



Council of the  
European Union

162004/EU XXVII. GP  
Eingelangt am 16/11/23

Brussels, 16 November 2023  
(OR. en)

15522/23

---

---

**Interinstitutional File:**  
**2022/0392(COD)**

---

---

PI 179  
COMPET 1125  
MI 991  
IND 603  
IA 307  
CODEC 2162

**NOTE**

---

From:	Presidency
To:	Delegations
No. prev. doc.:	12714/23 + ADD1 + COR1
No. Cion doc.:	15400/22 + ADD1-5
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the legal protection of designs (recast) - Four-column document

---

Delegations will find attached the text of the four-column document for the above-mentioned proposal, containing the initial positions of the institutions.

**Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the legal protection of designs (recast) (Text with EEA relevance)**

**2022/0392(COD)**

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Formula				
1	2022/0392 (COD)	2022/0392 (COD)	2022/0392 (COD)	
Proposal Title				
2				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>Proposal for a</p> <p>DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</p> <p>on the legal protection of designs (recast)</p> <p>(Text with EEA relevance)</p>	<p>Proposal for a</p> <p>DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</p> <p>on the legal protection of designs (recast)</p> <p>(Text with EEA relevance)</p>	<p>Proposal for a</p> <p>DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</p> <p>on the legal protection of designs (recast)</p> <p>(Text with EEA relevance)</p>	
Formula				
3	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Citation 1				
4	Having regard to the Treaty on the functioning of the European Union, and in particular Article 114(1) thereof,	Having regard to the Treaty on the functioning of the European Union, and in particular Article 114(1) thereof,	Having regard to the Treaty on the functioning of the European Union, and in particular Article 114(1) thereof,	
Citation 2				
5	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	
Citation 3				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
6	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	
Citation 4				
7	<p>Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,</p> <p>_____</p> <p>1. OJ C [...], [...], p. [...].</p>	<p>Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,</p> <p>_____</p> <p>1. OJ C [...], [...], p. [...].</p>	<p>Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,</p> <p>_____</p> <p>1. OJ C [...], [...], p. [...].</p>	
Citation 5				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
8	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	
Formula				
9	Whereas:	Whereas:	Whereas:	
Recital 1				
10	(1) A number of amendments are to be made to Directive 98/71/EC of the European Parliament and of the Council <sup>1</sup> . In the interests of	(1) A number of amendments are to be made to Directive 98/71/EC of the	(1) A number of amendments are to be made to Directive 98/71/EC of the European Parliament and of the Council <sup>1</sup> . In the interests of	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>clarity, that Directive should be recast.</p> <p>_____</p> <p>1. Directive 98/71/EC of the European Parliament and of the Council of 13 October 1998 on the legal protection of designs (OJ L 289, 28.10.1998, p. 28).</p>	<p>European Parliament and of the Council<sup>1</sup>. In the interests of clarity, <u>legal certainty,</u></p> <p><u>streamlining and the updating of rules in</u></p> <p><u>relation to market developments brought</u></p> <p><u>about by the developments regarding</u></p> <p><u>information technology and artificial</u></p> <p><u>intelligence,</u> that Directive should be</p> <p>recast.</p> <p>_____</p> <p>1. Directive 98/71/EC of the European</p>	<p>clarity, that Directive should be recast.</p> <p>_____</p> <p>1. Directive 98/71/EC of the European Parliament and of the Council of 13 October 1998 on the legal protection of designs (OJ L 289, 28.10.1998, p. 28).</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		Parliament and of the Council of 13 October 1998 on the legal protection of designs (OJ L 289, 28.10.1998, p. 28).		
Recital 2				
11	(2) Directive 98/71/EC has harmonised key provisions of substantive design law of the Member States which at the time of its adoption were considered as most directly affecting the functioning of the internal market by impeding the free movement of goods and the freedom to provide services in the Union.	(2) Directive 98/71/EC has harmonised key provisions of substantive design law of the Member States which at the time of its adoption were considered as most directly affecting the functioning of the internal market by impeding the free movement of goods and the freedom to provide services in the Union.	(2) Directive 98/71/EC has harmonised key provisions of substantive design law of the Member States which at the time of its adoption were considered as most directly affecting the functioning of the internal market by impeding the free movement of goods and the freedom to provide services in the Union.	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Recital 3				
12	<p>(3) Design protection in national law of the Member States coexists with protection available at Union level through European Union designs ('EU designs') which are unitary in character and valid throughout the Union as laid down in Council Regulation (EC) No 6/2002<sup>1</sup>. The coexistence and balance of design protection systems at national and Union level constitutes a cornerstone of the Union's approach to intellectual property protection.</p> <p>_____</p> <p>1. Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs</p>	<p>(3) Design protection in national law of the Member States coexists with protection available at Union level through European Union designs ('EU designs') which are unitary in character and valid throughout the Union as laid down in Council Regulation (EC) No 6/2002<sup>1</sup>. The coexistence and balance of design protection systems at national and Union level provides an appropriate level of legal certainty and constitutes a</p>	<p>(3) Design protection in national law of the Member States coexists with protection available at Union level through European Union designs ('EU designs') which are unitary in character and valid throughout the Union as laid down in Council Regulation (EC) No 6/2002<sup>1</sup>. The coexistence and balance of design protection systems at national and Union level constitutes a cornerstone of the Union's approach to intellectual property protection.</p> <p>_____</p> <p>1. Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(OJ L 3, 5.1.2002, p. 1).	cornerstone of  the Union's approach to intellectual  property protection.  _____  1. Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs (OJ L 3, 5.1.2002, p. 1).	(OJ L 3, 5.1.2002, p. 1).	
Recital 4				
13	(4) In line with its Better Regulation agenda <sup>1</sup> to review Union policies regularly, the Commission carried out an extensive evaluation of the design	(4) In line with its Better Regulation agenda <sup>1</sup> to review Union policies regularly, the Commission carried out an extensive evaluation of the design	(4) In line with its Better Regulation agenda <sup>1</sup> to review Union policies regularly, the Commission carried out an extensive evaluation of the design	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>protection systems in the Union, involving a comprehensive economic and legal assessment, supported by a series of studies.</p> <p>_____</p> <p>1. Communication from the Commission: Better regulation for better results – An EU agenda, COM(2015) 215 final.</p>	<p>protection systems in the Union, involving a comprehensive economic and legal assessment, supported by a series of studies.</p> <p>_____</p> <p>1. Communication from the Commission: Better regulation for better results – An EU agenda, COM(2015) 215 final.</p>	<p>protection systems in the Union, involving a comprehensive economic and legal assessment, supported by a series of studies.</p> <p>_____</p> <p>1. Communication from the Commission: Better regulation for better results – An EU agenda, COM(2015) 215 final.</p>	
Recital 5				
14	<p>(5) In its conclusions of 11 November 2020 on intellectual property policy and the revision of the industrial design system in the Union<sup>1</sup>, the Council called on the Commission to present proposals</p>	<p>(5) In its conclusions of 11 November 2020 on intellectual property policy and the revision of the industrial design system in the Union<sup>1</sup>, the Council called on the Commission to present proposals</p>	<p>(5) In its conclusions of <del>11</del> <b>10</b> November 2020 on intellectual property policy and the revision of the industrial design system in the Union<sup>1</sup>, the Council called on the Commission to present proposals</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>for the revision of Regulation (EC) No 6/2002 and Directive 98/71/EC.</p> <p>The revision was requested due to the need to modernise the industrial design systems and to make design protection more attractive for individual designers and businesses, especially small and medium-sized enterprises. In particular, that revision was requested to address and consider amendments aiming at supporting and strengthening the complementary relationship between the Union, national and regional design protection systems, and involve further efforts to reduce areas of divergence within the design protection system in the Union.<sup>2</sup></p>	<p>for the revision of Regulation (EC) No 6/2002 and Directive 98/71/EC.</p> <p>The revision was requested due to the need to modernise the industrial design systems, <u>to update them in line with market developments regarding information technology and artificial intelligence</u> and to make design protection more attractive for individual designers and businesses, especially small and medium-sized enterprises. In particular, that revision was requested to address and consider amendments aiming at supporting and strengthening the complementary relationship between the Union, national and regional design protection systems, and involve further efforts to</p>	<p>for the revision of Regulation (EC) No 6/2002 and Directive 98/71/EC.</p> <p>The revision was requested due to the need to modernise the industrial design systems and to make design protection more attractive for individual designers and businesses, especially small and medium-sized enterprises. In particular, that revision was requested to address and consider amendments aiming at supporting and strengthening the complementary relationship between the Union, national and regional design protection systems, and involve further efforts to reduce areas of divergence within the design protection system in the Union.<sup>2</sup></p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>_____</p> <p>1. Council conclusions on intellectual property policy and the revision of the industrial designs system in the Union 2020/C 379 I/01 (OJ C 379I, 10.11.2020, p. 1).</p> <p>2. THIS FOOTNOTE IS MISSING. THANK YOU FOR USING ANOTHER LANGUAGE.</p>	<p>reduce areas of divergence within the design protection system in the Union.<sup>-2</sup></p> <p>_____</p> <p>1. Council conclusions on intellectual property policy and the revision of the industrial designs system in the Union 2020/C 379 I/01 (OJ C 379I, 10.11.2020, p. 1).</p> <p><del>2. THIS FOOTNOTE IS MISSING. THANK YOU FOR USING ANOTHER LANGUAGE.</del></p>	<p>_____</p> <p>1. Council conclusions on intellectual property policy and the revision of the industrial designs system in the Union 2020/C 379 I/01 (OJ C 379I, 10.11.2020, p. 1).</p> <p><del>2. THIS FOOTNOTE IS MISSING. THANK YOU FOR USING ANOTHER LANGUAGE.</del></p>	
Recital 6				
15	(6) Based on the final results of the evaluation, the Commission announced in its communication of	(6) Based on the final results of the evaluation, the Commission announced in its communication of	(6) Based on the final results of the evaluation, the Commission announced in its communication of	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>25 November 2020 ‘Making the most of the EU’s innovative potential. An intellectual property action plan to support the EU’s recovery and resilience’<sup>1</sup> that it will revise the Union legislation on design protection, following the successful reform of the Union trade mark legislation.</p> <p>_____</p> <p>1. Communication (COM/2020/760 final) from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Making the most of the EU’s innovative potential. An intellectual property action plan to support the EU’s recovery and resilience.</p>	<p>25 November 2020 <u>entitled</u> ‘Making the most of the EU’s innovative potential. An intellectual property action plan to support the EU’s recovery and resilience’<sup>1</sup> that it <del>will</del><u>would</u> revise <del>the</del> Union legislation on design protection, following the successful reform of <del>the</del> Union trade mark legislation, <u>with a view to simplifying the system and making it more accessible and efficient, and with a view to updating the regulatory framework in the light of the developments in relation to new technologies on the market.</u></p> <p>_____</p> <p>1. Communication (COM/2020/760 final) from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the</p>	<p>25 November 2020 ‘Making the most of the EU’s innovative potential. An intellectual property action plan to support the EU’s recovery and resilience’<sup>1</sup> that it will revise the Union legislation on design protection, following the successful reform of the Union trade mark legislation.</p> <p>_____</p> <p>1. Communication (COM/2020/760 final) from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Making the most of the EU’s innovative potential. An intellectual property action plan to support the EU’s recovery and resilience.</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		Committee of the Regions on Making the most of the EU's innovative potential. An intellectual property action plan to support the EU's recovery and resilience.		
Recital 7				
16	(7) In its report of 10 November 2021 on the intellectual property action plan <sup>1</sup> the European Parliament welcomed the Commission's willingness to modernise the Union legislation on design protection, called on the Commission to further harmonise the application and invalidation procedures in the Member States, and suggested to reflect upon aligning Directive 98/71/EC and	(7) In its <del>report of 10</del> <u>resolution of 11</u> November 2021 on <del>the an</del> intellectual property action plan <sup>1</sup> <u>to support the EU's recovery and resilience<sup>1</sup></u> the European Parliament welcomed the Commission's willingness to modernise the Union legislation on design protection <u>in order to better support the transition to a sustainable and digital economy</u> , called on the Commission to	(7) In its report of 10 November 2021 on the intellectual property action plan <sup>1</sup> the European Parliament welcomed the Commission's willingness to modernise the Union legislation on design protection, called on the Commission to further harmonise the application and invalidation procedures in the Member States, and suggested to reflect upon aligning Directive 98/71/EC and	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>Regulation (EC) No 6/2002 with a view to creating greater legal certainty.</p> <p>_____</p> <p>1. Report on an intellectual property action plan to support the EU's recovery and resilience (2021/2007(INI)).</p>	<p>further harmonise the application and invalidation procedures in the Member States, and suggested to reflect upon aligning Directive 98/71/EC and Regulation (EC) No 6/2002 with a view to creating greater legal certainty.</p> <p>_____</p> <p>1. <del>Report</del> <u>European Parliament resolution of 11 November 2021</u> on an intellectual property action plan to support the EU's recovery and resilience (2021/2007(INI)) <u>(OJ C 205, 20.5.2022, p. 26)</u>.</p>	<p>Regulation (EC) No 6/2002 with a view to creating greater legal certainty.</p> <p>_____</p> <p>1. Report on an intellectual property action plan to support the EU's recovery and resilience (2021/2007(INI)).</p>	
Recital 8				



