



## Response to the European Commission's consultation on the proposal for a Regulation on circularity requirements for vehicle design and on management of end-of-life vehicles, amending Regulations (EU) 2018/858 and 2019/1020 and repealing Directives 2000/53/EC and 2005/64/EC

Our reference:		Date:	4 December 2023
Related documents:	<a href="#">Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on circularity requirements for vehicle design and on management of end-of-life vehicles, amending Regulations (EU) 2018/858 and 2019/1020 and repealing Directives 2000/53/EC and 2005/64/EC</a>		
Contact person:	Oleksandra Hrendey Policy Advisor, Personal and General Insurance	E-mail:	Hrendey@insuranceeurope.eu
Pages:	5	Transparency Register ID no.:	33213703459-54

Insurance Europe welcomes the European Commission's proposal on circularity requirements for vehicle design and on the management of end-of-life vehicles (ELVs). It supports the proposal's aim to improve the quality of end-of-life treatment, to incentivise reuse and to make the most efficient use of precious resources.

The motor insurance industry is increasingly moving towards promoting the use of recycled components for repairs. This provides a number of benefits, including a lower impact on the environment, cost-efficiency and the satisfaction of customers' demand for eco-friendly and economical solutions. However, when it comes to using recycled repair parts, the motor insurance industry is often challenged by poor infrastructure and an immature ecosystem. Insurance Europe therefore welcomes the Commission proposal, which will contribute to addressing these issues by strengthening the relevant infrastructure and establishing a harmonised regulatory framework that will support the use of recycled repair parts.

However, a lack of clarity may undermine the goals of the proposal. To improve legal clarity and ensure the effective implementation of the proposed law, the insurance industry wishes to highlight areas that need additional clarity and provide suggestions to further improve the draft Regulation.

### Definition of ELVs

#### Recital 11, Article 3

Insurance Europe is surprised by the EC's choice of definition of ELVs in the proposed Regulation.

In particular, Recital 11 calls for legally binding, precise criteria for determining an ELV, which should be used by "all economic operators and vehicle owners" dealing with ELVs. In line with this rationale, the definition of ELV (Article 3) includes "waste" as defined in Directive 2008/98 and vehicles that are irreparable according to specific criteria (Annex I, Part A, points 1 and 2).

Insurance Europe believes that a general legal framework can never cover all the situations encountered in practice. Furthermore, it is unclear who is supposed to verify the criteria set out in Annex I. The term "economic operators" used in the recital is too vague. Citizens, repairers or competent waste authorities understandably lack the necessary technical knowledge to understand and assess such technical criteria. Therefore, only individuals with recognised knowledge should be responsible for assessing the criteria for determining ELVs, in light of the economic importance of this activity, the importance of the assistance they provide to consumers and developments in European law.

Moreover, the criteria for determining an ELV leave significant scope for diverging interpretations, which is likely to result in an increase in disputes over the classification of total losses. It may also lead to the assessment of a repair as uneconomical being driven more by the claims of the injured parties, repair workshops and their representatives than by technological and technical justifications. It is also likely to significantly increase the number of total losses and the need to pay compensation equal to the market value of the vehicle, as it would allow virtually any damaged vehicle to be classified as withdrawn from use. This would also negatively affect the possibility of managing the wrecks.

### **Circularity requirements throughout the entire lifecycle of vehicles**

Article 7(2), Article 9, Article 11(1)(a)

Insurance Europe supports the European Commission's proposal on circularity requirements for vehicles, which aims to ensure sustainability throughout a vehicle's lifecycle. The insurance industry is particularly supportive of the obligation on manufacturers to establish a circularity strategy (Article 9).

However, the proposal includes replacement options for electric vehicle (EV) batteries, neglecting the crucial aspect of repair on a component basis. To truly meet circularity objectives and enhance the environmental and economic sustainability of EVs in Europe, it is important to establish standards for the repair of EV batteries at the component level. Without these standards, the draft legislation may fall short of its intended goals.

Therefore, in Article 7 (Design to enable removal and replacement of certain parts and components in vehicles), the possibility of repair must extend not only to the battery as a whole, but also to the individual battery elements (components), since it is not always necessary to replace the entire battery. It must be possible to repair the battery casing using procedures that can be carried out by a certified specialist workshop. In the interest of sustainability and cost reduction, Article 7 (2) of the draft Regulation should therefore be supplemented by "removal and replacement of electric vehicle batteries or parts (components) of the battery".

Similarly, in Article 11 (Information on removal and replacement of parts, components and materials present in vehicles), the individual elements of the battery should also be taken into account. To this end, Article 11(1)(a) should be amended to reflect this inclusion.

