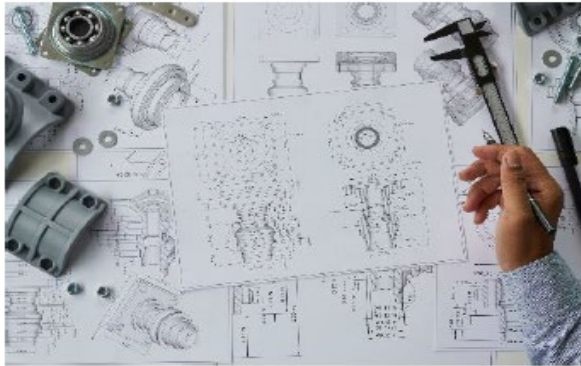
- legal warranty of 2 years
- legal warranty of 1 year for 2nd hand products

New directive: Right to Repair Directive ([2024/1799](#))

Expected end 2025: update Book 7 Civil Code

What's new?

Product design



Designing sustainable,
repairable products

Ecodesign for Sustainable
Products Regulation (ESPR)

Sale



Reliable, relevant information
for consumers

Empowering consumers in
the green transition Directive

Use



Promote demand for repair, avoid
premature disposal

Right to Repair Directive

What's new: Ecodesign for Sustainable Products Regulation

ESPR (2024/1781), framework legislation with 3-year working program

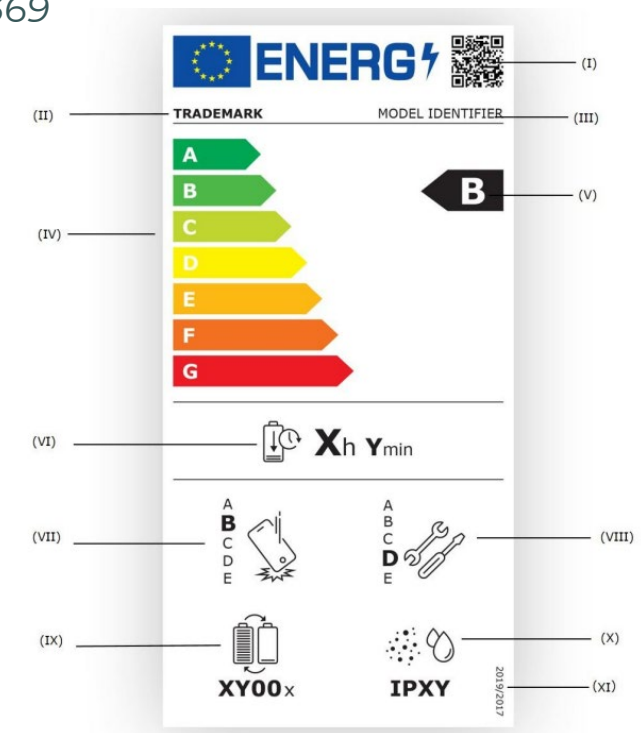
Revision of Ecodesign Directive 2009/125 – linked to Energy labelling Regulation 2017/1369

- **Extended product scope:** beyond energy-related products

- Per product group:

- additional technical requirements

- | | |
|--|---|
| NEW! Durability | • Energy use or energy efficiency |
| NEW! Reliability | NEW! Resource use or resource efficiency |
| NEW! Reusability | NEW! Recycled content |
| NEW! Upgradability | NEW! Possibility of remanufacturing and recycling |
| NEW! Repairability | NEW! Possibility of recovery of materials |
| NEW! Possibility of maintenance and refurbishment | NEW! Environmental impacts, including carbon and environmental footprint |
| • Presence of substances of concern | NEW! Expected generation of waste materials |



- information requirements (Digital Product Passport + extended labeling incl. repairability index, ...)

What's new: Right to Repair Directive

Right to Repair Directive (2024/1799) Adoption: 13/06/2024 - Implementation national law by 31/07/2026

1. Repair requirements

- **within the legal liability period:** defects that fall under the legal warranty of 2 years
 - **outside the legal liability period:** repair for defects not covered by the legal warranty
- Producers required to provide repair services for their goods when **repairability requirements apply under ESPR**

2. Information requirements:

- Information on repair obligation and available repair services: available to consumers in a simple, free, and understandable manner.
- European repair form: a uniform repair form with information on the type of repair, the price, and the repair time.
- European repair platform: European Commission will develop an EU repair platform, where consumers will be able to find repairers, sellers of refurbished goods, buyers of defective goods, etc., within the EU.
- Each member state will have to implement at least one measure to promote repair

3. Voluntary Quality Standard for Repair Services:

The European Commission wants to develop a voluntary European quality standard for repair services

Legal framework consumer goods: repair within the legal warranty

	As is	To be
Time limit legal warranty	2 years, suspended during repair, 2nd hand: 1 year (if agreed, otherwise 2 years)	Extended warranty period by at least 12 months after repair.
Burden of proof	2 years Reversed burden of proof during legal warranty Presumption of anteriority of non conformity, seller needs to proof the contrary, i.e. that the non-conformity arose after sale and is due to consumer (eg. improper use)	
Hierarchy of remedies	Repair or replacement at the choice of the consumer It is up to the seller to agree the follow-up of the legal warranty with the producer, whereby repair can be promoted (repair by producer, selected third parties, ...)	Consumer must be informed about his choice between repair/replacement + about the extension of the warranty in case of repair Seller <i>may</i> provide replacement with (refurbished) good during repair Draft Book 7 Civil Code also allows subsidiary remedies: price reduction or rescision of sale

Legal framework consumer goods: repair outside the legal warranty

	As is	To be
Time limit	- Guarantee for hidden defects, to be notified within a "short" period of time as from the moment the defect ought to be/is discovered - Commercial guarantee by producer or seller, as contractually defined by parties	- Draft book 7 CC: time limit of 10 years - Notification duty within reasonable time - Clearer information towards consumers on legal vs. commercial warranty
Burden of proof	With the consumer	With the consumer
Hierarchy of remedies	Price reduction or contract rescission	Draft book 7 Civil Code provides several remedies as provided in art.5.53 CC including repair, execution in natura besides rescission or price reduction Right to Repair Directive = Obligation to repair for products under ESPR: - Repairs, spare parts and tools at a reasonable price and within a reasonable timeframe. - Manufacturers cannot refuse repair due to a previous repair by other repairers - Independent repairers must be able to use second-hand parts and 3D-printed parts, provided they meet product safety and intellectual property requirements.



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Thank you