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
17	(8) Consultation and evaluation have revealed that, in spite of the previous harmonisation of national laws, there are still areas where further harmonisation could have a positive impact on competitiveness and growth.	(8) Consultation and evaluation have revealed that, in spite of the previous harmonisation of national laws, there are still areas where further harmonisation could have a positive impact on competitiveness and growth <u>and, in particular, in terms of the increased accessibility SMEs would have to the design protection system.</u>	(8) Consultation and evaluation have revealed that, in spite of the previous harmonisation of national laws, there are still areas where further harmonisation could have a positive impact on competitiveness and growth.	
Recital 9				
18	(9) In order to ensure a well-functioning internal market, and to facilitate, where appropriate,	(9) In order to ensure a well-functioning internal market, and to facilitate, where appropriate,	(9) In order to ensure a well-functioning internal market, and to facilitate, where appropriate,	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	acquiring, administering and protecting design rights in the Union for the benefit of the growth and the competitiveness of businesses within the Union, in particular small and medium-sized enterprises, while taking due account of the interests of consumers, it is necessary to extend the approximation of laws achieved by Directive 98/71/EC to other aspects of substantive design law governing designs protected through registration pursuant to Regulation (EC) No 6/2002.	acquiring, administering and protecting design rights in the Union for the benefit of the growth and the competitiveness of businesses within the Union, in particular small and medium-sized enterprises, while taking due account of the interests of consumers, it is necessary to extend the approximation of laws achieved by Directive 98/71/EC to other aspects of substantive design law governing designs protected through registration pursuant to Regulation (EC) No 6/2002.	acquiring, administering and protecting design rights in the Union for the benefit of the growth and the competitiveness of businesses within the Union, in particular small and medium-sized enterprises, while taking due account of the interests of consumers, it is necessary to extend the approximation of laws achieved by Directive 98/71/EC to other aspects of substantive design law governing designs protected through registration pursuant to Regulation (EC) No 6/2002.	
Recital 10				
19				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(10) Furthermore, it is also necessary to approximate procedural rules in order to facilitate acquiring, administering and protecting design rights in the Union. Therefore, certain principal procedural rules in the area of design registration in the Member States and in the EU design system should be aligned. As regards procedures under national law, it is sufficient to lay down general principles, leaving the Member States free to establish more specific rules.	(10) Furthermore, it is also necessary to approximate procedural rules in order to facilitate acquiring, administering and protecting design rights in the Union. Therefore, certain principal procedural rules in the area of design registration in the Member States and in the EU design system should be aligned. As regards procedures under national law, it is sufficient to lay down general principles, leaving the Member States free to establish more specific rules.	(10) Furthermore, it is also necessary to approximate procedural rules in order to facilitate acquiring, administering and protecting design rights in the Union. Therefore, certain principal procedural rules in the area of design registration in the Member States and in the EU design system should be aligned. As regards procedures under national law, it is sufficient to lay down general principles, leaving the Member States free to establish more specific rules.	
Recital 11				
20				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(11) This Directive does not exclude the application to designs of national or Union legislation providing for protection other than that conferred by registration or publication as design, such as legislation relating to unregistered design rights, trade marks, patents and utility models, unfair competition or civil liability.	(11) This Directive does not exclude the application to designs of national or Union legislation providing for protection other than that conferred by registration or publication as design, such as legislation relating to unregistered design rights, trade marks, patents and utility models, unfair competition or civil liability.	(11) This Directive does not exclude the application to designs of <del>national or Union</del> legislation providing for protection other than that conferred by registration or publication as <b>a</b> design, such as <b>Union</b> legislation relating to unregistered design rights, <b>or national or Union legislation relating to</b> trade marks, patents and utility models, unfair competition or civil liability.	
Recital 12				
21	(12) It is important to establish the principle of cumulation of protection under specific registered	(12) It is important to establish the principle of cumulation of protection under specific registered	(12) It is important to establish the principle of cumulation of protection under specific registered	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	design protection law and under copyright law, whereby designs protected by design rights should also be eligible for being protected as copyright works, provided that the requirements of Union copyright law are met.	design protection law and under copyright law, whereby designs protected by design rights should also be eligible for being protected as copyright works, provided that the requirements of Union copyright law are met.	design protection law and under copyright law, whereby designs protected by design rights should also be eligible for being protected as copyright works, provided that the requirements of Union copyright law are met.	
Recital 13				
22	(13) The attainment of the objectives of the internal market requires that the conditions for obtaining a registered design right be identical in all the Member States.	(13) The attainment of the objectives of the internal market requires that the conditions for obtaining a registered design right be <del>identical</del> <u>harmonised</u> in all the Member States.	(13) The attainment of the objectives of the internal market requires that the conditions for obtaining a registered design right be identical in all the Member States.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Recital 14				
23	(14) To this end it is necessary to give unitary definitions of the notions of design and product, which are clear, transparent, and technologically up-to-date considering also the advent of new designs not being embodied in physical products. Without the list of relevant products being an exhaustive one, it is appropriate to distinguish products embodied in a physical object, visualised in a graphic, or that are apparent from the spatial arrangement of items intended to form, in particular, an interior environment. In this context, it should be recognised	(14) To this end it is necessary to give unitary definitions of the notions of design and product, which are clear, transparent, and technologically up-to-date considering also the advent of new designs not being embodied in physical products. Without the list of relevant products being an exhaustive one, it is appropriate to distinguish products embodied in a physical object, visualised in a graphic, or that are apparent from the spatial arrangement of items intended to form, in particular, an interior environment. In this context, it should be recognised	(14) To <del>this</del> <b>this</b> end it is necessary to give– unitary definitions– of the– notions– of design– and product, which are clear, transparent, and technologically up-to-date considering also the advent of new designs not being embodied in physical products. Without the list of relevant products being an exhaustive one, it is appropriate to distinguish products embodied in a physical object, visualised in a graphic, or that are apparent from the spatial arrangement of items intended to form, <del>in particular, an interior</del> <b>an interior or exterior</b>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	that the movement, transition or any other sort of animation of features can contribute to the appearance of designs, in particular those not embodied in a physical object.	that the movement, transition or any other sort of animation of features can contribute to the appearance of designs, in particular those not embodied in a physical object.	environment. In this context, it should be recognised that <b>animations, such as the movement, transition or any other sort of animation of features or the transition, of the features of a product</b> , can contribute to the appearance of designs, in particular those not embodied in a physical object.	
Recital 15				
24	(15) Furthermore, there is a need for a unitary definition of the requirements regarding novelty and individual character with which registered design rights must	(15) Furthermore, there is a need for a unitary definition of the requirements regarding novelty and individual character with which registered design rights must	(15) Furthermore, there is a need for a unitary definition of the requirements regarding novelty and individual character with which registered design rights must	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	comply.	comply.	comply.	
Recital 16				
25	(16) In order to facilitate the free movement of goods, it is necessary to ensure in principle that registered design rights confer upon the right holder equivalent protection in all Member States.	(16) In order to facilitate the free movement of goods, it is necessary to ensure in principle that registered design rights confer upon the right holder equivalent protection in all Member States.	(16) In order to facilitate the free movement of goods, it is necessary to ensure in principle that registered design rights confer upon the right holder equivalent protection in all Member States.	
Recital 17				
26	(17) Protection is conferred by way of registration upon the right	(17) Protection is conferred by way of registration upon the right	(17) Protection is conferred by way of registration upon the right	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	holder for those design features of a product, in whole or in part, which are shown visibly in an application and made available to the public by way of publication or consultation of the relevant file.	holder for those design features of a product, in whole or in part, which are shown visibly in an application and made available to the public by way of publication or consultation of the relevant file.	holder for those design features of a product, in whole or in part, which are shown visibly in an application and made available to the public by way of publication or consultation of the relevant file.	
Recital 18				
27	(18) While design features do not need to be visible at any particular time or in any particular situation in order to benefit from design protection, as an exception to this principle, protection should not be extended to those component parts which are not visible during normal use of a complex product,	(18) While design features <del>do not need</del> <u>need to be visible to benefit from design protection, it is not necessary for those features</u> to be visible at <del>any particular time</del> <u>all times</u> or in <del>any</del> <u>a</u> particular situation in order to <del>benefit from design</del> <u>qualify for such</u> protection, as an exception to this principle,	(18) <del>While</del> <b>Apart from being shown visibly in an application,</b> design features do not need to be visible at any particular time or in any particular situation in order to benefit from design protection. As an exception to this principle, protection should not be extended to those component parts which are	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>or to those features of such part which are not visible when the part is mounted, or which would not, in themselves, fulfil the requirements as to novelty and individual character. Therefore, those features of design of component parts of a complex product which are excluded from protection for these reasons should not be taken into consideration for the purpose of assessing whether other features of the design fulfil the requirements for protection.</p>	<p>protection should not be extended to those component parts which are not visible during normal use of a complex product, or to those features of such part which are not visible when the part is mounted, or which would not, in themselves, fulfil the requirements as to novelty and individual character. Therefore, those features of design of component parts of a complex product which are excluded from protection for these reasons should not be taken into consideration for the purpose of assessing whether other features of the design fulfil the requirements for protection.</p>	<p>not visible during normal use of a complex product, or to those features of such part which are not visible when the part is mounted, or which would not, in themselves, fulfil the requirements as to novelty and individual character. Therefore, those features of design of component parts of a complex product which are excluded from protection for these reasons should not be taken into consideration for the purpose of assessing whether other features of the design fulfil the requirements for protection.</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Recital 19				
28	<p>(19) Although product indications do not affect the scope of protection of the design as such, alongside the representation of the design they may serve to determine the nature of the product in which the design is incorporated or to which it is intended to be applied. Furthermore, product indications improve the searchability of designs in the register of designs kept by an industrial property office. Therefore, accurate product indications facilitating search and increasing the transparency and accessibility of a register should be ensured prior to registration</p>	<p>(19) Although product indications do not affect the scope of protection of the design as such, alongside the representation of the design they may serve to determine the nature of the product in which the design is incorporated or to which it is intended to be applied. Furthermore, product indications improve the searchability of designs in the register of designs kept by an industrial property office. Therefore, accurate product indications facilitating search and increasing the transparency and accessibility of a register should be ensured prior to registration</p>	<p>(19) Although product indications do not affect the scope of protection of the design as such, alongside the representation of the design they may serve to determine the nature of the product in which the design is incorporated or to which it is intended to be applied. Furthermore, product indications improve the searchability of designs in the register of designs kept by an industrial property office. Therefore, accurate product indications facilitating search and increasing the transparency and accessibility of a register should be ensured prior to registration</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	without undue burden on applicants.	without <u>an</u> undue <u>administrative</u> burden <del>or</del> <u>additional costs for</u> applicants.	without undue burden on applicants.	
Recital 20				
29	(20) The assessment as to whether a design has individual character should be based on whether the overall impression produced on an informed user viewing the design differs from that produced on him by any other design that forms part of the existing design corpus, taking into consideration the nature of the product to which the design is applied or in which it is incorporated, and in particular the	(20) The assessment as to whether a design has individual character should be based on whether the overall impression produced on an informed user viewing the design differs from that produced on him by any other design that forms part of the existing design corpus, taking into consideration the nature of the product to which the design is applied or in which it is incorporated, and in particular the	(20) The assessment as to whether a design has individual character should be based on whether the overall impression produced on an informed user viewing the design differs from that produced on him by any other design that forms part of the existing design corpus, taking into consideration the nature of the product to which the design is applied or in which it is incorporated, and in particular the	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	industrial sector to which it belongs and the degree of freedom of the designer in developing the design.	industrial sector to which it belongs and the degree of freedom of the designer in developing the design.	industrial sector to which it belongs and the degree of freedom of the designer in developing the design.	
Recital 21				
30	(21) Technological innovation should not be hampered by granting design protection to designs consisting exclusively of features or the arrangement of features dictated solely by a technical function. It is understood that this does not entail that a design must have an aesthetic quality. A registered design right may be declared invalid where no	(21) Technological innovation should not be hampered by granting design protection to designs consisting exclusively of features or the arrangement of features dictated solely by a technical function. It is understood that this does not entail that a design must have an aesthetic quality, <u>and that designs with a technical function are not</u>	(21) Technological innovation should not be hampered by granting design protection to designs consisting exclusively of features or the arrangement of features dictated solely by a technical function. It is understood that this does not entail that a design must have an aesthetic quality. A registered design right may be declared invalid where no	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	considerations other than the need for that product to fulfil a technical function, in particular those related to the visual aspect, have played a role in the choice of the features of appearance.	<u>excluded from the design protection</u> . – A registered design right may be declared invalid where no considerations other than the need for that product to fulfil a technical function, in particular those related to the visual aspect, have played a role in the choice of the features of appearance.	considerations other than the need for that product to fulfil a technical function, in particular those related to the visual aspect, have played a role in the choice of the features of appearance.	
Recital 22				
31	(22) Likewise, the interoperability of products of different makes should not be hindered by extending protection to the design of mechanical fittings.	(22) Likewise, the interoperability of products of different makes should not be hindered by extending protection to the design of mechanical fittings.	(22) Likewise, the interoperability of products of different makes should not be hindered by extending protection to the design of mechanical fittings.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Recital 23				
32	(23) The mechanical fittings of modular products may nevertheless constitute an important element of the innovative characteristics of modular products and present a major marketing asset and therefore should be eligible for protection.	(23) The mechanical fittings of modular products may nevertheless constitute an important element of the innovative characteristics of modular products and present a major marketing asset and therefore should be eligible for protection.	(23) The mechanical fittings of modular products may nevertheless constitute an important element of the innovative characteristics of modular products and present a major marketing asset and therefore should be eligible for protection.	
Recital 24				
33	(24) A design right should not	(24) A design right should not	(24) A design right should not	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>subsist in a design which is contrary to public policy or to accepted principles of morality.</p> <p>This Directive does not constitute a harmonisation of national concepts of public policy or accepted principles of morality.</p>	<p>subsist in a design which is contrary to public policy or to accepted principles of morality.</p> <p>This Directive does not constitute a harmonisation of national concepts of public policy or accepted principles of morality.</p>	<p>subsist in a design which is contrary to public policy or to accepted principles of morality.</p> <p>This Directive does not constitute a harmonisation of national concepts of public policy or accepted principles of morality.</p>	
Recital 25				
34	<p>(25) It is fundamental for the smooth functioning of the internal market to unify the term of protection afforded by registered design rights.</p>	<p>(25) It is fundamental for the smooth functioning of the internal market to unify the term of protection afforded by registered design rights.</p>	<p>(25) It is fundamental for the smooth functioning of the internal market to unify the term of protection afforded by registered design rights.</p>	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Recital 26				
35	(26) The provisions of this Directive are without prejudice to the application of the competition rules under Articles 101 and 102 of the Treaty on the Functioning of the European Union .	(26) The provisions of this Directive are without prejudice to the application of the competition rules under Articles 101 and 102 of the Treaty on the Functioning of the European Union .	(26) The provisions of this Directive are without prejudice to the application of the competition rules under Articles 101 and 102 of the Treaty on the Functioning of the European Union .	
Recital 27				
36	(27) The substantive grounds for non-registrability and the substantive grounds for the invalidation of registered design rights in all the Member States	(27) <u>For reasons of legal certainty,</u> the substantive grounds for <del>non-registrability</del> and the substantive grounds for the invalidation of registered design	(27) The substantive grounds for non-registrability and the substantive grounds for the invalidation of registered design rights in all the Member States	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	should be exhaustively enumerated.	rights in all the Member States should be exhaustively enumerated.	should be exhaustively enumerated.	
Recital 27a				
36a			(27a) In order to prevent the improper use of symbols of particular public interest in a Member State, other than those referred to in Article 6ter of the Paris Convention for the Protection of Industrial Property, Member States should however be free to provide for specific grounds for non-registrability. In order to prevent the improper registration and	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			misappropriation of elements belonging to cultural heritage of national interest, including, for example, artefacts, handicrafts, costumes, monuments or a group of buildings, Member States should be free to provide for specific grounds for non-registrability and invalidity.	
Recital 28				
37	(28) In view of the growing deployment of 3D printing technologies in diverse industries, and the resulting challenges for design right holders to effectively prevent the illegitimate, easy	(28) In view of the growing deployment of <u>artificial intelligence and</u> 3D printing technologies in diverse industries, and the resulting challenges for design right holders to effectively	(28) In view of the growing deployment of 3D printing technologies in diverse industries, and the resulting challenges for design right holders to effectively prevent the illegitimate, easy	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	copying of their protected designs, it is appropriate to provide that the creation, downloading, copying and making available of any medium or software recording the design, for the purpose of reproduction of a product that infringes the protected design, amounts to use of the design being subject to the right holder's authorisation.	prevent the illegitimate, easy copying of their protected designs, it is appropriate to provide that the creation, downloading, copying and making available of any medium or software recording the design, for the purpose of reproduction of a product that infringes the protected design, amounts to use of the design being subject to the right holder's authorisation.	copying of their protected designs, it is appropriate to provide that the creation, downloading, copying and making available of any medium or software recording the design, for the purpose of reproduction of a product that infringes the protected design, amounts to use of the design being subject to the right holder's authorisation.	
Recital 29				
38	(29) In order to strengthen design protection and combat counterfeiting more effectively,	(29) In order to strengthen design protection and combat counterfeiting more effectively, <a href="#">as</a>	(29) In order to strengthen design protection and combat counterfeiting more effectively,	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>and in line with international obligations of the Member States under the World Trade Organisation (WTO) framework, in particular Article V to the General Agreement on Tariffs and Trade on freedom of transit, and, as regards generic medicines, the Declaration on the TRIPS Agreement and Public Health, the holder of a registered design right should be entitled to prevent third parties from bringing products from third countries into the Member State where the design is registered without being released for free circulation there, where without authorisation the design is identically incorporated in or applied to these products, or the design cannot be distinguished in</p>	<p><u><a href="#">called for by the European Parliament in its resolution of 11 November 2021</a></u>, and in line with international obligations of the Member States under the World Trade Organisation (WTO) framework, in particular Article V to the General Agreement on Tariffs and Trade on freedom of transit, and, as regards generic medicines, the Declaration on the TRIPS Agreement and Public Health, the holder of a registered design right should be entitled to prevent third parties from bringing products from third countries into the Member State where the design is registered without being released for free circulation there, where without authorisation the design is identically incorporated in or</p>	<p>and in line with international obligations of the Member States under the World Trade Organisation (WTO) framework, in particular Article V to the General Agreement on Tariffs and Trade on freedom of transit, and, as regards generic medicines, the Declaration on the TRIPS Agreement and Public Health, the holder of a registered design right should be entitled to prevent third parties from bringing products from third countries into the Member State where the design is registered without being released for free circulation there, where without authorisation the design is identically incorporated in or applied to these products, or the design cannot be distinguished in</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	its essential aspects of the appearance from such products.	applied to these products, or the design cannot be distinguished in its essential aspects of the appearance from such products.	its essential aspects of the appearance from such products.	
Recital 30				
39	(30) To this effect, it should be permissible for registered design right holders to prevent the entry of infringing products and their placement in all customs situations, including, in particular transit, transshipment, warehousing, free zones, temporary storage, inward processing or temporary admission, also when such products are not intended to be placed on the market	(30) To this effect, it should be permissible for registered design right holders to prevent the entry of infringing products and their placement in all customs situations, including, in particular transit, transshipment, warehousing, free zones, temporary storage, inward processing or temporary admission, also when such products are not intended to be placed on the market	(30) To this effect, it should be permissible for registered design right holders to prevent the entry of infringing products and their placement in all customs situations, including, in particular transit, transshipment, warehousing, free zones, temporary storage, inward processing or temporary admission, also when such products are not intended to be placed on the market	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>of the Member State concerned. In performing customs controls, the customs authorities should make use of the powers and procedures laid down in Regulation (EU) No 608/2013 of the European Parliament and of the Council<sup>1</sup>, also at the request of the right holders. In particular, the customs authorities should carry out the relevant controls on the basis of risk analysis criteria.</p> <p>_____</p> <p>1. Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003 (OJ L 181, 29.6.2013, p. 15).</p>	<p>of the Member State concerned. In performing customs controls, the customs authorities should make use of the powers and procedures laid down in Regulation (EU) No 608/2013 of the European Parliament and of the Council<sup>1</sup>, also at the request of the right holders. In particular, the customs authorities should carry out the relevant controls on the basis of risk analysis criteria.</p> <p>_____</p> <p>1. Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003 (OJ L 181, 29.6.2013, p. 15).</p>	<p>of the Member State concerned. In performing customs controls, the customs authorities should make use of the powers and procedures laid down in Regulation (EU) No 608/2013 of the European Parliament and of the Council<sup>1</sup>, also at the request of the right holders. In particular, the customs authorities should carry out the relevant controls on the basis of risk analysis criteria.</p> <p>_____</p> <p>1. Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003 (OJ L 181, 29.6.2013, p. 15).</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Recital 31				
40	(31) In order to reconcile the need to ensure the effective enforcement of design rights with the necessity to avoid hampering the free flow of trade in legitimate products, the entitlement of the design right holder should lapse where, during the subsequent proceedings initiated before the judicial or other authority competent to take a substantive decision on whether the registered design right has been infringed, the declarant or the holder of the products is able to prove that the owner of the registered design right is not entitled to prohibit the placing of	(31) In order to reconcile the need to ensure the effective enforcement of design rights with the necessity to avoid hampering the free flow of trade in legitimate products, the entitlement of the design right holder should lapse where, during the subsequent proceedings initiated before the judicial or other authority competent to take a substantive decision on whether the registered design right has been infringed, the declarant or the holder of the products is able to prove that the owner of the registered design right is not entitled to prohibit the placing of	(31) In order to reconcile the need to ensure the effective enforcement of design rights with the necessity to avoid hampering the free flow of trade in legitimate products, the entitlement of the design right holder should lapse where, during the subsequent proceedings initiated before the judicial or other authority competent to take a substantive decision on whether the registered design right has been infringed, the declarant or the holder of the products is able to prove that the owner of the registered design right is not entitled to prohibit the placing of	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	the products on the market in the country of final destination.	the products on the market in the country of final destination.	the products on the market in the country of final destination.	
Recital 32				
41	(32) The exclusive rights conferred by a registered design right should be subject to an appropriate set of limitations. Apart from private and non-commercial use and acts done for experimental purposes, such list of permissible uses should include acts of reproduction for the purpose of making citations or of teaching, referential use in the context of comparative advertising, and use for the purpose of	(32) The exclusive rights conferred by a registered design right should be subject to an appropriate set of limitations. Apart from private and non-commercial use and acts done for experimental purposes, such list of permissible uses should include acts of reproduction for the purpose of making citations or of teaching, referential use in the context of comparative advertising, and use for the purpose of	(32) The exclusive rights conferred by a registered design right should be subject to an appropriate set of limitations. Apart from private and non-commercial use and acts done for experimental purposes, such list of permissible uses should include acts of reproduction for the purpose of making citations or of teaching, referential use in the context of comparative advertising, and use for the purpose of	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>comment or parody, provided that those acts are compatible with fair trade practices and do not unduly prejudice the normal exploitation of the design. Use of a design by third parties for the purpose of artistic expression should be considered as being fair as long as it is at the same time in accordance with honest practices in industrial and commercial matters.</p> <p>Furthermore, this Directive should be applied in a way that ensures full respect of fundamental rights and freedoms, and in particular the freedom of expression.</p>	<p>comment or parody, provided that those acts are compatible with fair trade practices and do not unduly prejudice the normal exploitation of the design. Use of a design by third parties for the purpose of artistic expression should be considered as being fair as long as it is at the same time in accordance with honest practices in industrial and commercial matters.</p> <p>Furthermore, this Directive should be applied in a way that ensures full respect of fundamental rights and freedoms, and in particular the freedom of expression.</p>	<p>comment or parody, provided that those acts are compatible with fair trade practices and do not unduly prejudice the normal exploitation of the design. Use of a design by third parties for the purpose of artistic expression should be considered as being fair as long as it is at the same time in accordance with honest practices in industrial and commercial matters.</p> <p>Furthermore, this Directive should be applied in a way that ensures full respect of fundamental rights and freedoms, and in particular the freedom of expression.</p>	
Recital 33				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
42	<p>(33) The purpose of design protection is to grant exclusive rights to the appearance of a product, but not a monopoly over the product as such. Protecting designs for which there is no practical alternative would lead in fact to a product monopoly. Such protection would come close to an abuse of the design protection regime. If third parties are allowed to produce and distribute spare parts, competition is maintained. If design protection is extended to spare parts, such third parties infringe those rights, competition is eliminated and the holder of the design right is de facto given a product monopoly.</p>	<p>(33) The purpose of design protection is to grant exclusive rights to the appearance of a product, but not a monopoly over the product as such. Protecting designs for which there is no practical alternative would lead in fact to a product monopoly. Such protection would come close to an abuse of the design protection regime. If third parties are allowed to produce and distribute spare parts, competition is maintained. If design protection is extended to spare parts, such third parties infringe those rights, competition is eliminated and the holder of the design right is de facto given a product monopoly.</p>	<p>(33) The purpose of design protection is to grant exclusive rights to the appearance of a product, but not a monopoly over the product as such. Protecting designs for which there is no practical alternative would lead in fact to a product monopoly. Such protection would come close to an abuse of the design protection regime. If third parties are allowed to produce and distribute spare parts, competition is maintained. If design protection is extended to spare parts, such third parties infringe those rights, competition is eliminated and the holder of the design right is de facto given a product monopoly.</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Recital 34				