### **Collection of ELVs**

Article 23

Regarding the provisions on mandatory collection systems for ELVs, they may limit insurers' ability to "manage" wrecks after classifying them as total losses. This restriction could lead to a situation in which wrecks lose measurable value post-damage, as manufacturers gain economic profit by reusing vehicles obtained at no cost. Consequently, insurers would bear the economic burden of decreased wreck values in claims handling, as injured parties might seek compensation based on the full pre-damage value. Unlike the current practice of compensating the difference between undamaged and wreck values, the proposed system could render damaged vehicles useful only as spare parts.

## Additional provisions

- The proposal seems to overlook the situation of vehicles that are already registered. It mandates a circular system for new vehicles but fails to address the management of wrecks that meet environmental and technical standards which are already in use. There are also no provisions obliging manufacturers to use wrecks of vehicles that are already registered which meet environmental and technical requirements. Moreover, the proposal does not include a clear definition of “new vehicles”.
- A new provision is needed that allows insurance companies to incorporate recovered (used/not new) spare parts into the calculation of vehicle repair costs. Without such a provision, individuals affected in accidents will have no motivation to choose recycled spare parts, which would severely restrict the market for such parts.

## Reparability criteria

### Annexes I, II and VII

#### ■ Annex I — Part A

The insurance industry observes that certain reparability criteria outlined in Annex I, Part A of the proposal lack clarity or relevance. To start with, there is a lack of clarity regarding the interconnection between points 1 on technical irreparability, 2 on economic irreparability and 3 listing situations in which a vehicle may be considered technically irreparable.

Furthermore, upon examining each point, Insurance Europe has the following concerns:

- Upon closer examination of the criteria for assessment for technical reparability of vehicles, as outlined in **point 1**, Insurance Europe makes the following specific observations and suggestions:
  - *Subpoint (a) — It has been cut into pieces or stripped:* The term “stripped” lacks technical clarity and may lead to confusion. Insurance Europe suggests removing this term, as a vehicle (partially) stripped can still be repaired by reassembling the parts.
  - *Subpoint (b) — It has been welded up or closed by insulating foam:* The reference to insulating foam is unusual, as cars are not typically repaired using insulating foam. Unless specific cases like motorhomes are the target, this should be clarified. Additionally, the mere act of welding does not render a vehicle irreparable; the legislation should focus on cases where a vehicle is cut into pieces or the repair does not meet the latest standards and no longer allows a roadworthiness certificate to be obtained. In such instances, a rehabilitation procedure should be retained to ensure compliance with technical and safety requirements.
  - *Subpoint (c) — It has been completely burnt to the point where the engine compartment or passenger compartment is destroyed:* The criterion is unclear, since if a vehicle is “completely” destroyed, both the engine and passenger compartments are assumed to be destroyed. Repeating the second part of the sentence is unnecessary. In Dutch, “uitgebrand” is preferable to “afgebrand”. Additionally, the term “engine compartment” is inaccurate for EVs.  
In light of the above, Insurance Europe suggests the following criterion instead: “*vehicle destroyed by fire for which the deformations, even partial, imply that the damaged parts no longer guarantee the integrity of the anchoring points of other elements, which would necessitate the replacement of the body*”.
  - *Subpoint (d) — It has been submerged in water to a level above the dashboard:* While Insurance Europe acknowledges the legislator’s intent to address water damage, the approach lacks nuance. Different types of water (salt, clear, muddy) and the duration of immersion contribute to varying degrees of damage.

