

EUROPEAN UNION



Council Regulation (EC) No 6/2002 has established a system of design protection specific to the European Union, while design protection is available at national level in the Member States in accordance with their national design protection laws, harmonised under Directive 98/71/EC of the European Parliament and of the Council.

Following a comprehensive legal and economic evaluation of the protection systems carried out by the European Commission, **the Council invited the Commission to submit various proposals for the revision of Regulation (EC) 6/2002 and Directive 98/71/EC**

with a view to modernising the industrial design protection systems in the European Union. The aim of this revision was to make the necessary protection more attractive for designers and companies, in particular small and medium-sized enterprises.

In addition to updating and improving the EU design system, the aim was also to **harmonise national design laws and practices and bring them into line with the EU design system**. This harmonisation is necessary to create a level playing field for design registration and protection throughout the European Union.

As a result of this work, **the following texts were published in the Official Journal of the European Union on 18 November 2024:**

1) **Regulation (EU) 2024/2822 of the European Parliament and of the Council of 23 October 2024 amending Council Regulation (EC) No 6/2002 on Community designs and repealing Commission Regulation (EC) No 46/2002.** This Regulation will enter into force on 1 May 2025, although the application of a significant number of provisions will be delayed until 1 July 2026.

2) **Directive (EU) 2024/2823 of the European Parliament and of the Council of 23 October 2024 on the legal protection of designs.** The deadline for transposition of this Directive into national law is 9 December 2027.

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Among the **novelties** introduced by both regulations, we can highlight the following:

- a) The term "Community design" is changed to "**EU design**", whether the design is registered or unregistered. In addition, the name "Office for **Harmonisation in the Internal Market**" is replaced by "**European Union Intellectual Property Office**" in the text of the amended Regulation (EC) No 6/2002.
- b) The concept of design is amended to clarify that it consists of "the appearance of the whole or part of a product resulting from the special characteristics of, in particular, the line, configuration, colour, shape, texture or material of the product itself or of its ornamentation", as well as "**the movement, transition or any other form of animation of those characteristics**".
- c) Similarly, the definition of product is broadened to include "**any industrial or handcrafted article, whether incorporated into a physical object or taking a non-physical form, other than a computer program**".
- d) As a result of the above amendments, **the making, downloading, copying and distribution to others of any medium or software that records the design for the purpose of enabling the manufacture of a product is included as an infringing act.**
- e) A new Article 18a is introduced, which provides for the protection of features of an EU design which are not visible in the normal use of the design, **provided that they are visible in the application for registration.**
- f) **New limits to design protection appear as "acts done for the purpose of identifying a product as that of the holder of the design right or for the purpose of referring to such a product" and "acts done for the purpose of comment, criticism or parody".**
- g) The "**repair clause**" is definitively introduced, allowing the liberalisation of the spare parts market.
- h) Registered designs will be identified **by the symbol of the letter D surrounded by a circle:** 