43	(34) The differences in the laws of the Member States on the use of protected designs for the purpose of permitting the repair of a complex product so as to restore its original appearance, where the product incorporating the design or to which the design is applied constitutes a form-dependent component part of a complex product, directly affect the establishment and functioning of the internal market. Such differences distort competition and trade within the internal market	(34) The differences in the laws of the Member States on the use of protected designs for the purpose of permitting the repair of a complex product so as to restore its original appearance, <u>in particular</u> where the product incorporating the design or to which the design is applied constitutes a form-dependent component part of a complex product, directly affect the establishment and functioning of the internal market. Such differences distort competition and trade within the internal market	(34) The differences in the laws of the Member States on the use of protected designs for the purpose of permitting the repair of a complex product so as to restore its original appearance, where the product incorporating the design or to which the design is applied constitutes a form-dependent component part of a complex product, directly affect the establishment and functioning of the internal market. Such differences distort competition and trade within the internal market	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	and create legal uncertainty.	<p>and create legal uncertainty, <u>as highlighted by the European Parliament in paragraph 33 of its resolution of 11 November 2021. The repairability of products is at the core of a sustainable economy, as highlighted in the European Green Deal and in the amendments of the European Parliament of 12 July 2023 to the proposal for a regulation of the European Parliament and of the Council establishing a framework for setting eco-design requirements for sustainable products and repealing Directive 2009/125/EC<sup>1</sup>.</u></p> <p>_____</p> <p><u>1. Texts adopted, P9 TA(2023)0272.</u></p>	and create legal uncertainty.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Recital 35				
44	(35) It is therefore necessary for the smooth functioning of the internal market and in order to ensure fair competition therein to approximate the design protection laws of the Member States as concerns the use of protected designs for the purpose of repair of a complex product so as to restore its original appearance through the insertion of a repair clause similar to that already contained in Regulation (EC) No 6/2002 and applicable to EU designs at Union level but explicitly applying to	(35) It is therefore necessary for the smooth functioning of the internal market and in order to ensure fair competition therein to approximate the design protection laws of the Member States as concerns the use of protected designs for the purpose of repair of a complex product so as to restore its original appearance through the insertion of a repair clause similar to that already contained in Regulation (EC) No 6/2002 and applicable to EU designs at Union level but explicitly applying to	(35) It is therefore necessary for the smooth functioning of the internal market and in order to ensure fair competition therein to approximate the design protection laws of the Member States as concerns the use of protected designs for the purpose of repair of a complex product so as to restore its original appearance through the insertion of a repair clause similar to that already contained in Regulation (EC) No 6/2002 and applicable to EU designs at Union level but explicitly applying to	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>form-dependent component parts of complex products only. As the intended effect of such repair clause is to make design rights unenforceable where the design of the component part of a complex product is used for the purpose of the repair of a complex product so as to restore its original appearance, the repair clause should be placed among the available defences to design right infringement under this Directive. In addition, in order to ensure that consumers are not misled but are able to make an informed decision between competing products that can be used for the repair, it should also be made explicit in the law that the repair clause cannot be invoked by the manufacturer or</p>	<p><del>form-dependent</del> component parts of complex products only. As the intended effect of such repair clause is to make design rights unenforceable where the design of the component part of a complex product is used for the purpose of the repair of a complex product so as to restore its original appearance, the repair clause should be placed among the available defences to design right infringement under this Directive. In addition, in order to ensure that consumers are not misled but are able to make an informed decision between competing products that can be used for the repair, it should also be made explicit in the law that the repair clause cannot be invoked by the manufacturer or</p>	<p>form-dependent component parts of complex products only. As the intended effect of such repair clause is to make design rights unenforceable where the design of the component part of a complex product is used for the purpose of the repair of a complex product so as to restore its original appearance, the repair clause should be placed among the available defences to design right infringement under this Directive. In addition, in order to ensure that consumers are not misled but are able to make an informed decision between competing products that can be used for the repair, it should also be made explicit in the law that the repair clause cannot be invoked by the manufacturer or</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	seller of a component part who have failed to duly inform consumers about the origin of the product to be used for the purpose of the repair of the complex product.	seller of a component part who have failed to duly inform consumers <u>with detailed information</u> about the origin <u>and identity of the producer</u> of the product to be used for the purpose of the repair of the complex product.	seller of a component part who have failed to duly inform consumers about the <b>commercial</b> origin, <b>typically the producer</b> , of the product to be used for the purpose of the repair of the complex product.	
Recital 36				
45	(36) In order to avoid that divergent conditions in the Member States regarding prior use cause differences in the legal strength of the same design in different Member States, it is appropriate to ensure that any third	(36) In order to avoid that divergent conditions in the Member States regarding prior use cause differences in the legal strength of the same design in different Member States, it is appropriate to ensure that any third	(36) In order to avoid that divergent conditions in the Member States regarding prior use cause differences in the legal strength of the same design in different Member States, it is appropriate to ensure that any third	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>person who can establish that before the date of filing of a design application, or, if a priority is claimed, before the date of priority, it has in good faith commenced use within a Member State, or has made serious and effective preparations to that end, of a design included within the scope of protection of a registered design right, which has not been copied from the latter, should be entitled to a limited exploitation of that design.</p>	<p>person who can establish that before the date of filing of a design application, or, if a priority is claimed, before the date of priority, it has in good faith commenced use within a Member State, or has made serious and effective preparations to that end, of a design included within the scope of protection of a registered design right, which has not been copied from the latter, should be entitled to a limited exploitation of that design.</p>	<p>person who can establish that before the date of filing of a design application, or, if a priority is claimed, before the date of priority, it has in good faith commenced use within a Member State, or has made serious and effective preparations to that end, of a design included within the scope of protection of a registered design right, which has not been copied from the latter, should be entitled to a limited exploitation of that design.</p>	
Recital 37				
46	(37) In order to improve and	(37) In order to improve and	(37) In order to improve and	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	facilitate access to design protection and to increase legal certainty and predictability, the procedure for the registration of designs in the Member States should be efficient and transparent and should follow rules similar to those applicable to EU designs.	facilitate access to design protection and to increase legal certainty and predictability, the procedure for the registration of designs in the Member States should be efficient and transparent and should follow rules similar to those applicable to EU designs.	facilitate access to design protection and to increase legal certainty and predictability, the procedure for the registration of designs in the Member States should be efficient and transparent and should follow rules similar to those applicable to EU designs.	
Recital 38				
47	(38) To this effect, it is necessary to provide common rules regarding the requirements and technical means for the clear and precise representation of designs in any form of visual reproduction at filing stage, taking into account	(38) To this effect, it is necessary to provide common rules regarding the requirements and technical means for the clear and precise representation of designs in any form of visual reproduction at filing stage, taking into account	(38) To this effect, it is necessary to provide <b>essential</b> common rules regarding the requirements and technical means for the <del>clear and precise</del> representation of designs in any form of visual reproduction at filing stage, taking into account	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	technical advance for the visualisation of designs and the needs of the Union industry in relation to new (digital) designs. In addition, Member States should establish harmonised standards by means of convergence of practices.	technical advance for the visualisation of designs and the needs of the Union industry in relation to new (digital) designs. In addition, Member States should establish harmonised standards by means of convergence of practices.	technical advance for the visualisation of designs and the needs of the Union industry in relation to new (digital) designs. In addition, Member States should establish harmonised standards by means of convergence of practices.	
Recital 39				
48	(39) For greater efficiency it is also appropriate to allow design applicants to combine several designs in one multiple application and to do that without being subject to the condition that the products in which the designs are intended to be incorporated or to	(39) For greater efficiency it is also appropriate to allow design applicants to combine several designs in one multiple application and to do that without being subject to the condition that the products in which the designs are intended to be incorporated or to	(39) For greater efficiency it is also appropriate to allow design applicants to combine several designs in one multiple application and to do that without being subject to the condition that the products in which the designs are intended to be incorporated or to	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	which they are intended to be applied all belong to the same class of the International Classification for Industrial Designs.	which they are intended to be applied all belong to the same class of the International Classification for Industrial Designs.	which they are intended to be applied all belong to the same class of the International Classification for Industrial Designs.	
Recital 40				
49	(40) The normal publication following registration of a design could in some cases destroy or jeopardise the success of a commercial operation involving the design. The facility of a deferment of publication affords a solution in such cases. For the sake of coherence and greater legal certainty, thereby helping businesses reduce costs in	(40) The normal publication following registration of a design could in some cases destroy or jeopardise the success of a commercial operation involving the design. The facility of a deferment of publication affords a solution in such cases. For the sake of coherence and greater legal certainty, thereby helping businesses reduce costs in	(40) The normal publication following registration of a design could in some cases destroy or jeopardise the success of a commercial operation involving the design. The facility of a deferment of publication affords a solution in such cases. For the sake of coherence and greater legal certainty, thereby helping businesses reduce costs in	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	managing design portfolios, deferment of publication should be subject to the same rules in the Union.	managing design portfolios, deferment of publication should be subject to the same rules in the Union.	managing design portfolios, deferment of publication should be subject to the same rules in the Union.	
Recital 41				
50	(41) In order to ensure a level playing field for businesses, and provide the same level of access to design protection across the Union by keeping to a minimum the registration and other procedural burdens to applicants, all central industrial property offices of the Member States should limit, as the European Union Intellectual Property Office (EUIPO) does at	(41) In order to ensure a level playing field for businesses, and provide the same level of access to design protection across the Union by keeping to a minimum the registration and other procedural burdens to applicants, all central industrial property offices of the Member States should limit, as the European Union Intellectual Property Office (EUIPO) does at	(41) In order to ensure a level playing field for businesses, and provide the same level of access to design protection across the Union by keeping to a minimum the registration and other procedural burdens to applicants, all central industrial property offices of the Member States <b>and the Benelux Office for Intellectual Property</b> should limit, as the European	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Union level, their substantive examination ex officio to the absence of the grounds for non-registrability exhaustively enumerated in this Directive.	Union level, their substantive examination ex officio to the absence of the grounds for non-registrability exhaustively enumerated in this Directive.	Union Intellectual Property Office (EUIPO) does at Union level, their substantive examination ex officio to the absence of the grounds for non-registrability exhaustively enumerated in this Directive.	
Recital 42				
51	(42) For the purpose of offering efficient means of declaring design rights invalid, Member States should provide for an administrative procedure for declaration of invalidity which is aligned to the extent appropriate to that applicable to registered EU designs at Union level.	(42) For the purpose of offering efficient means of declaring design rights invalid, Member States should provide for an administrative procedure for declaration of invalidity which is aligned to the extent appropriate to that applicable to registered EU designs at Union level.	(42) For the purpose of offering <del>efficient</del> <b>another</b> means of declaring design rights invalid, Member States should <b>be allowed to</b> provide for an administrative procedure for declaration of invalidity which is aligned to the extent appropriate to that applicable to registered EU designs	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			at Union level.	
Recital 43				
52	(43) It is desirable that Member States' central industrial property offices and the Benelux Office for Intellectual Property cooperate with each other and with the EUIPO in all fields of design registration and administration in order to promote convergence of practices and tools, such as the creation and updating of common or connected databases and portals for consultation and search purposes. The Member States should further ensure that their	(43) It is desirable that Member States' central industrial property offices and the Benelux Office for Intellectual Property cooperate with each other and with the EUIPO in all fields of design registration and administration in order to promote convergence of practices and tools, such as the creation and updating of common or connected databases and portals for consultation and search purposes. The Member States should further ensure that their	(43) It is desirable that Member States' central industrial property offices and the Benelux Office for Intellectual Property cooperate with each other and with the EUIPO in all fields of design registration and administration in order to promote convergence of practices and tools, such as the creation and updating of common or connected databases and portals for consultation and search purposes. The Member States should further ensure that their	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	central industrial property offices and the Benelux Office for Intellectual Property cooperate with each other and with the EUIPO in all other areas of their activities which are relevant for the protection of designs in the Union.	central industrial property offices and the Benelux Office for Intellectual Property cooperate with each other and with the EUIPO in all other areas of their activities which are relevant for the protection of designs in the Union.	central industrial property offices and the Benelux Office for Intellectual Property cooperate with each other and with the EUIPO in all other areas of their activities which are relevant for the protection of designs in the Union.	
Recital 44				
53	(44) Since the objectives of this Directive, namely to foster and create a well-functioning internal market and to facilitate the registration, administration and protection of design rights in the Union to the benefit of growth and competitiveness where appropriate,	(44) Since the objectives of this Directive, namely to foster and create a well-functioning internal market and to facilitate the registration, administration and protection of design rights in the Union to the benefit of growth and competitiveness where appropriate,	(44) Since the objectives of this Directive, namely to foster and create a well-functioning internal market and to facilitate the registration, administration and protection of design rights in the Union to the benefit of growth and competitiveness where appropriate,	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.	cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.	cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.	
Recital 45				
54	(45) The European Data Protection Supervisor was	(45) The European Data Protection Supervisor was	(45) The European Data Protection Supervisor was	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>1</sup> and delivered an opinion on ....</p> <p>_____</p> <p>1. Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).</p>	<p>consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>1</sup> and delivered an opinion on ....</p> <p>_____</p> <p>1. Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).</p>	<p>consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>1</sup> and delivered an opinion on ....</p> <p>_____</p> <p>1. Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).</p>	
Recital 46				
55				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(46) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive amendment as compared with Directive 98/71/EC. The obligation to transpose the provisions which are unchanged arises under that earlier Directive.	(46) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive amendment as compared with Directive 98/71/EC. The obligation to transpose the provisions which are unchanged arises under that earlier Directive.	(46) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive amendment as compared with Directive 98/71/EC. The obligation to transpose the provisions which are unchanged arises under that earlier Directive.	
Recital 47				
56	(47) This Directive should be without prejudice to the obligations of the Member States relating to the time-limit for the transposition into national law of the Directive	(47) This Directive should be without prejudice to the obligations of the Member States relating to the time-limit for the transposition into national law of the Directive	(47) This Directive should be without prejudice to the obligations of the Member States relating to the time-limit for the transposition into national law of the Directive	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	set out in Annex I,	set out in Annex I,	set out in Annex I,	
Formula				
57	HAVE ADOPTED THIS DIRECTIVE:	HAVE ADOPTED THIS DIRECTIVE:	HAVE ADOPTED THIS DIRECTIVE:	
CHAPTER 1				
58	CHAPTER 1  GENERAL PROVISIONS	CHAPTER 1  GENERAL PROVISIONS	CHAPTER 1  GENERAL PROVISIONS	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1				
59	Article 1 Scope	Article 1 Scope	Article 1 Scope	
Article 1(1)				
60	1. This Directive applies to:	1. This Directive applies to:	1. This Directive applies to:	
Article 1(1), point (a)				
61	(a) design rights registered with	(a) design rights registered with	(a) design rights registered with	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	the central industrial property offices of the Member States;	the central industrial property offices of the Member States;	the central industrial property offices of the Member States;	
Article 1(1), point (b)				
62	(b) design rights registered at the Benelux Office for Intellectual Property ;	(b) design rights registered at the Benelux Office for Intellectual Property ;	(b) design rights registered at the Benelux Office for Intellectual Property ;	
Article 1(1), point (c)				
63	(c) design rights registered under international arrangements which have effect in a Member State;	(c) design rights registered under international arrangements which have effect in a Member State;	(c) design rights registered under international arrangements which have effect in a Member State;	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1(1), point (d)				
64	(d) applications for the design rights referred to under points (a), (b) and (c).	(d) applications for the design rights referred to under points (a), (b) and (c).	(d) applications for the design rights referred to under points (a), (b) and (c).	
Article 1(2)				
65	2. For the purpose of this Directive, design registration shall also comprise the publication following filing of the design with the industrial property office of a Member State in which such	2. For the purpose of this Directive, design registration shall also comprise the publication following filing of the design with the industrial property office of a Member State in which such	2. For the purpose of this Directive, design registration shall also comprise the publication following filing of the design with the industrial property office of a Member State in which such	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	publication has the effect of bringing a design right into existence.	publication has the effect of bringing a design right into existence.	publication has the effect of bringing a design right into existence.	
Article 2				
66	Article 2 Definitions	Article 2 Definitions	Article 2 Definitions	
Article 2, first paragraph				
67	For the purposes of this Directive , the following definitions apply :	For the purposes of this Directive , the following definitions apply :	For the purposes of this Directive , the following definitions apply :	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 2, first paragraph, point (1)				
68	(1) 'office' means the central industrial property office entrusted with the registration of designs by one or more Member States;	(1) 'office' means the central industrial property office entrusted with the registration of designs by one or more Member States;	(1) 'office' means the central industrial property office entrusted with the registration of designs by one or more Member States of the Member State or the Benelux Office for Intellectual Property, entrusted with the registration of designs;	
Article 2, first paragraph, point (2)				
69	(2) 'register' means the register of	(2) 'register' means the register of	(2) 'register' means the register of	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	designs kept by an office;	designs kept by an office;	designs kept by an office;	
Article 2, first paragraph, point (3)				
70	(3) ‘design’ means the appearance of the whole or a part of a product resulting from the features , in particular, the lines, contours, colours, shape, texture, materials of the product itself and/or its decoration , including the movement, transition or any other sort of animation of those features ;	(3) ‘design’ means the appearance of the whole or a part of a product resulting from the features , in particular, the lines, contours, colours, shape, texture, materials of the product itself and/or its decoration , including the movement, transition or any other sort of animation of those features ;	(3) ‘design’ means the appearance of the whole or a part of a product resulting from the features , in particular, the lines, contours, colours, shape, texture, materials of the product itself and/or its decoration , including the movement, transition or any other sort of animation of those features ;	
Article 2, first paragraph, point (4)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
71	(4) 'product' means any industrial or handicraft item other than computer programs , regardless of whether it is embodied in a physical object or materialises in a digital form , including :	(4) 'product' means any industrial or handicraft item other than computer programs , regardless of whether it is embodied in a physical object or materialises in a digital form , including :	(4) 'product' means any industrial or handicraft item– other than computer programs,– regardless of whether it is embodied in a physical object or materialises in a <del>digital form</del> <b>non-physical form</b> , including-:	
Article 2, first paragraph, point (4)(a)				
72	(a) packaging, sets of articles, get-up, spatial arrangement of items intended to form, in particular, an interior environment, and parts intended to be assembled into a complex product;	(a) packaging, sets of articles, get-up, spatial arrangement of items intended to form, in particular, an interior environment, and parts intended to be assembled into a complex product;	(a) packaging,– sets of articles, <del>get-up,</del> spatial arrangement of items intended to form, <del>in particular, an interior</del> <b>an interior or exterior</b> environment,– and parts intended to be assembled into	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			a complex product;	
Article 2, first paragraph, point (4)(b)				
73	(b) graphic works or symbols , logos, surface patterns, typographic typefaces, and graphical user interfaces ;	(b) graphic works or symbols , logos, surface patterns, typographic typefaces, and graphical user interfaces ;	(b) graphic works or symbols , logos, surface patterns, typographic typefaces, and graphical user interfaces ;	
Article 2, first paragraph, point (5)				
74	(5) ‘complex product’ means a product that is composed of multiple components which can be replaced permitting disassembly	(5) ‘complex product’ means a product that is composed of multiple components which can be replaced permitting disassembly	(5) ‘complex product’ means a product that is composed of multiple components which can be replaced permitting disassembly	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	and reassembly of the product.	and reassembly of the product.	and reassembly of the product.	
Article 2, first paragraph, point (5a)				
74a		<p><u>(5a) ‘manufacturer’ means manufacturer as defined in Article 3, point (8), of Regulation (EU) 2023/988 of the European Parliament and of the Council<sup>1</sup>;</u></p> <hr/> <p><u>1. Regulation (EU) 2023/988 of the European Parliament and of the Council of 10 May 2023 on general product safety, amending Regulation (EU) No 1025/2012 of the European Parliament and of the Council and Directive (EU) 2020/1828 of the European Parliament and the Council, and repealing Directive</u></p>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<a href="#"><u>2001/95/EC of the European Parliament and of the Council and Council Directive</u></a>  <a href="#"><u>87/357/EEC (OJ L 135, 23.5.2023, p. 1).</u></a>		
CHAPTER 2				
75	CHAPTER 2  SUBSTANTIVE LAW ON DESIGNS	CHAPTER 2  SUBSTANTIVE LAW ON DESIGNS	CHAPTER 2  SUBSTANTIVE LAW ON DESIGNS	
Article 3				
76	Article 3	Article 3	Article 3	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Protection requirements	Protection requirements	Protection requirements	
Article 3(1)				
77	1. Member States shall protect designs solely through the registration of the designs , and shall confer exclusive rights upon their holders in accordance with the provisions of this Directive.	1. Member States shall protect designs solely through the registration of the designs , and shall confer exclusive rights upon their holders in accordance with the provisions of this Directive.	1. Member States shall protect designs solely through the registration of the designs , and shall confer exclusive rights upon their holders in accordance with the provisions of this Directive.	
Article 3(2)				
78	2. A design shall be protected by a	2. A design shall be protected by a	2. A design shall be protected by a	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	design right if it is new and has individual character.	design right if it is new and has individual character.	design right if it is new and has individual character.	
Article 3(3)				
79	3. A design applied to or incorporated in a product which constitutes a component part of a complex product shall only be considered to be new and to have individual character:	3. A design applied to or incorporated in a product which constitutes a component part of a complex product shall only be considered to be new and to have individual character:	3. A design applied to or incorporated in a product which constitutes a component part of a complex product shall only be considered to be new and to have individual character:	
Article 3(3), point (a)				
80	(a) if the component part, once it	(a) if the component part, once it	(a) if the component part, once it	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	has been incorporated into the complex product, remains visible during normal use of the latter; and	has been incorporated into the complex product, remains visible during normal use of the latter; and	has been incorporated into the complex product, remains visible during normal use of the latter; and	
Article 3(3), point (b)				
81	(b) to the extent that those visible features of the component part fulfil in themselves the requirements as to novelty and individual character.	(b) to the extent that those visible features of the component part fulfil in themselves the requirements as to novelty and individual character.	(b) to the extent that those visible features of the component part fulfil in themselves the requirements as to novelty and individual character.	
Article 3(4)				
82	4. 'Normal use' within the	4. 'Normal use' within the	4. 'Normal use' within the	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	meaning of paragraph (3), point (a), shall mean use by the end user, excluding maintenance, servicing or repair work.	meaning of paragraph (3), point (a), shall mean use by the end user, excluding maintenance, servicing or repair work.	meaning of paragraph (3), point (a), shall mean use by the end user, excluding maintenance, servicing or repair work.	
Article 4				
83	Article 4  Novelty	Article 4  Novelty	Article 4  Novelty	
Article 4, first paragraph				
84	A design shall be considered new if no identical design has been made	A design shall be considered new if no identical design has been made	A design shall be considered new if no identical design has been made	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	available to the public before the date of filing of the application for registration or, if priority is claimed, the date of priority. Designs shall be deemed to be identical if their features differ only in immaterial details.	available to the public before the date of filing of the application for registration or, if priority is claimed, the date of priority. Designs shall be deemed to be identical if their features differ only in immaterial details.	available to the public before the date of filing of the application for registration or, if priority is claimed, the date of priority. Designs shall be deemed to be identical if their features differ only in immaterial details.	
Article 5				
85	Article 5  Individual character	Article 5  Individual character	Article 5  Individual character	
Article 5(1)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
86	1. A design shall be considered to have individual character if the overall impression it produces on the informed user differs from the overall impression produced on such a user by any design which has been made available to the public before the date of filing of the application for registration or, if priority is claimed, the date of priority.	1. A design shall be considered to have individual character if the overall impression it produces on the informed user differs from the overall impression produced on such a user by any design which has been made available to the public before the date of filing of the application for registration or, if priority is claimed, the date of priority.	1. A design shall be considered to have individual character if the overall impression it produces on the informed user differs from the overall impression produced on such a user by any design which has been made available to the public before the date of filing of the application for registration or, if priority is claimed, the date of priority.	
Article 5(2)				
87	2. In assessing individual character, the degree of freedom of	2. In assessing individual character, the degree of freedom of	2. In assessing individual character, the degree of freedom of	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	the designer in developing the design shall be taken into consideration.	the designer in developing the design shall be taken into consideration.	the designer in developing the design shall be taken into consideration.	
Article 6				
88	Article 6 Disclosure	Article 6 Disclosure	Article 6 Disclosure	
Article 6(1)				
89	1. For the purpose of applying Articles 4 and 5, a design shall be deemed to have been made	1. For the purpose of applying Articles 4 and 5, a design shall be deemed to have been made	1. For the purpose of applying Articles 4 and 5, a design shall be deemed to have been made	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>available to the public if it has been published following registration or otherwise, or exhibited, used in trade or otherwise disclosed, except where these events could not reasonably have become known in the normal course of business to the circles specialised in the sector concerned, operating within the Union , before the date of filing of the application for registration or, if priority is claimed, the date of priority. The design shall not, however, be deemed to have been made available to the public for the sole reason that it has been disclosed to a third person under explicit or implicit conditions of confidentiality.</p>	<p>available to the public if it has been published following registration or otherwise, or exhibited, used in trade or otherwise disclosed, except where these events could not reasonably have become known in the normal course of business to the circles specialised in the sector concerned, operating within the Union , before the date of filing of the application for registration or, if priority is claimed, the date of priority. The design shall not, however, be deemed to have been made available to the public for the sole reason that it has been disclosed to a third person under explicit or implicit conditions of confidentiality.</p>	<p>available to the public if it has been published following registration or otherwise, or exhibited, used in trade or otherwise disclosed, except where these events could not reasonably have become known in the normal course of business to the circles specialised in the sector concerned, operating within the Union , before the date of filing of the application for registration or, if priority is claimed, the date of priority. The design shall not, however, be deemed to have been made available to the public for the sole reason that it has been disclosed to a third person under explicit or implicit conditions of confidentiality.</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 6(2)				
90	2. A disclosure shall not be taken into consideration for the purpose of applying Articles 4 and 5 if the disclosed design, which is identical or does not differ in its overall impression from the design for which protection is claimed under a registered design right of a Member State, has been made available to the public:	2. A disclosure shall not be taken into consideration for the purpose of applying Articles 4 and 5 if the disclosed design, which is identical or does not differ in its overall impression from the design for which protection is claimed under a registered design right of a Member State, has been made available to the public:	2. A disclosure shall not be taken into consideration for the purpose of applying Articles 4 and 5 if the disclosed design, which is identical or does not differ in its overall impression from the design for which protection is claimed under a registered design right of a Member State, has been made available to the public:	
Article 6(2), point (a)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
91	(a) by the designer, his successor in title, or a third person as a result of information provided or action taken by the designer, or his successor in title; and	(a) by the designer, his successor in title, or a third person as a result of information provided or action taken by the designer, or his successor in title; and	(a) by the designer, his successor in title, or a third person as a result of information provided or action taken by the designer, or his successor in title; and	
Article 6(2), point (b)				
92	(b) during the 12-month period preceding the date of filing of the application or, if priority is claimed, the date of priority.	(b) during the 12-month period preceding the date of filing of the application or, if priority is claimed, the date of priority.	(b) during the 12-month period preceding the date of filing of the application or, if priority is claimed, the date of priority.	
Article 6(3)				