- Subpoint (e) – *One or several of the following components of the vehicle cannot be repaired or replaced*: Clarity could be improved by using “neither ... nor” instead of “or”. For instance, “*One or several of the following components of the vehicle can **neither** be repaired **nor** replaced*”. If either repair or replacement is feasible, the vehicle cannot be deemed technically irreparable. Additionally, Insurance Europe stresses the importance of allowing a rehabilitation procedure for owners intending to bring the vehicle back on the road.
  - Subpoint (f) – *Its structural and safety components have technical defects that are irreversible and render them non-replaceable, such as metal aging, multiple breaks in primers, or excessive perforating corrosion*: This criterion appears redundant, as it could be subsumed under (e). Moreover, Insurance Europe proposes removing the unclear and irrelevant notion of “multiple breaks in primers”.
  - Subpoint (g) – *Its repair requires the replacement of the engine, gearbox, shell, or chassis assembly, resulting in the loss of the vehicle's original identity*: The wording could be improved: “*Its repair requires the replacement of the engine, gearbox, **and** shell or chassis (...)*”. Secondly, if the vehicle’s original identity is preserved during repair (with the assistance of the manufacturer), it should be possible to avoid destruction in a facility.
- **Point 2** is unclear, as it refers to vehicles that are economically irreparable:
    - Insurance Europe is of the view that the owner of the vehicle should be allowed to repair it even if the repair costs exceed the vehicle’s value, as long as this decision does not endanger traffic safety or the environment.
      - Any vehicle deemed “not technically irreparable” can potentially be repaired, even if the repair costs exceed the vehicle’s value. Owners may choose to repair vehicles for reasons such as historical or sentimental value, or simply to minimise costs using second-hand parts or personal connections. Imposing a mandatory treatment facility based on repair costs contradicts the owner’s autonomy in deciding whether to repair the vehicle.
      - Moreover, considering the average age of registered vehicles and the high costs of spare parts and bodywork/painting works, the economic criterion of repair cost exceeding a vehicle’s market value would lead to the withdrawal from use of a significant portion of older vehicles with minor damage allowing for continued use without any repair, while still not necessarily covering relatively new vehicles with much more extensive damage.
    - Additionally, it is unclear whether the term “market value” refers to the pre-accident value, how it is determined and by whom. This lack of clarity seems to contradict the idea of a simple application of these criteria by the owner of the car, as set out in Recital 11.
  - Additionally, **point 3** seems to list situations indicating technical irreparability.
    - However, upon closer examination, none of the criteria directly address technical irreparability. Therefore, Insurance Europe suggests considering an alternative approach: if a vehicle poses a danger to the environment or road users, and its owner chooses not to pursue repairs, it should be considered an end-of-life vehicle.
    - Furthermore, the current draft lacks clarity on the process for conducting a test to differentiate between end-of-life and used vehicles. It is also unclear which would be the authority responsible for determining if a vehicle is an end-of-life vehicle or used.
    - Lastly, Insurance Europe would like to bring to the legislators’ attention the Dutch translation of point a). Notably, it does not reference a level lower than the dashboard, but rather a level higher. This linguistic nuance may warrant clarification to ensure consistency and accurate interpretation across languages.

- Finally, it is reasonable to exclude batteries from the reparability criteria. The average lifespan of vehicles exceeds that of batteries. Additionally, batteries can be considered a “separate commodity” (an energy resource) and replaced independently in vehicles with potential economic use, such as in leasing arrangements.

However, to prevent abuses in legal transactions and insurance fraud, batteries (despite being a separate commodity in recycling turnover) should be subject to the following rules:

- Each battery should have a unique identification number (similar to the vehicle’s Vehicle Identification Number, VIN) and be assigned to a specific vehicle (in addition to the vehicle’s VIN).
  - The correlation between VIN and battery number should be documented in vehicle records (which can be electronic), essentially designating the “assigned battery” to the vehicle.
  - Changes (replacement) should be documented in vehicle records, and the information should be accessible similarly to the vehicle registration number and VIN.
- Annex I — Part B
    - *Point (d) — Used vehicle is an end-of-life vehicle if it is not appropriately protected against damage during storage, transportation, loading and unloading:* The criterion is too general and it is not clear whether it applies only to new vehicles before they are registered in a member state.
  - Annex II
    - *Risk of process change for insurance companies regarding the valuation of the residual value of the vehicle:* It is not clear whether insurance companies will be required to wait for the valuation of parts for recycling and recovery by dismantling stations and to depend on the described indicators.
  - Annex VII — Part E

Similarly to the arguments in Annex I — Part A, Insurance Europe is of the view that, in Annex VII — Part E, if the part is unharmed or repairable and deemed safe, it should not be automatically considered as waste.

In addition, Insurance Europe has the following observations regarding specific points of Annex VII — Part E:

- *Point 5 — Seats in cases where they incorporate safety belt anchorages and/or airbags:* Seat airbags are replaceable components, so seats with airbags should not be excluded from reuse.
- *Point 6 — Steering lock assemblies acting on the steering column:* This is a replaceable component, so the criterion should be removed.
- *Point 7 — Immobilisers, including transponders and electronic control units:* Insurance Europe suggests removing the criterion as this is a replaceable component. These are not safety elements but anti-theft devices, so they are not critical.

Insurance Europe is the European insurance and reinsurance federation. Through its 37 member bodies — the national insurance associations — it represents all types and sizes of insurance and reinsurance undertakings. Insurance Europe, which is based in Brussels, represents undertakings that account for around 95% of total European premium income. Insurance makes a major contribution to Europe’s economic growth and development. European insurers pay out over €1 000bn annually — or €2.8bn a day — in claims, directly employ more than 920 000 people and invest over €10.6trn in the economy.