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
93	3. Paragraph 2 shall also apply if the design has been made available to the public as a consequence of an abuse in relation to the designer or his successor in title.	3. Paragraph 2 shall also apply if the design has been made available to the public as a consequence of an abuse in relation to the designer or his successor in title.	3. Paragraph 2 shall also apply if the design has been made available to the public as a consequence of an abuse in relation to the designer or his successor in title.	
Article 7				
94	Article 7 Designs dictated by their technical function and designs of interconnections	Article 7 Designs dictated by their technical function and designs of interconnections	Article 7 Designs dictated by their technical function and designs of interconnections	
Article 7(1)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
95	1. A design right shall not subsist in features of appearance of a product which are solely dictated by its technical function.	1. A design right shall not subsist in features of appearance of a product which are solely dictated by its technical function.	1. A design right shall not subsist in features of appearance of a product which are solely dictated by its technical function.	
Article 7(2)				
96	2. A design right shall not subsist in features of appearance of a product which must necessarily be reproduced in their exact form and dimensions in order to permit the product in which the design is incorporated or to which it is applied to be mechanically connected to or placed in, around	2. A design right shall not subsist in features of appearance of a product which must necessarily be reproduced in their exact form and dimensions in order to permit the product in which the design is incorporated or to which it is applied to be mechanically connected to or placed in, around	2. A design right shall not subsist in features of appearance of a product which must necessarily be reproduced in their exact form and dimensions in order to permit the product in which the design is incorporated or to which it is applied to be mechanically connected to or placed in, around	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	or against another product so that either product may perform its function.	or against another product so that either product may perform its function.	or against another product so that either product may perform its function.	
Article 7(3)				
97	3. Notwithstanding paragraph 2, a design right shall, under the conditions set out in Articles 4 and 5, subsist in a design serving the purpose of allowing multiple assembly or connection of mutually interchangeable products within a modular system.	3. Notwithstanding paragraph 2, a design right shall, under the conditions set out in Articles 4 and 5, subsist in a design serving the purpose of allowing multiple assembly or connection of mutually interchangeable products within a modular system.	3. Notwithstanding paragraph 2, a design right shall, under the conditions set out in Articles 4 and 5, subsist in a design serving the purpose of allowing multiple assembly or connection of mutually interchangeable products within a modular system.	
Article 8				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
98	Article 8 Designs contrary to public policy or morality	Article 8 Designs contrary to public policy or morality	Article 8 Designs contrary to public policy or morality	
Article 8, first paragraph				
99	A design right shall not subsist in a design which is contrary to public policy or to accepted principles of morality.	A design right shall not subsist in a design which is contrary to public policy or to accepted principles of morality.	A design right shall not subsist in a design which is contrary to public policy or to accepted principles of morality.	
Article 9				
100				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 9  Scope of protection	Article 9  Scope of protection	Article 9  Scope of protection	
Article 9(1)				
101	1. The scope of the protection conferred by a design right shall include any design which does not produce on the informed user a different overall impression.	1. The scope of the protection conferred by a design right shall include any design which does not produce on the informed user a different overall impression.	1. The scope of the protection conferred by a design right shall include any design which does not produce on the informed user a different overall impression.	
Article 9(2)				
102	2. In assessing the scope of	2. In assessing the scope of	2. In assessing the scope of	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	protection, the degree of freedom of the designer in developing his design shall be taken into consideration.	protection, the degree of freedom of the designer in developing his design shall be taken into consideration.	protection, the degree of freedom of the designer in developing his design shall be taken into consideration.	
Article 10				
103	Article 10 Commencement and term of protection	Article 10 Commencement and term of protection	Article 10 Commencement and term of protection	
Article 10(1)				
104	1. Protection by a registered	1. Protection by a registered	1. Protection by a registered of a	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	design right of a design which meets the requirements of Article 3(2) shall arise with registration by the office.	design right of a design which meets the requirements of Article 3(2) shall arise with registration by the office.	design right of a design which <del>meets the requirements of Article 3(2) shall</del> <b>shall</b> arise with registration by the office.	
Article 10(2)				
105	2. A registered design shall be registered for a period of five years calculated from the date of filing of the application for registration . The right holder may have the term of protection renewed for one or more periods of 5 years each, up to a total term of 25 years from the date of filing of the application for registration .	2. A registered design shall be registered for a period of five years calculated from the date of filing of the application for registration . The right holder may have the term of protection renewed for one or more periods of 5 years each, up to a total term of 25 years from the date of filing of the application for registration .	2. A <del>registered</del> design shall be registered <del>for</del> <b>for</b> a period of five years calculated from the date of filing of the application for registration-. The right holder may <del>have the term of protection renewed</del> <b>renew the registration, in accordance with Article 32,</b> for one or more periods of 5 years each, up to a total term of 25 years from the date of filing- of the	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			application for registration-	
Article 11				
106	Article 11 Right to the registered design	Article 11 Right to the registered design	Article 11 Right to the registered design	
Article 11(1)				
107	1. The right to the registered design shall vest in the designer or his successor in title.	1. The right to the registered design shall vest in the designer or his successor in title.	1. The right to the registered design shall vest in the designer or his successor in title.	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 11(2)				
108	2. If two or more persons have jointly developed the design, the right to the registered design shall vest in them jointly.	2. If two or more persons have jointly developed the design, the right to the registered design shall vest in them jointly.	2. If two or more persons have jointly developed the design, the right to the registered design shall vest in them jointly.	
Article 11(3)				
109	3. However, where a design is developed by an employee in the execution of his duties or following the instructions given by his employer, the right to the registered design shall vest in the employer, unless otherwise agreed	3. However, where a design is developed by an employee in the execution of his duties or following the instructions given by his employer, the right to the registered design shall vest in the employer, unless otherwise agreed	3. However, <b>the right to the registered design shall vest in the employer</b> where a design is developed by an employee in the execution of his duties or following the instructions given by his employer, <del>the right to the</del>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	or laid down in national law.	or laid down in national law.	<del>registered design shall vest in the employer, unless otherwise agreed</del> <b>unless otherwise agreed between the parties concerned</b> or laid down in national law.	
Article 12				
110	Article 12  Presumption in favour of the registered holder of the design	Article 12  Presumption in favour of the registered holder of the design	Article 12  Presumption in favour of the registered holder of the design	
Article 12, first paragraph				
111				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	The person in whose name the design right is registered, or prior to registration the person in whose name the application is filed, shall be deemed to be the person entitled to act in any proceedings before the office in the territory of which protection is claimed as well as in any other proceedings.	The person in whose name the design right is registered, or prior to registration the person in whose name the application is filed, shall be deemed to be the person entitled to act in any proceedings before the office in the territory of which protection is claimed as well as in any other proceedings.	The person in whose name the design right is registered, or prior to registration the person in whose name the application is filed, shall be deemed to be the person entitled to act in any proceedings before the office in the territory of which protection is claimed as well as in any other proceedings.	
Article 13				
112	Article 13  Grounds for non-registrability	Article 13  Grounds for non-registrability	Article 13  Grounds for non-registrability	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 13(1)				
113	1. A design shall be refused registration where :	1. A design shall be refused registration where :	1. A design shall be refused registration where :	
Article 13(1), point (a)				
114	(a) the design is not a design within the meaning of Article 2, point (3);	(a) the design is not a design within the meaning of Article 2, point (3);	(a) the design is not a design within the meaning of Article 2, point (3);	
Article 13(1), point (b)				
115				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(b) the design does not fulfil the requirements of Article 8.	(b) the design does not fulfil the requirements of Article 8.	(b) the design does not fulfil the requirements of Article 8;	
Article 13(1), point (ba)				
115a			<p><b>(ba) the design constitutes an improper use of any of the items listed in Article 6ter of the Paris Convention for the Protection of Industrial Property, unless the consent of the competent authorities to the registration has been given.</b></p> <p>(moved from Article 14(1)(g))</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 13(1a)				
115b			<p><b>1a. Any Member State may provide that a design shall be refused registration where the design constitutes an improper use of badges, emblems and escutcheons other than those covered by Article 6ter of the Paris Convention and which are of a particular public interest in the Member State concerned, unless the consent of the competent authority to their registration has been given in conformity with the law of the Member State.</b></p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 13(1b)				
115c			<b>1b. Any Member State may provide that a design shall be refused registration where it contains a total or partial reproduction of elements belonging to cultural heritage that are of national interest.</b>	
Article 14				
116	Article 14	Article 14	Article 14	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Grounds for invalidity	Grounds for invalidity	Grounds for invalidity	
Article 14(1)				
117	1. If the design has been registered, the design right shall be declared invalid in the following situations:	1. If the design has been registered, the design right shall be declared invalid in the following situations:	1. If the design has been registered, the design right shall be declared invalid in the following situations:	
Article 14(1), point (a)				
118	(a) the design is not a design within the meaning of Article 2, point (3);	(a) the design is not a design within the meaning of Article 2, point (3);	(a) the design is not a design within the meaning of Article 2, point (3);	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 14(1), point (b)				
119	(b) the design does not fulfil the requirements laid down in Articles 3 to 8;	(b) the design does not fulfil the requirements laid down in Articles 3 to 8;	(b) the design does not fulfil the requirements laid down in Articles 3 to 8;	
Article 14(1), point (ba)				
119a			<b>(ba) the design has been registered in breach of Article 13(1)(ba) or of Article 13(1a);</b>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 14(1), point (c)				
120	(c) by virtue of a decision of the competent court or authority, the holder of the design right is not entitled to it under the law of the Member State concerned;	(c) by virtue of a decision of the competent court or authority, the holder of the design right is not entitled to it under the law of the Member State concerned;	(c) <del>by virtue of a decision of the competent court or authority,</del> the holder of the design right is not entitled to it under the law of the Member State concerned;	
Article 14(1), point (d)				
121	(d) the design is in conflict with a prior design which has been made available to the public , and which is protected from a date prior to the date of filing of the application, or if priority is claimed, the date of	(d) the design is in conflict with a prior design which has been made available to the public , and which is protected from a date prior to the date of filing of the application, or if priority is claimed, the date of	(d) the design is in conflict with a prior design which has been made available to the public , <del>and which is protected from a date prior to the date</del> <b>prior to or after the date</b> of filing of the application, or, if	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	priority of the design:	priority of the design:	priority is claimed, the date of priority of the design, <b>and which is protected from a date prior to the said date:</b>	
Article 14(1), point (d)(i)				
122	(i) by a registered EU design or an application for a registered EU design subject to its registration;	(i) by a registered EU design or an application for a registered EU design subject to its registration;	(i) by a registered EU design or an application for a registered EU design subject to its registration;	
Article 14(1), point (d)(ii)				
123	(ii) by a registered design right of the Member State concerned, or by	(ii) by a registered design right of the Member State concerned, or by	(ii) by a registered design right of the Member State concerned, or by	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	an application for such a right subject to its registration;	an application for such a right subject to its registration;	an application for such a right subject to its registration;	
Article 14(1), point (d)(iii)				
124	(iii) by a design right registered under international arrangements which have effect in the Member State concerned, or by an application for such a right subject to its registration;	(iii) by a design right registered under international arrangements which have effect in the Member State concerned, or by an application for such a right subject to its registration;	(iii) by a design right registered under international arrangements which have effect in the Member State concerned, or by an application for such a right subject to its registration;	
Article 14(1), point (e)				
125	(e) a distinctive sign is used in a	(e) a distinctive sign is used in a	(e) a distinctive sign is used in a	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	subsequent design, and Union law or the law of the Member State concerned governing that sign confers on the right holder of the sign the right to prohibit such use;	subsequent design, and Union law or the law of the Member State concerned governing that sign confers on the right holder of the sign the right to prohibit such use;	subsequent design, and Union law or the law of the Member State concerned governing that sign confers on the right holder of the sign the right to prohibit such use;	
Article 14(1), point (f)				
126	(f) the design constitutes an unauthorised use of a work protected under the copyright law of the Member State concerned;	(f) the design constitutes an unauthorised use of a work protected under the copyright law of the Member State concerned;	(f) the design constitutes an unauthorised use of a work protected under the copyright law of the Member State concerned;	
Article 14(1), point (g)				
127				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(g) the design constitutes an improper use of any of the items listed in Article 6ter of the Paris Convention for the Protection of Industrial Property, or of badges, emblems and escutcheons other than those covered by Article 6ter of the said Convention which are of particular public interest in the Member State concerned.	(g) the design constitutes an improper use of any of the items listed in Article 6ter of the Paris Convention for the Protection of Industrial Property, or of badges, emblems and escutcheons other than those covered by Article 6ter of the said Convention which are of particular public interest in the Member State concerned.	<del>(g) the design constitutes an improper use of any of the items listed in Article 6ter of the Paris Convention for the Protection of Industrial Property, or of badges, emblems and escutcheons other than those covered by Article 6ter of the said Convention which are of particular public interest in the Member State concerned.</del>  (Moved to Article 13(1)ba)	
Article 14(1a)				
127a			1a. If the design has been	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<p><b>registered, any Member State may provide that the design right shall be declared invalid, where it contains a total or partial reproduction of elements belonging to cultural heritage that are of national interest.</b></p>	
Article 14(2)				
128	<p>2. The grounds for invalidity provided for in paragraph (1), points (a) and (b), may be invoked by the following:</p>	<p>2. The grounds for invalidity provided for in paragraph (1), points (a) and (b), may be invoked by the following:</p>	<p>2. The grounds for invalidity provided for in paragraph (1), points (a) and (b), may be invoked by the following:</p>	
Article 14(2), point (a)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
129	(a) any natural or legal person;	(a) any natural or legal person;	(a) any natural or legal person;	
Article 14(2), point (b)				
130	(b) any group or body set up for the purpose of representing the interests of manufacturers, producers, suppliers of services, traders or consumers, if that group or body, has the capacity to sue and be sued in its own name under the terms of the law governing it.	(b) any group or body set up for the purpose of representing the interests of manufacturers, producers, suppliers of services, traders or consumers, if that group or body, has the capacity to sue and be sued in its own name under the terms of the law governing it.	(b) any group or body set up for the purpose of representing the interests of manufacturers, producers, suppliers of services, traders or consumers, if that group or body, has the capacity to sue and be sued in its own name under the terms of the law governing it.	
Article 14(2a)				



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
130a			<p><b>2a. The ground for invalidity provided for in paragraph 1, point (ba), may be invoked solely by the person or entity concerned by the improper use.</b></p> <p>(moved from paragraph 5)</p>	
Article 14(3)				
131	3. The ground for invalidity provided for in paragraph 1, point (c), may be invoked solely by the person who is entitled to the design right under the law of the Member	3. The ground for invalidity provided for in paragraph 1, point (c), may be invoked solely by the person who is entitled to the design right under the law of the Member	3. The ground for invalidity provided for in paragraph 1, point (c), may be invoked solely by the person who is entitled to the design right under the law of the Member	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	State concerned.	State concerned.	State concerned.	
Article 14(4)				
132	4. The grounds for invalidity provided for in paragraph 1, points (d), (e) and (f), may be invoked solely by the following:	4. The grounds for invalidity provided for in paragraph 1, points (d), (e) and (f), may be invoked solely by the following:	4. The grounds for invalidity provided for in paragraph 1, points (d), (e) and (f), may be invoked solely by the following:	
Article 14(4), point (a)				
133	(a) the applicant for or the holder of the conflicting right;	(a) the applicant for or the holder of the conflicting right;	(a) the applicant for or the holder of the conflicting earlier right;	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 14(4), point (b)				
134	(b) the persons who are entitled under Union legislation or the law of the Member State concerned to exercise the rights in question;	(b) the persons who are entitled under Union legislation or the law of the Member State concerned to exercise the rights in question;	(b) the persons who are entitled under Union legislation or the law of the Member State concerned to exercise the rights in question;	
Article 14(4), point (c)				
135	(c) a licensee authorised by the proprietor of a trade mark or a holder of a design right.	(c) a licensee authorised by the proprietor of a trade mark or a holder of a design right.	(c) a licensee authorised by the proprietor of a trade mark or a holder of a design right. <b>the earlier</b>	
Article 14(5)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
136	5. The ground for invalidity provided for in paragraph 1, point (g), may be invoked solely by the person or entity concerned by the improper use.	5. The ground for invalidity provided for in paragraph 1, point (g), may be invoked solely by the person or entity concerned by the improper use.	5. <del>The ground for invalidity provided for in paragraph 1, point (g), may be invoked solely by the person or entity concerned by the improper use.</del>  (moved to paragraph 2a)	
Article 14(6)				
137	6. A design right may not be declared invalid where the applicant for or a holder of a right referred to in paragraph 1, points (d) to (g), consents expressly to the	6. A design right may not be declared invalid where the applicant for or a holder of a right referred to in paragraph 1, points (d) to (g), consents expressly to the	6. A design right may not be declared invalid where the applicant for or a holder of a right referred to in paragraph 1, points (d) to <del>(g)</del> (f), consents expressly to	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	registration of the design before submission of the application for a declaration of invalidity or the counterclaim.	registration of the design before submission of the application for a declaration of invalidity or the counterclaim.	the registration of the design before submission of the application for a declaration of invalidity or the counterclaim.	
Article 14(7)				
138	7. A design right may be declared invalid even after it has lapsed or has been surrendered.	7. A design right may be declared invalid even after it has lapsed or has been surrendered.	7. A design right may be declared invalid even after it has lapsed or has been surrendered.	
Article 15				
139	Article 15	Article 15	Article 15	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Object of protection	Object of protection	Object of protection	
Article 15, first paragraph				
140	Protection shall be conferred for those features of appearance of a registered design which are shown visibly in the application for registration.	Protection shall be conferred for those features of appearance of a registered design which are shown visibly in the application for registration.	Protection shall be conferred for those features of appearance of a registered design which are shown visibly in the application for registration.	
Article 16				
141	Article 16  Rights conferred by the design	Article 16  Rights conferred by the design	Article 16  Rights conferred by the design	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	right	right	right	
Article 16(1)				
142	1. The registration of a design shall confer on its holder the exclusive right to use it and to prevent any third party not having the consent of the holder from using it.	1. The registration of a design shall confer on its holder the exclusive right to use it and to prevent any third party not having the consent of the holder from using it.	1. The registration of a design shall confer on its holder the exclusive right to use it and to prevent any third party not having the consent of the holder from using it.	
Article 16(2)				
143	2. The following , in particular, may be prohibited under paragraph	2. The following , in particular, may be prohibited under paragraph	2. The following , in particular, may be prohibited under paragraph	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	1:	1:	1:	
Article 16(2), point (a)				
144	(a) making, offering, putting on the market or using of a product in which the design is incorporated or to which it is applied;	(a) making, offering, putting on the market or using of a product in which the design is incorporated or to which it is applied;	(a) making, offering, putting on the market or using of a product in which the design is incorporated or to which it is applied;	
Article 16(2), point (b)				
145	(b) importing or exporting a product referred to in point (a);	(b) importing or exporting a product referred to in point (a);	(b) importing or exporting a product referred to in point (a);	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 16(2), point (c)				
146	(c) stocking a product referred to in point (a) for the purposes mentioned in points (a) and (b);	(c) stocking a product referred to in point (a) for the purposes mentioned in points (a) and (b);	(c) stocking a product referred to in point (a) for the purposes mentioned in points (a) and (b);	
Article 16(2), point (d)				
147	(d) creating, downloading, copying and sharing or distributing to others any medium or software recording the design for the purpose of enabling a product referred to in point (a) to be made.	(d) creating, downloading, copying and sharing or distributing to others any medium or software recording the design for the purpose of enabling a product referred to in point (a) to be made.	(d) creating, downloading, copying and sharing or distributing to others any medium or software recording the design for the purpose of enabling a product referred to in point (a) to be made.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 16(3), first subparagraph				
148	<p>3. By way of derogation from Article 9(1), the holder of a registered design right shall be entitled to prevent all third parties from bringing products, in the course of trade, from third countries into the Member State where the design is registered, that are not released for free circulation in that Member State, where the design is identically incorporated in or applied to those products, or the design cannot be distinguished in its essential aspects from such products, and an authorisation has not been given.</p>	<p>3. By way of derogation from Article 9(1), the holder of a registered design right shall be entitled to prevent all third parties from bringing products, in the course of trade, from third countries into the Member State where the design is registered, that are not released for free circulation in that Member State, where the design is identically incorporated in or applied to those products, or the design cannot be distinguished in its essential aspects from such products, and an authorisation has not been given.</p>	<p>3. <del>By way of derogation from Article 9(1),</del> The holder of a registered design right shall be entitled to prevent all third parties from bringing products, in the course of trade, from third countries into the Member State where the design is registered, that are not released for free circulation in that Member State, where the design is identically incorporated in or applied to those products, or the design cannot be distinguished in its essential aspects from such products, and an authorisation has not been given.</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 16(3), second subparagraph				
149	<p>The right referred to in the first subparagraph shall lapse, if, during the proceedings to determine whether the registered design right has been infringed, initiated in accordance with Regulation (EU) No 608/2013, evidence is provided by the declarant or the holder of the products that the holder of the registered design right is not entitled to prohibit the placing of the products on the market in the country of final destination.</p>	<p>The right referred to in the first subparagraph shall lapse, if, during the proceedings to determine whether the registered design right has been infringed, initiated in accordance with Regulation (EU) No 608/2013, evidence is provided by the declarant or the holder of the products that the holder of the registered design right is not entitled to prohibit the placing of the products on the market in the country of final destination.</p>	<p>The right referred to in the first subparagraph shall lapse, if, during the proceedings to determine whether the registered design right has been infringed, initiated in accordance with Regulation (EU) No 608/2013, evidence is provided by the declarant or the holder of the products that the holder of the registered design right is not entitled to prohibit the placing of the products on the market in the country of final destination.</p>	
Article 17				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
150	Article 17  Presumption of validity	Article 17  Presumption of validity	Article 17  Presumption of validity	
Article 17(1)				
151	1. In infringement proceedings it shall be presumed, in the favour of the holder of the registered design right, that the requirements set for the legal validity of a registered design right referred to in Articles 3 to 8 are met.	1. In infringement proceedings it shall be presumed, in the favour of the holder of the registered design right, that the requirements set for the legal validity of a registered design right referred to in Articles 3 to 8 are met.	1. In infringement proceedings it shall be presumed, in the favour of the holder of the registered design right, that the requirements set for the legal validity of a registered design right referred to in Articles 3 to 8 are met, <b>and that the design right has not been registered in breach of Article 13(1)(ba).</b>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 17(2)				
152	2. The presumption of validity referred to in paragraph 1 shall be rebuttable by any procedural means available in the jurisdiction of the Member State concerned, including counterclaims.	2. The presumption of validity referred to in paragraph 1 shall be rebuttable by any procedural means available in the jurisdiction of the Member State concerned, including counterclaims.	2. The presumption of validity referred to in paragraph 1 shall be rebuttable by any procedural means available in the jurisdiction of the Member State concerned, including counterclaims.	
Article 18				
153	Article 18  Limitation of the rights conferred	Article 18  Limitation of the rights conferred	Article 18  Limitation of the rights conferred	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	by the design right	by the design right	by the design right	
Article 18(1)				
154	1. The rights conferred by a design right upon registration shall not be exercised in respect of:	1. The rights conferred by a design right upon registration shall not be exercised in respect of:	1. The rights conferred by a design right upon registration shall not be exercised in respect of:	
Article 18(1), point (a)				
155	(a) acts carried out privately and for non-commercial purposes;	(a) acts carried out privately and for non-commercial purposes;	(a) acts carried out privately and for non-commercial purposes;	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 18(1), point (b)				
156	(b) acts carried out for experimental purposes;	(b) acts carried out for experimental purposes;	(b) acts carried out for experimental purposes;	
Article 18(1), point (c)				
157	(c) acts of reproduction for the purposes of making citations or of teaching;	(c) acts of reproduction for the purposes of making citations or of teaching;	(c) acts of reproduction for the purposes of making citations or of teaching;	
Article 18(1), point (d)				
158				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(d) acts carried out for the purpose of identifying or referring to a product as that of the design right holder;	(d) acts carried out for the purpose of identifying or referring to a product as that of the design right holder;	(d) acts carried out for the purpose of identifying or referring to a product as that of the design right holder;	
Article 18(1), point (e)				
159	(e) acts carried out for the purposes of comment, critique, or parody;	(e) acts carried out for the purposes of comment, critique, or parody;	(e) acts carried out for the purposes of comment, critique, or parody;	
Article 18(1), point (f)				
160	(f) the equipment on ships and	(f) the equipment on ships and	(f) the equipment on ships and	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	aircraft registered in another country when these temporarily enter the territory of the Member State concerned;	aircraft registered in another country when these temporarily enter the territory of the Member State concerned;	aircraft registered in another country when these temporarily enter the territory of the Member State concerned;	
Article 18(1), point (g)				
161	(g) the importation in the Member State concerned of spare parts and accessories for the purpose of repairing such craft;	(g) the importation in the Member State concerned of spare parts and accessories for the purpose of repairing such craft;	(g) the importation in the Member State concerned of spare parts and accessories for the purpose of repairing such craft;	
Article 18(1), point (h)				
162	(h) the execution of repairs on	(h) the execution of repairs on	(h) the execution of repairs on	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	such craft.	such craft.	such craft.	
Article 18(2)				
163	2. Paragraph 1, points (c), (d) and (e) shall only apply where the acts are compatible with fair trade practices and do not unduly prejudice the normal exploitation of the design, and in the case of point (c), where mention is made of the source of the product in which the design is incorporated or to which the design is applied.	2. Paragraph 1, points (c), (d) and (e) shall only apply where the acts are compatible with fair trade practices and do not unduly prejudice the normal exploitation of the design, and in the case of point (c), where mention is made of the source of the product in which the design is incorporated or to which the design is applied.	2. Paragraph 1, points (c), (d) and (e) shall only apply where the acts are compatible with fair trade practices and do not unduly prejudice the normal exploitation of the design, and in the case of point (c), where mention is made of the source of the product in which the design is incorporated or to which the design is applied.	
Article 19				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
164	Article 19 Repair clause	Article 19 Repair clause	Article 19 Repair clause	
Article 19(1)				
165	1. Protection shall not be conferred on a registered design which constitutes a component part of a complex product, upon whose appearance the design of the component part is dependent, and which is used within the meaning of Article 16(1) for the sole purpose of the repair of that complex product so as to restore its	1. Protection shall not be conferred on a registered design which constitutes a component part of a complex product, <del>upon whose appearance the design of the component part is dependent, and</del> which is used within the meaning of Article 16(1) for the sole purpose of the repair of that complex product so as to restore its	1. Protection shall not be conferred on a registered design which constitutes a component part of a complex product, upon whose appearance the design of the component part is dependent, and which is used within the meaning of Article 16(1) for the sole purpose of the repair of that complex product so as to restore its	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	original appearance.	original appearance. <u>The use of such a component part for the aforementioned repair purpose shall be presumed.</u>	original appearance.	
Article 19(2)				
166	2. Paragraph 1 cannot be invoked by the manufacturer or the seller of a component part of a complex product who failed to duly inform consumers, through a clear and visible indication on the product or in another appropriate form, about the origin of the product to be used for the purpose of the repair of the complex product, so that they can make an informed choice between	2. Paragraph 1 cannot be invoked by the manufacturer or the seller of a component part of a complex product who failed to duly inform consumers, through a clear and visible indication on the product or in another appropriate form, about the <del>origin</del> <u>identity of the manufacturer</u> of the product to be used for the <u>sole</u> purpose of the repair of the complex product, so	2. Paragraph 1 cannot be invoked by the manufacturer or the seller of a component part of a complex product who failed to duly inform consumers, through a clear and visible indication on the product or in another appropriate form, about the <b>commercial</b> origin of the product to be used for the purpose of the repair of the complex product, so that they can make an	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	competing products that can be used for the repair.	that they can make an informed choice between competing products that can be used for the repair. <u><i>This indication of the manufacturer's identity shall include at least the name of the manufacturer, the geographical address of his registered place of business and, where appropriate, his telephone number or e-mail address.</i></u>	informed choice between competing products that can be used for the repair.	
Article 19(3)				
167	3. Where at the time of adoption of this Directive the national law of a Member State provides protection for designs within the	3. Where at the time of adoption of this Directive the national law of a Member State provides protection for designs within the	3. Where at the time of <del>adoption</del> <b>entry into force</b> of this Directive the national law of a Member State provides protection	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>meaning of paragraph 1, the Member State shall, by way of derogation from paragraph 1, continue until ...[OP please insert the date = ten years from the date of entry into force of this Directive] to provide that protection for designs for which registration has been applied before the entry into force of this Directive.</p>	<p>meaning of paragraph 1, the Member State <del>shall</del><u>may</u>, by way of derogation from paragraph 1, continue <del>until ...</del><i>[OP please insert the date = ten years from the date of entry into force of this Directive]</i> <del>to provide that protection for designs for which registration has been applied before the</del> <u>entry into force of this Directive</u>. That protection <del>for designs for which registration has been applied before the</del> <u>shall last 10 years from the date of entry into force of this Directive, unless that Member State prefers to opt for a shorter period of at least three years.</u></p>	<p>for designs within the meaning of paragraph 1, the Member State shall, by way of derogation from paragraph 1, continue until ...<i>[OP please insert the date = ten years from the date of entry into force of this Directive]</i> to provide that protection for designs for which registration has been applied before the entry into force of this Directive.</p>	
Article 20				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
168	Article 20  Exhaustion of rights	Article 20  Exhaustion of rights	Article 20  Exhaustion of rights	
Article 20, first paragraph				
169	The rights conferred by a design right upon registration shall not extend to acts relating to a product in which a design included within the scope of protection of the design right is incorporated or to which it is applied, when the product has been put on the market in the Union by the holder of the design right or with his consent.	The rights conferred by a design right upon registration shall not extend to acts relating to a product in which a design included within the scope of protection of the design right is incorporated or to which it is applied, when the product has been put on the market in the Union by the holder of the design right or with his consent.	The rights conferred by a design right upon registration shall not extend to acts relating to a product in which a design included within the scope of protection of the design right is incorporated or to which it is applied, when the product has been put on the market in the Union by the holder of the design right or with his consent.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 21				
170	<p>Article 21</p> <p>Rights of prior use in respect of a registered design right</p>	<p>Article 21</p> <p>Rights of prior use in respect of a registered design right</p>	<p>Article 21</p> <p>Rights of prior use in respect of a registered design right</p>	
Article 21(1)				
171	<p>1. A right of prior use shall exist for any third party who can establish that before the date of filing of the application, or, if a priority is claimed, before the date</p>	<p>1. A right of prior use shall exist for any third party who can establish that before the date of filing of the application, or, if a priority is claimed, before the date</p>	<p>1. A right of prior use shall exist for any third party who can establish that before the date of filing of the application, or, if a priority is claimed, before the date</p>	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	of priority, the third party has in good faith commenced use within the Member State concerned, or has made serious and effective preparations to that end, of a design included within the scope of protection of a registered design right, which has not been copied from the latter.	of priority, the third party has in good faith commenced use within the Member State concerned, or has made serious and effective preparations to that end, of a design included within the scope of protection of a registered design right, which has not been copied from the latter.	of priority, the third party has in good faith commenced use within the Member State concerned, or has made serious and effective preparations to that end, of a design included within the scope of protection of a registered design right, which has not been copied from the latter.	
Article 21(2)				
172	2. The right of prior use shall entitle the third person to exploit the design for the purposes for which its use has been effected, or for which serious and effective preparations had been made, before	2. The right of prior use shall entitle the third person to exploit the design for the purposes for which its use has been effected, or for which serious and effective preparations had been made, before	2. The right of prior use shall entitle the third person to exploit the design for the purposes for which its use has been effected, or for which serious and effective preparations had been made, before	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	the filing or priority date of the registered design right.	the filing or priority date of the registered design right.	the filing or priority date of the registered design right.	
Article 22				
173	Article 22 Relationship to other forms of protection	Article 22 Relationship to other forms of protection	Article 22 Relationship to other forms of protection	
Article 22, first paragraph				
174	The provisions of this Directive shall be without prejudice to any provisions of Union law or of the	The provisions of this Directive shall be without prejudice to any provisions of Union law or of the	The provisions of this Directive shall be without prejudice to any provisions of– Union—law or of	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	law of the Member State concerned relating to unregistered design rights, trade marks or other distinctive signs, patents and utility models, typefaces, civil liability or unfair competition.	law of the Member State concerned relating to unregistered design rights, trade marks or other distinctive signs, patents and utility models, typefaces, civil liability or unfair competition.	<b>law relating to unregistered design rights, or to any provisions of Union law or the</b> law of the Member State concerned relating to <del>unregistered design rights</del> , trade marks or other distinctive signs, patents and utility models, typefaces, civil liability or unfair competition.	
Article 23				
175	Article 23 Relationship to copyright	Article 23 Relationship to copyright	Article 23 Relationship to copyright	
Article 23, first paragraph				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
176	A design protected by a design right registered in or in respect of a Member State in accordance with this Directive shall also be eligible for protection by copyright as from the date on which the design was created or fixed in any form provided that the requirements of Union copyright law are met .	A design protected by a design right registered in or in respect of a Member State in accordance with this Directive shall also be eligible for protection by copyright as from the date on which the design was created or fixed in any form provided that the requirements of Union copyright law are met .	A design protected by a design right registered in or in respect of a Member State in accordance with this Directive shall also be eligible for protection by copyright as from the date on which the design was created or fixed in any form provided that the requirements of <del>Union</del> copyright law are met–.	
Article 24				
177	Article 24  Registration symbol	Article 24  Registration symbol	Article 24  Registration symbol	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 24, first paragraph				
178	<p>The holder of a registered design right may inform the public that the design is registered by displaying on the product in which the design is incorporated or to which it is applied the letter D enclosed within a circle. Such design notice may be accompanied by the registration number of the design or hyperlinked to the entry of the design in the register.</p>	<p>The holder of a registered design right may inform the public that the design is registered by displaying on the product in which the design is incorporated or to which it is applied the letter <del>D</del><u>R</u> enclosed within a circle. Such design notice may be accompanied by the registration number of the design or hyperlinked to the entry of the design in the register. <u>Any misuse of this indication may lead to legal proceedings.</u></p>	<p>The holder of a registered design right may inform the public that the design is registered by displaying on the product in which the design is incorporated or to which it is applied the letter D enclosed within a circle. Such design notice may be accompanied by the registration number of the design or hyperlinked to the entry of the design in the register.</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
CHAPTER 3				
179	CHAPTER 3 PROCEDURES	CHAPTER 3 PROCEDURES	CHAPTER 3 PROCEDURES	
Article 25				
180	Article 25 Application requirements	Article 25 Application requirements	Article 25 Application requirements	
Article 25(1)				
181				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	1. An application for a registered design shall contain at least all of the following:	1. An application for a registered design shall contain at least all of the following:	1. An application for a <del>registered</del> <b>registration of a</b> design shall contain at least all of the following:	
Article 25(1), point (a)				
182	(a) a request for registration;	(a) a request for registration;	(a) a request for registration;	
Article 25(1), point (b)				
183	(b) information identifying the applicant;	(b) information identifying the applicant;	(b) information identifying the applicant;	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 25(1), point (c)				
184	(c) a representation of the design suitable for reproduction, permitting all the details of the subject matter for which protection is sought to be clearly distinguished and permitting publication;	(c) a representation of the design suitable for reproduction, permitting all the details of the subject matter for which protection is sought to be clearly distinguished and permitting publication;	(c) a <b>sufficiently clear</b> representation of the design <del>suitable for reproduction,</del> permitting <del>all the details of the</del> subject matter for which protection is sought to be <del>clearly distinguished and permitting</del> <b>determined;</b>	
Article 25(1), point (d)				
185	(d) an indication of the products in which the design is intended to be incorporated or to which it is	(d) an indication of the products in which the design is intended to be incorporated or to which it is	(d) an indication of the products in which the design is intended to be incorporated or to which it is	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	intended to be applied.	intended to be applied.	intended to be applied.	
Article 25(2)				
186	2. The application for design registration shall be subject to the payment of a fee determined by the Member State concerned.	2. The application for design registration shall be subject to the payment of a fee determined by the Member State concerned.	2. The application for design registration shall be subject to the payment of a fee determined by the Member State concerned.	
Article 25(3)				
187	3. The indication of the products as referred to in paragraph 1, point (d), shall not affect the scope of protection of the design. That shall	3. The indication of the products as referred to in paragraph 1, point (d), shall not affect the scope of protection of the design. That shall	3. The indication of the products as referred to in paragraph 1, point (d), shall not affect the scope of protection of the design. That shall	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	also apply to a description explaining the representation of the design if such a description is provided for by a Member State.	also apply to a description explaining the representation of the design if such a description is provided for by a Member State.	also apply to a description, <b>and to any verbal disclaimers included therein</b> , explaining the representation of the design if such a description is provided for by a Member State.	
Article 26				
188	Article 26 Representation of the design	Article 26 Representation of the design	Article 26 Representation of the design	
Article 26(1)				
189				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	1. The representation of the design, as referred to in Article 25(1), point (c), shall be clear, precise, consistent and of a quality allowing for all the details of the matter for which protection is sought to be clearly distinguished and published.	1. The representation of the design, as referred to in Article 25(1), point (c), shall be clear, precise, consistent and of a quality allowing for all the details of the matter for which protection is sought to be clearly distinguished and published.	<del>1. The representation of the design, as referred to in Article 25(1), point (c), shall be clear, precise, consistent and of a quality allowing for all the details of the matter for which protection is sought to be clearly distinguished and published.</del>	
Article 26(2)				
190	2. It shall consist in any form of visual reproduction of the design either in black and white or in colour. The reproduction can be static, dynamic or animated and shall be effected by any appropriate means, using generally	2. It shall consist in any form of visual reproduction of the design either in black and white or in colour. The reproduction can be static, dynamic or animated and shall be effected by any appropriate means, using generally	2. <del>It</del> <b>The design shall consist be represented</b> in any form of visual reproduction of the design, either in black and white or in colour. The reproduction can be static, dynamic or animated and shall be effected by any appropriate means,	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	available technology, including drawings, photographs, videos, or computer imaging/modelling.	available technology, including drawings, photographs, videos, or computer imaging/modelling.	using generally available technology, including drawings, photographs, videos, or computer imaging/modelling.	
Article 26(3)				
191	3. The reproduction shall show all the aspects of the design for which protection is sought in one or more views. In addition, other types of views may be provided with the purpose of further detailing specific features of the design, and in particular:	3. The reproduction shall show all the aspects of the design for which protection is sought in one or more views. In addition, other types of views may be provided with the purpose of further detailing specific features of the design, and in particular:	3. The reproduction shall show all the aspects of the design for which protection is sought in one or more views. In addition, other types of views may be provided with the purpose of further detailing specific features of the design, <del>and in particular.</del>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 26(3), point (a)				
192	(a) magnified views showing part of the product separately in an enlarged scale;	(a) magnified views showing part of the product separately in an enlarged scale;	<del>(a) magnified views showing part of the product separately in an enlarged scale;</del>	
Article 26(3), point (b)				
193	(b) sectional views where a cutaway portion of the product is shown;	(b) sectional views where a cutaway portion of the product is shown;	<del>(b) sectional views where a cutaway portion of the product is shown;</del>	
Article 26(3), point (c)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
194	(c) exploded views where dissembled parts of a product are shown separately in one view; or	(c) exploded views where dissembled parts of a product are shown separately in one view; or	<del>(c) exploded views where dissembled parts of a product are shown separately in one view; or</del>	
Article 26(3), point (d)				
195	(d) partial views where parts of a product are shown separately in different views.	(d) partial views where parts of a product are shown separately in different views.	<del>(d) partial views where parts of a product are shown separately in different views.</del>	
Article 26(4)				
196	4. Where the representation	4. Where the representation	4. Where the representation	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	contains different reproductions of the design or includes more than one view, those shall be consistent with each other and the subject matter of the registration shall be determined by all the visual features of those views or reproductions in conjunction.	contains different reproductions of the design or includes more than one view, those shall be consistent with each other and the subject matter of the registration shall be determined by all the visual features of those views or reproductions in conjunction.	contains different reproductions of the design or includes more than one view, those shall be consistent with each other and the subject matter of the registration shall be determined by all the visual features of those views or reproductions in conjunction.	
Article 26(5)				
197	5. The design shall be represented alone, to the exclusion of any other matter. No explanatory text, wording or symbols may be displayed thereon.	5. The design shall be represented alone, to the exclusion of any other matter. No explanatory text, wording or symbols may be displayed thereon.	5. The design shall be represented alone, to the exclusion of any other matter. <del>No explanatory text, wording or symbols may be displayed thereon.</del>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 26(6)				
198	<p>6. Matter for which no protection is sought shall be indicated by way of visual disclaimers, preferably in the form of dotted or broken lines. If this is not possible for technical reasons or because of the type of design concerned, other visual disclaimers may be used, such as shading, boundaries or blurring. Any such visual disclaimers shall be used consistently.</p>	<p>6. Matter for which no protection is sought shall be indicated by way of visual disclaimers, preferably in the form of dotted or broken lines. If this is not possible for technical reasons or because of the type of design concerned, other visual disclaimers may be used, such as shading, boundaries or blurring. Any such visual disclaimers shall be used consistently.</p>	<p>6. Matter for which no protection is sought shall be indicated by way of visual disclaimers, <del>preferably in the form of dotted or broken lines.</del> If this is not possible for technical reasons or because of the type of design concerned, other visual disclaimers may be used, such as shading, boundaries or blurring. Any such visual disclaimers shall be used consistently.</p>	
Article 26(7)				
199				



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	7. Where the representation is accompanied by a description of the design, neither that description nor any verbal disclaimers included therein shall have the effect of limiting or expanding the scope of protection of the design as reproduced in the representation.	7. Where the representation is accompanied by a description of the design, neither that description nor any verbal disclaimers included therein shall have the effect of limiting or expanding the scope of protection of the design as reproduced in the representation.	<del>7. Where the representation is accompanied by a description of the design, neither that description nor any verbal disclaimers included therein shall have the effect of limiting or expanding the scope of protection of the design as reproduced in the representation.</del>	
Article 26(8)				
200	8. The Member States' central industrial property offices and the Benelux Office for Intellectual Property shall cooperate with each other and with the European Union Intellectual Property Office to establish common standards to be	8. The Member States' central industrial property offices and the Benelux Office for Intellectual Property shall cooperate with each other and with the European Union Intellectual Property Office to establish common standards to be	8. The Member States' central industrial property offices and the Benelux Office for Intellectual Property shall cooperate with each other and with the European Union Intellectual Property Office to establish common standards to be	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	applied to the requirements and means of design representation, in particular as regards the types and number of views to be used, the types of acceptable visual disclaimers, as well as the technical specifications of the means used for the reproduction, storage and filing of designs, such as the formats and size of the relevant electronic files.	applied to the requirements and means of design representation, in particular as regards the types and number of views to be used, the types of acceptable visual disclaimers, as well as the technical specifications of the means used for the reproduction, storage and filing of designs, such as the formats and size of the relevant electronic files.	applied to the requirements and means of design representation, in particular as regards the types and number of views to be used, the types of acceptable visual disclaimers, as well as the technical specifications of the means used for the reproduction, storage and filing of designs, such as the formats and size of the relevant electronic files.	
Article 27				
201	Article 27  Multiple applications	Article 27  Multiple applications	Article 27  Multiple applications	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 27, first paragraph				
202	Several designs may be combined in one multiple application for registered designs. This possibility shall not be subject to the condition that the products in which the design are intended to be incorporated or to which they are intended to be applied all belong to the same class of the International Classification for Industrial Designs.	Several designs may be combined in one multiple application for registered designs. This possibility shall not be subject to the condition that the products in which the design are intended to be incorporated or to which they are intended to be applied all belong to the same class of the International Classification for Industrial Designs.	Several designs may be combined in one multiple application for registered designs. This possibility shall not be subject to the condition that the products in which the design are intended to be incorporated or to which they are intended to be applied all belong to the same class of the International Classification for Industrial Designs.	
Article 28				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
203	Article 28  Date of filing	Article 28  Date of filing	Article 28  Date of filing	
Article 28(1)				
204	1. The date of filing of a design application shall be the date on which the documents containing the information specified in Article 25(1), points (a) to (c), are filed with the office by the applicant.	1. The date of filing of a design application shall be the date on which the documents containing the information specified in Article 25(1), points (a) to (c), are filed with the office by the applicant.	1. The date of filing of a design application shall be the date on which the documents containing the information specified in Article 25(1), points (a) to (c), are filed with the office by the applicant.	
Article 28(1a)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
204a			<p><b>1a. Without prejudice to paragraph 1, the filing date may be accorded where one or more of the elements required by Article 26 are missing, provided that the representation of the design as a whole is sufficiently clear within the meaning of Article 25(1), point (c).</b></p>	
Article 28(2)				
205	<p>2. Member States may, in addition, provide that the accordance of the date of filing is to be subject to the payment of a</p>	<p>2. Member States may, in addition, provide that the accordance of the date of filing is to be subject to the payment of a</p>	<p>2. Member States may, in addition, provide that the accordance of the date of filing is to be subject to the payment of a</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	fee as referred to in Article 25(2).	fee as referred to in Article 25(2).	fee as referred to in Article 25(2).	
Article 29				
206	<p>Article 29</p> <p>Scope of substantive examination</p>	<p>Article 29</p> <p>Scope of substantive examination</p>	<p>Article 29</p> <p>Scope of substantive examination</p>	
Article 29, first paragraph				
207	<p>The offices shall limit their examination of whether a design application is eligible for registration to the absence of the substantive grounds for non-</p>	<p>The offices shall limit their examination of whether a design application is eligible for registration to the absence of the substantive grounds for non-</p>	<p>The offices shall limit their examination of whether a design application is eligible for registration to the absence of the substantive grounds for non-</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	registrability referred to in Article 13.	registrability referred to in Article 13.	registrability referred to in Article 13.	
Article 30				
208	Article 30 Deferment of publication	Article 30 Deferment of publication	Article 30 Deferment of publication	
Article 30(1)				
209	1. The applicant for a registered design may request, when filing the application, that the publication of the registered design be deferred	1. The applicant for a registered design may request, when filing the application, that the publication of the registered design be deferred	1. The applicant for a registered design may request, when filing the application, that the publication of the registered design be deferred	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	for a period of 30 months from the date of filing the application or, if a priority is claimed, from the date of priority.	for a period of 30 months from the date of filing the application or, if a priority is claimed, from the date of priority.	for a period of <b>up to</b> 30 months from the date of filing the application or, if a priority is claimed, from the date of priority.	
Article 30(2)				
210	2. When registered the design neither the representation of the design nor any file relating to the application shall be open to public inspection subject to provisions of national law safeguarding legitimate interests of third parties.	2. When registered the design neither the representation of the design nor any file relating to the application shall be open to public inspection subject to provisions of national law safeguarding legitimate interests of third parties.	2. When registered the design neither the representation of the design nor any file relating to the application shall be open to public inspection subject to provisions of national law safeguarding legitimate interests of third parties.	
Article 30(3)				



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
211	3. A mention of the deferment of the publication of the registered design shall be published.	3. A mention of the deferment of the publication of the registered design shall be published.	3. A mention of the deferment of the publication of the registered design shall be published.	
Article 30(4)				
212	4. At the expiry of the period of deferment, or at any earlier date on request by the right holder, the office shall open to public inspection all the entries in its register and the file relating to the application and shall publish the registered design.	4. At the expiry of the period of deferment, or at any earlier date on request by the right holder, the office shall open to public inspection all the entries in its register and the file relating to the application and shall publish the registered design.	4. At the expiry of the period of deferment, or at any earlier date on request by the right holder, the office shall open to public inspection all the entries in its register and the file relating to the application and shall publish the registered design.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 30(4a)				
212a			<p><b>4a. The right holder may prevent the publication of the registered design as referred to in paragraph 4, by submitting a request for surrender of the registered design.</b></p>	
Article 30(4b)				
212b			<p><b>4b. Member States may provide, by way of derogation from paragraphs 4 and 4a, that the office shall publish the registered design only on request of the</b></p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<p><b>right holder. Where a Member State provides for the payment of a publication fee, the receipt of payment of that fee may be deemed to constitute the request referred to in the first sentence of this paragraph.</b></p>	
Article 31				
213	<p>Article 31</p> <p>Procedure for declaration of invalidity</p>	<p>Article 31</p> <p>Procedure for declaration of invalidity</p>	<p>Article 31</p> <p>Procedure for declaration of invalidity</p>	
Article 31(1)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
214	1. Without prejudice to the right of the parties to appeal to the courts, Member States shall provide for an efficient and expeditious administrative procedure before their offices for the declaration of invalidity of a registered design right.	1. Without prejudice to the right of the parties to appeal to the courts, Member States <del>shall</del> <u>may</u> provide for an efficient and expeditious administrative procedure before their offices for the declaration of invalidity of a registered design right.	1. Without prejudice to the right of the parties to appeal to the courts, Member States <del>shall</del> <u>may</u> provide for an efficient and expeditious administrative procedure before their offices for the declaration of invalidity of a registered design right.	
Article 31(2)				
215	2. The administrative procedure for invalidity shall provide that the design right is to be declared invalid at least on the following grounds:	2. The administrative procedure for invalidity shall provide that the design right is to be declared invalid at least on the following grounds:	2. The administrative procedure for invalidity <b>referred to in paragraph 1</b> shall provide that the design right is to be declared invalid at least on the following	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			grounds:	
Article 31(2), point (a)				
216	(a) the design should not have been registered because it does not comply with the definition laid down in Article 2, point (3), or with the requirements provided for in Articles 3 to 8;	(a) the design should not have been registered because it does not comply with the definition laid down in Article 2, point (3), or with the requirements provided for in Articles 3 to 8;	(a) the design should not have been registered because it does not comply with the definition laid down in Article 2, point (3), or with the requirements provided for in Articles 3 to 8;	
Article 31(2), point (aa)				
216a			(aa) the design should not have been registered because it is in	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<b>breach of Article 13(1)(ba);</b>	
Article 31(2), point (b)				
217	(b) the design should not have been registered because of the existence of a prior design within the meaning of Article 14(1), point (d).	(b) the design should not have been registered because of the existence of a prior design within the meaning of Article 14(1), point (d).	(b) the design should not have been registered because of the existence of a prior design within the meaning of Article 14(1), point (d).	
Article 31(3)				
218	3. The administrative procedure shall provide that at least the following persons are to be entitled	3. The administrative procedure shall provide that at least the following persons are to be entitled	3. The administrative procedure shall provide that <del>at least</del> the following persons are to be entitled	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	to file an application for a declaration of invalidity:	to file an application for a declaration of invalidity:	to file an application for a declaration of invalidity:	
Article 31(3), point (a)				
219	(a) in the case of paragraph 2, point (a), the persons, groups or bodies referred to in Article 14(2);	(a) in the case of paragraph 2, point (a), the persons, groups or bodies referred to in Article 14(2);	(a) in the case of paragraph 2, point (a), the persons, groups or bodies referred to in Article 14(2);	
Article 31(3), point (aa)				
219a			<b>(aa) in the case of paragraph 2, point (aa), the person or entity referred to in Article 14(2a);</b>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 31(3), point (b)				
220	(b) in the case of paragraph 2, point (b), the person referred to in Article 14(3).	(b) in the case of paragraph 2, point (b), the person referred to in Article 14(3).	(b) in the case of paragraph 2, point (b), <b>at least the person</b> <del>the person</del> referred to in Article <del>14(3)</del> <b>14(4)(a) and (b)</b> .	
Article 32				
221	Article 32  Renewal	Article 32  Renewal	Article 32  Renewal	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 32(1)				
222	<p>1. Registration of a design shall be renewed at the request of the holder of the design right or any person authorised to do so by law or by contract, provided that the renewal fees have been paid.</p> <p>Member States may provide that receipt of payment of the renewal fees is to be deemed to constitute such a request.</p>	<p>1. Registration of a design shall be renewed at the request of the holder of the design right or any person authorised to do so by law or by contract, provided that the renewal fees have been paid.</p> <p>Member States may provide that receipt of payment of the renewal fees is to be deemed to constitute such a request.</p>	<p>1. Registration of a design shall be renewed at the request of the holder of the design right or any person authorised to do so by law or by contract, provided that the renewal fees have been paid.</p> <p>Member States may provide that receipt of payment of the renewal fees is to be deemed to constitute such a request.</p>	
Article 32(2)				
223	<p>2. The office shall inform the</p>	<p>2. The office shall inform the</p>	<p>2. The office shall may inform the</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	holder of the registered design right of the expiry of the registration at least six months before the said expiry. The office shall not be held liable if it fails to give such information and such failure shall not affect the expiry of the registration.	holder of the registered design right of the expiry of the registration at least six months before the said expiry. The office shall not be held liable if it fails to give such information and such failure shall not affect the expiry of the registration.	holder of the registered design right of the expiry of the registration at least six months before the said expiry. <del>The office shall not be held liable if it fails to give such information and such failure shall not affect the expiry of the registration.</del>	
Article 32(3)				
224	3. The request for renewal shall be submitted and the renewal fees shall be paid at least six months before the expiry of the registration. Failing that, the request may be submitted within a further period of six months	3. The request for renewal shall be submitted and the renewal fees shall be paid at least six months before the expiry of the registration. Failing that, the request may be submitted within a further period of six months	3. The request for renewal shall be submitted and the renewal fees shall be paid at least <b>within a period of</b> six months <del>before</del> <b>immediately preceding</b> the expiry of the registration. Failing that, the request may be submitted	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	immediately following the expiry of the registration or of the subsequent renewal thereof. The renewal fees and an additional fee shall be paid within that further period.	immediately following the expiry of the registration or of the subsequent renewal thereof. The renewal fees and an additional fee shall be paid within that further period.	within a further period of six months immediately following the expiry of the registration or of the subsequent renewal thereof. The renewal fees and an additional fee shall be paid within that further period.	
Article 32(4)				
225	4. In the case of a multiple registration, where the renewal fees paid are insufficient to cover all the designs for which renewal is requested, registration shall be renewed if it is clear which designs the amount paid is intended to cover.	4. In the case of a multiple registration, where the renewal fees paid are insufficient to cover all the designs for which renewal is requested, registration shall be renewed if it is clear which designs the amount paid is intended to cover.	4. In the case of a multiple registration, where the renewal fees paid are insufficient to cover all the designs for which renewal is requested, registration shall be renewed <del>if it is clear</del> <b>for those designs in respect of which it is clear</b> the amount paid	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			is intended to cover.	
Article 32(5)				
226	5. Renewal shall take effect from the day following the date on which the existing registration expires. The renewal shall be recorded in the register.	5. Renewal shall take effect from the day following the date on which the existing registration expires. The renewal shall be recorded in the register.	5. Renewal shall take effect from the day following the date on which the existing registration expires. The renewal shall be recorded in the register.	
Article 33				
227	Article 33  Communication with the office	Article 33  Communication with the office	Article 33  Communication with the office	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 33, first paragraph				
228	Parties to the proceedings or, where appropriate, their representatives, shall designate an official address for all official communication with the office. Member States shall have the right to require that such an official address be situated in the European Economic Area.	Parties to the proceedings or, where appropriate, their representatives, shall designate an official address for all official communication with the office. Member States shall have the right to require that such an official address be situated in the European Economic Area.	Parties to the proceedings or, where appropriate, their representatives, shall designate an official address for all official communication with the office. Member States shall have the right to require that such an official address be situated in the European Economic Area.	
CHAPTER 4				
229				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	CHAPTER 4  ADMINISTRATIVE COOPERATION	CHAPTER 4  ADMINISTRATIVE COOPERATION	CHAPTER 4  ADMINISTRATIVE COOPERATION	
Article 34				
230	Article 34  Cooperation in the area of design registration, administration and invalidity	Article 34  Cooperation in the area of design registration, administration and invalidity	Article 34  Cooperation in the area of design registration, administration and invalidity	
Article 34, first paragraph				
231				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	The offices shall be free to cooperate effectively with each other and with the European Union Intellectual Property Office in order to promote convergence of practices and tools in relation to the examination, registration and invalidation of designs.	The offices shall be free to cooperate effectively with each other and with the European Union Intellectual Property Office in order to promote convergence of practices and tools in relation to the examination, registration and invalidation of designs.	The offices shall be free to cooperate effectively with each other and with the European Union Intellectual Property Office in order to promote convergence of practices and tools in relation to the examination, registration and invalidation of designs.	
Article 35				
232	Article 35  Cooperation in other areas	Article 35  Cooperation in other areas	Article 35  Cooperation in other areas	
Article 35, first paragraph				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
233	The offices shall be free to cooperate effectively with each other and with the European Union Intellectual Property Office in all areas of their activities other than those referred to in Article 34 which are of relevance for the protection of designs in the Union.	The offices shall be free to cooperate effectively with each other and with the European Union Intellectual Property Office in all areas of their activities other than those referred to in Article 34 which are of relevance for the protection of designs in the Union.	The offices shall be free to cooperate effectively with each other and with the European Union Intellectual Property Office in all areas of their activities other than those referred to in Article 34 which are of relevance for the protection of designs in the Union.	
CHAPTER 5				
234	CHAPTER 5  FINAL PROVISIONS	CHAPTER 5  FINAL PROVISIONS	CHAPTER 5  FINAL PROVISIONS	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 36				
235	Article 36  Transposition	Article 36  Transposition	Article 36  Transposition	
Article 36(1), first subparagraph				
236	1. Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with Articles 2 and 3, Articles 6, 10 to 19, 21, 23 to 33 by ...[OP please insert the date = 24 months after the date of entry into force of this Directive] at the latest. . They shall forthwith	1. Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with Articles 2 and 3, Articles 6, 10 to 19, 21, 23 to 33 by ...[OP please insert the date = 24 months after the date of entry into force of this Directive] at the latest. . They shall forthwith	1. Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with– Articles 2 and 3, Articles 6, 10 to 19, 21, 23 to <b>30 and 32 to 33</b> by <del>---</del> <b>[OP please insert the date = 36 months after the date of entry into force of this Directive]</b> <del>OP please insert the date</del>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	communicate the text of those measures to the Commission.	communicate the text of those measures to the Commission.	<del>= 24 months after the date of entry into force of this Directive]</del> at the latest.— They shall forthwith communicate the text of those measures to the Commission.	
Article 36(1), second subparagraph				
237	When Member States adopt those measures , they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive repealed by this Directive	When Member States adopt those measures , they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive repealed by this Directive	When Member States adopt those measures , they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive repealed by this Directive	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated .	shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated .	shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated .	
Article 36(2)				
238	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	
Article 37				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
239	Article 37  Repeal	Article 37  Repeal	Article 37  Repeal	
Article 37, first paragraph				
240	Directive 98/71/EC is repealed with effect from ... [OP please insert the date = the day after the date in the first subparagraph of Article 36(1)], without prejudice to the obligations of the Member States relating to the time- limit for the transposition into national law of the Directive set out in Annex I.	Directive 98/71/EC is repealed with effect from ... [OP please insert the date = the day after the date in the first subparagraph of Article 36(1)], without prejudice to the obligations of the Member States relating to the time- limit for the transposition into national law of the Directive set out in Annex I.	Directive 98/71/EC is repealed with effect from ... [OP please insert the date = the day after the date in the first subparagraph of Article 36(1)], without prejudice to the obligations of the Member States relating to the time- limit for the transposition into national law of the Directive set out in Annex I.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 37, second paragraph				
241	References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex II.	References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex II.	References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex II.	
Article 38				
242	Article 38  Entry into force	Article 38  Entry into force	Article 38  Entry into force	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 38, first paragraph				
243	This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union .	This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union .	This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union .	
Article 38, second paragraph				
244	Articles 4 and 5, Articles 7 to 9, Articles 20 and 22 shall apply from ...[OP please insert the date = the day after the date in the first subparagraph of Article [38](1)].	Articles 4 and 5, Articles 7 to 9, Articles 20 and 22 shall apply from ...[OP please insert the date = the day after the date in the first subparagraph of Article [38](1)].	Articles 4 and 5, Articles 7 to 9, Articles 20 and 22 shall apply from ...[OP please insert the date = the day after the date in the first subparagraph of Article [38](1)].	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 39				
245	Article 39 Addressees	Article 39 Addressees	Article 39 Addressees	
Article 39, first paragraph				
246	This Directive is addressed to the Member States.	This Directive is addressed to the Member States.	This Directive is addressed to the Member States.	
Formula				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
247	Done at Brussels,	Done at Brussels,	Done at Brussels,	
Formula				
248	For the European Parliament	For the European Parliament	For the European Parliament	
Formula				
249	The President	The President	The President	
Formula				



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
250	For the Council	For the Council	For the Council	
Formula				
251	The President	The President	The President	
Annex I				
252	Annex I	Annex I	Annex I	
Annex I, first paragraph				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
253	Time-limit for transposition into national law  (referred to in Article 37)	Time-limit for transposition into national law  (referred to in Article 37)	Time-limit for transposition into national law  (referred to in Article 37)	
Annex I, Table 1, Column 1, Row 1				
254	Directive	Directive	Directive	
Annex I, Table 1, Column 1, Row 2				
255	98/71/EC	98/71/EC	98/71/EC	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Annex I, Table 1, Column 2, Row 1				
256	Time-limit for transposition	Time-limit for transposition	Time-limit for transposition	
Annex I, Table 1, Column 2, Row 2				
257	28 October 2001	28 October 2001	28 October 2001	
Annex I, second paragraph				
258	_____	_____	_____	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Annex II				
259	Annex II	Annex II	Annex II	
Annex II, first paragraph				
260	Correlation Table	Correlation Table	Correlation Table	
Annex II, Table 2, Column 1, Row 1				
261	Directive 98/71/EC	Directive 98/71/EC	Directive 98/71/EC	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Annex II, Table 2, Column 1, Row 2				
262	<p>Article 1, introductory wording</p> <p>-</p> <p>Article 1, point (a)</p> <p>Article 1, point (b)</p> <p>Article 1, point (c)</p> <p>Article 2</p> <p>Articles 3 to 10</p> <p>-</p>	<p>Article 1, introductory wording</p> <p>-</p> <p>Article 1, point (a)</p> <p>Article 1, point (b)</p> <p>Article 1, point (c)</p> <p>Article 2</p> <p>Articles 3 to 10</p> <p>-</p>	<p>Article 1, introductory wording</p> <p>-</p> <p>Article 1, point (a)</p> <p>Article 1, point (b)</p> <p>Article 1, point (c)</p> <p>Article 2</p> <p>Articles 3 to 10</p> <p>-</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 11	Article 11	Article 11	
	-	-	-	
	Article 12(1)	Article 12(1)	Article 12(1)	
	-	-	-	
	-	-	-	
	Article 12(2)	Article 12(2)	Article 12(2)	
	-	-	-	
	Article 13(1), points (a), (b) and (c)	Article 13(1), points (a), (b) and (c)	Article 13(1), points (a), (b) and (c)	
	-	-	-	
	Article 13(2), points (a), (b) and (c)	Article 13(2), points (a), (b) and (c)	Article 13(2), points (a), (b) and (c)	
	-	-	-	
	Article 14	Article 14	Article 14	
	Article 15	Article 15	Article 15	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	-	-	-	
	Article 16	Article 16	Article 16	
	Article 17	Article 17	Article 17	
	-	-	-	
	Article 18	Article 18	Article 18	
	Article 19	Article 19	Article 19	
	-	-	-	
	Article 20	Article 20	Article 20	
	-	-	-	
	-	-	-	
Annex II, Table 2, Column 1, Row 3				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
263	-	-	-	
Annex II, Table 2, Column 2, Row 1				
264	This Directive	This Directive	This Directive	
Annex II, Table 2, Column 2, Row 2				
265	Article 2, introductory wording Article 2, points (1) and (2)	Article 2, introductory wording Article 2, points (1) and (2)	Article 2, introductory wording Article 2, points (1) and (2)	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 2, point (3)	Article 2, point (3)	Article 2, point (3)	
	Article 2, point (4)	Article 2, point (4)	Article 2, point (4)	
	Article 2, point (5)	Article 2, point (5)	Article 2, point (5)	
	Article 1	Article 1	Article 1	
	Articles 3 to 10	Articles 3 to 10	Articles 3 to 10	
	Articles 11 and 12	Articles 11 and 12	Articles 11 and 12	
	Articles 13 and 14	Articles 13 and 14	Articles 13 and 14	
	Article 15	Article 15	Article 15	
	Article 16(1) and (2), points (a), (b) and (c)	Article 16(1) and (2), points (a), (b) and (c)	Article 16(1) and (2), points (a), (b) and (c)	
	Article 16(2), point (d)	Article 16(2), point (d)	Article 16(2), point (d)	
	Article 16(3)	Article 16(3)	Article 16(3)	
	-	-	-	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 17	Article 17	Article 17	
	Article 18(1), points (a), (b) and (c)	Article 18(1), points (a), (b) and (c)	Article 18(1), points (a), (b) and (c)	
	Article 18(1), points (d) and (e)	Article 18(1), points (d) and (e)	Article 18(1), points (d) and (e)	
	Article 18(1), points (f), (g) and (h)	Article 18(1), points (f), (g) and (h)	Article 18(1), points (f), (g) and (h)	
	Article 18(2)	Article 18(2)	Article 18(2)	
	-	-	-	
	Article 20	Article 20	Article 20	
	Article 21	Article 21	Article 21	
	Article 22	Article 22	Article 22	
	Article 23	Article 23	Article 23	
	Articles 24 to 35	Articles 24 to 35	Articles 24 to 35	
	-	-	-	
	Article 36	Article 36	Article 36	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 37	Article 37	Article 37	
	Article 38	Article 38	Article 38	
	Annex I	Annex I	Annex I	
	Annex II	Annex II	Annex II	
Annex II, Table 2, Column 2, Row 3				
266				
Annex II, second paragraph				
267	_____	_____	_____	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement