

# AN AMBITIOUS BATTERY REGULATION

Position paper of the Federation of German Consumer Organisations (Verbraucherzentrale Bundesverband – vzbv) regarding the proposal for a Regulation of the European Parliament and of the Council concerning batteries and waste batteries

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## Impressum

Verbraucherzentrale

Bundesverband e.V.

Team

Mobility and Travel

Rudi-Dutschke-Straße 17

10969 Berlin

Mobilitaet@vzbv.de

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# I. SUMMARY

The Federation of German Consumer Organisations (Verbraucherzentrale Bundesverband – vzbv) welcomes the European Commission’s proposal for a Regulation of the European Parliament and of the Council concerning batteries and waste batteries<sup>1</sup>. It represents an ambitious policy for establishing recycling requirements for batteries with the objective to promote a circular economy and reduce social and environmental impacts throughout all stages of the battery life cycle. It is very positive that the Battery Directive will be replaced by a Battery Regulation and therefore become a directly applicable legislative act that must be applied homogeneously across the EU. Due to the importance of batteries in the transformation of the mobility sector, this is crucial.

vzbv in general welcomes the following Articles as very important considering the sustainability of batteries: recycling efficiencies for lithium batteries and material recovery targets for cobalt, copper, lead, lithium and nickel (Chapter VII, Art. 56 and 57); a carbon footprint declaration, a label with the carbon footprint performance class and maximum thresholds for the life cycle carbon footprint values for electric vehicle batteries and rechargeable industrial batteries (Chapter 2, Art. 7); the information about the amount of recycled metals used in batteries as well as minimum shares of these recycled metals in batteries (Chapter 2, Art. 8); and supply chain due diligence obligations (Chapter VI, Art. 39). It is positive that this Battery Regulation will be enforced through penalties and that the Commission has to draw up a report on the application of the Regulation and its impact on the environment, including an evaluation on sustainability and safety requirements as well as other important requirements (Chapter X and XIII).

From a consumer perspective vzbv especially welcomes:

- Performance and durability requirements for batteries as well as information about durability and performance for consumers (Chapter 2, Art. 9 und 10)
- The labelling requirements, especially the inclusion of information on critical raw materials contained in the battery, the minimum average duration for portable batteries as well as the introduction of a QR code (Chapter III, Art. 13)
- That electric vehicle batteries and rechargeable industrial batteries have to have a battery management system and owners of the battery shall have access to the data at any time (Chapter III, Art. 14); that also independent operators shall be able to determine the state of health (SoH) and remaining lifetime of batteries and that a copy of the record of evidence of the SoH evaluation has to be made available to end-users in case of a repurposed or remanufactured battery (Chapter VII, Art. 59)
- The extended user responsibility of producers of batteries, including the financing of the activities referred to in Article 47 paragraph 1 (Chapter VII, Article 47)
- The end-of-life information specified in Article 60 and especially the information on good practices concerning the use of batteries aiming at extending their use phase, safety instructions in relation to the risks of for example lithium batteries as well as the impact of substances contained in batteries on the environment and on human health (Chapter VII, Art. 60)

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<sup>1</sup> Proposal for a Regulation of the European Parliament and of the Council concerning batteries and waste batteries, repealing Directive 2006/66/EC and amending Regulation (EU) No 2019/1020

- The setup of an electronic exchange system for battery information containing data on industrial batteries and electric vehicle batteries, and especially that each of these batteries will have an electronic record (battery passport), which provides, inter alia, access to information concerning sustainability and usage (Chapter VIII)

This Battery Regulation is an important step forward in transforming the European economy into a greener and more sustainable one. However, some important points in the interest of consumers and the environment should still be considered.

vzbv demands:

- Also batteries from light means of transport, like e-bikes, e-scooters and other small electric vehicles, have to be easily removable and replaceable by the end-user or by independent operators (Chapter II, Art. 11)
- For consumers, performance and durability requirements for batteries would be especially important for portable batteries of non-general use, like laptop and smartphone batteries as well as for batteries powering light means of transport, like e-bikes, and small electric vehicles, like e-scooters. Article 9 should therefore apply to all portable batteries. (Chapter II, Art. 9)
- The Commission should establish harmonised specifications for the labelling requirements by 2023 (Chapter III, Art. 13)
- To include batteries powering light means of transport in Article 14 as it is important for consumers to know the state of health of those batteries (Chapter III, Art. 14)
- A carbon footprint declaration, a label with the carbon footprint performance class as well as maximum thresholds should also be introduced for batteries of light means of transport as well as for batteries of laptops, smartphones etc. (Chapter II, Art. 7)
- That the contact details of producers/distributors/importers always include a telephone number and e-mail address to facilitate making contact (Chapter 6, Art. 39, 41). Furthermore, vzbv suggests that there should be an easy way for consumers to report non-compliance. (Chapter IX, Art. 69).
- The definitions of “electric vehicle battery”, “portable battery” and “light means of transport” should be clarified. It is currently unclear that batteries powering light means of transport are categorised as portable batteries. (Chapter I, Art. 2)
- Light means of transport should also include vehicles without seat (Chapter I, Art. 2)
- That the recyclability of batteries has to be improved because the ecodesign of batteries is crucial on the way towards a circular economy (Chapter II, Art. 8)
- To widen the scope of the obligation to establish supply chain due diligence policies also to economic operators placing portable batteries on the market (Chapter VI, Art. 39)
- To clarify the exact meaning of “making batteries available for the first time” in order to avoid creating loopholes in the collection of batteries (Chapter VI, Art. 49)
- A collection rate for 2023 of 55 percent should be introduced since most EU countries achieved more than 45 percent already in 2018 (Chapter VII, Art. 55)
- The review of the collection target for 2030 should already happen in 2027 (Chapter VII, Art. 55)

## II. POSITIONS

### 1. DEFINITIONS NEED CLARIFICATION (CHAPTER I, ART. 2)

The Federation of German Consumer Organisations (Verbraucherzentrale Bundesverband – vzbv) welcomes the introduction of a separate category for electric vehicle batteries in the proposal for a Regulation of the European Parliament and of the Council concerning batteries and waste batteries (“Battery Regulation”). These batteries become increasingly important with the uptake of electric cars worldwide.

However, vzbv sees the need to clarify in which category batteries powering light means of transport (light electric vehicles) fall. Article 62 paragraph 1 states that batteries powering light means of transport fall in the category “portable batteries”. However, the definition for “electric vehicle batteries” does not exclude light means of transport, whereas the definition for “portable batteries” states that it is “neither an electric vehicle battery nor an automotive battery”. It is important to clarify the definitions for electric vehicle batteries and portable batteries because different obligations apply. From the definition for electric vehicle batteries it is not clear that light means of transport do not fall in this category, therefore the definition of electric vehicle battery should specify which electric vehicles fall under this definition, in order to establish clearly the obligations that batteries powering light means of transport have to fulfil.

vzbv welcomes the decision of the Commission to classify batteries powering light means of transport as “portable batteries” but this should be made more clear in the definitions for “electric vehicle battery” as well as “portable battery”.

Furthermore, the definition of light means of transport should be altered because the current definition excludes e-scooters without a seat, on which people are standing (“Tretroller” in German and “trottinette” in French). These are very common and should not be neglected.

vzbv welcomes that a category for electric vehicle batteries was introduced. However, **the definitions for “electric vehicle battery”, “portable battery” and “light means of transport” should be clarified.** The definition of light means of transport should also **include light means of transport without a seat** and the definitions for electric vehicle battery and portable battery **have to make clear that batteries powering light means of transport belong in the category “portable batteries”.**

### 2. SUSTAINABLE BATTERIES FOR CONSUMERS (CHAPTER II)

#### 2.1 Carbon footprint (Article 7)

vzbv welcomes that electric vehicle batteries and rechargeable industrial batteries with internal storage and a capacity above 2 kWh shall bear a label indicating the carbon footprint performance class and that maximum thresholds for life cycle carbon footprint values will be introduced. A carbon footprint declaration allows consumers to see which battery has a lower impact on the environment and therefore offers consumers a choice as well as influence on the sustainability of batteries.

vzbv recommends to include batteries of light means of transport as well as of laptops, smartphones etc. in this Article to make the environmental impact of those widely used batteries transparent to end-users and help consumers in their purchase decisions.

**A carbon footprint declaration, a label with the carbon footprint performance class as well as maximum thresholds** for electric vehicle batteries and rechargeable industrial batteries with internal storage and a capacity above 2 kWh is the right way to go. This obligation **likewise for batteries of light means of transport as well as for batteries of laptops, smartphones** etc. would help consumers to make sustainable choices also for smaller purchases.

## 2.2 Transparency and minimum shares of recycled content (Article 8)

vzbv strongly welcomes that the amount of cobalt, lead, lithium or nickel recovered from waste and used in new batteries shall be contained in the technical documentation of industrial batteries, electric vehicle batteries and automotive batteries with internal storage and a capacity above 2 kWh. This is important to make sustainable batteries transparent to consumers.

Furthermore, it is very positive that minimum shares of these materials recovered from waste are established. vzbv further welcomes that the minimum shares are increased from 2035. vzbv wants to point out that the ecodesign of batteries is crucial on the way towards a circular economy. The architecture of batteries and the material composition determine the recyclability of the batteries and therefore have to be chosen carefully in order to ensure environmentally friendly and efficient recycling processes as well as a better reusability of used raw materials. This is all the more important because one car battery contains a significant amount of several valuable metals. The reuse of materials also plays a great role in reducing CO<sub>2</sub> emissions. In this way the carbon footprint of batteries can be reduced substantially. Minimum shares can be one way to improve recyclability of batteries because it is an incentive to recover material well enough to be able to use it in new batteries.

vzbv strongly appreciates the obligation to mention the amount of recycled cobalt, lead, lithium or nickel used in batteries as well as the introduction of minimum shares of recycled materials. **Minimum shares are a way to improve recyclability.**

## 2.3 Durability requirements for portable batteries (Article 9)

vzbv welcomes electrochemical performance and durability requirements for batteries and in particular minimum values for these parameters. Durability is a consumer-friendly quality because it comes with financial advantages, enables prolonged use and at the same time protects resources.

However, vzbv regrets the absence of the requirements of Article 9 for portable batteries of non-general use. For consumers, these requirements would be especially important for portable batteries, like laptop and smartphone batteries, as well as for batteries powering light means of transport, like e-bikes, and small electric vehicles, like e-scooters. This kind of batteries play an increasing role in consumers' everyday life and therefore will have an increasing impact on the environment.

vzbv welcomes that the Commission will assess the feasibility of measures to phase out the use of non-rechargeable portable batteries of general use to minimise their environmental impact. vzbv recommends to schedule the assessment to be done by 2025.

For consumers, **performance and durability requirements** for batteries would be especially important **for portable batteries of non-general use, like laptop and smartphone batteries, as well as for batteries powering light means of transport**, like e-bikes, and small electric vehicles, like e-scooters. Therefore, **Article 9 should apply to all portable batteries**.

Furthermore, the assessment of the feasibility of phasing out non-rechargeable portable batteries of general use should already be done by 2025.

## 2.4 Removability and replaceability of portable batteries (Article 11)

vzbv welcomes Article 11 in general. However, it is important that also batteries from light means of transport, like e-bikes, e-scooters and other small electric vehicles, are easily removable and replaceable by the end-user or by independent operators. Light means of transport do not seem to be included here because Article 11 only refers to “portable batteries incorporated in appliances” meaning electrical or electronic equipment. The Battery Regulation should make sure to include batteries powering light means of transport. It is not acceptable that there are e-bikes and small electric vehicles where it is not possible to remove the battery and therefore the whole vehicle becomes waste when the battery does. This constitutes an evitable waste of resources.

vzbv highly welcomes the removability and replaceability of portable batteries incorporated in appliances. However, **also batteries from light means of transport like e-bikes, e-scooters and other small electric vehicles have to be easily removable and replaceable by the end-user or by independent operators**.

## 3. MAKING BATTERIES TRANSPARENT TO CONSUMERS (CHAPTER III)

### 3.1 Labelling of batteries (Article 13)

vzbv welcomes the extensive labelling and information requirements in Article 13, in particular the inclusion on the label of hazardous substances contained in the battery as well as critical raw materials in the general information, laid down in Annex VI Part A.

Furthermore, it is positive that batteries shall be marked with a QR code where consumers have access to important information concerning the battery. For example, it is very positive that for rechargeable industrial and electric vehicle batteries the report on supply chain due diligence policies will be accessible via QR code in addition to the information in the technical documentation and on the label. This being said, in general the information most important and relevant to consumers should preferably be on the label of the battery but a QR code is a useful tool to provide additional information that cannot be shown on the label.

vzbv would, as mentioned earlier, welcome a carbon footprint declaration also for batteries of light means of transport as well as for batteries of laptops, smartphones etc. In this case it would be reasonable to include the carbon footprint information not only in the QR code but also on the label to enable consumers to compare batteries regarding their environmental impact at first glance.

vzbv welcomes that the Commission will establish harmonised specifications for the labelling requirements. However, vzbv would ask the Commission to set the deadline for drawing up harmonised specifications for the labelling requirements referred to in paragraphs 1 and 2 to 2023.

It is positive that critical raw materials contained in the battery have to be included on the label for batteries. vzbv welcomes the obligation for a QR code, but the most relevant information should be shown on the label. The Commission should **establish harmonised specifications for the labelling requirements by 2023**. A carbon footprint declaration and performance class on the label also for batteries of light means of transport as well as of laptops, smartphones etc. enable consumers to make sustainable choices.

### 3.2 Information on the state of health and expected lifetime (Article 14)

vzbv welcomes that access to the data in the battery management system of rechargeable industrial batteries and electric vehicle batteries with internal storage and capacity above 2 kWh has to be provided on a non-discriminatory basis to the legal or natural person who has legally purchased the battery or any third party acting on their behalf at any time.

vzbv regrets that this provision only applies to industrial and electric vehicle batteries with internal storage and a capacity above 2 kWh. It does not include batteries of e-bikes, pedelecs and small electric vehicles, where consumers also have the need to know the state of health of the battery when buying it second-hand or before going on a longer tour. Therefore vzbv asks the Commission to add batteries powering light means of transport to this provision.

vzbv welcomes Article 14 because knowing the state of the battery of electric vehicles is crucial in promoting a second-hand electric vehicle market as well as for facilitating repurposing and recycling. For consumers it would be **important to also know the state of batteries powering light means of transport** (e-bikes and small electric vehicles like e-scooters).

## 4. OBLIGATIONS OF ECONOMIC OPERATORS (CHAPTER VI)

In Chapter VI, vzbv welcomes the obligations for manufacturers, authorised representatives, importers, distributors and fulfilment service providers, in particular Article 39 on supply chain due diligence policies.

However, vzbv regrets that portable batteries are not included in the supply chain due diligence policy. vzbv recommends to widen the scope of the obligation to include economic operators placing portable batteries on the market.



vzbv welcomes that manufacturers have to indicate their name, postal address and web address on the packaging of the battery (Article 38 (8)). vzbv recommends to make e-mail address and telephone number mandatory to provide an easy way of contacting manufacturers. The same should also apply to importers (Article 41 (3)).

vzbv welcomes the obligations in Chapter VI, especially Article 39 on supply chain due diligence policies. vzbv **recommends to widen the scope of the obligation to establish supply chain due diligence policies also to economic operators placing portable batteries on the market.** Furthermore, **contact details should always include telephone number and e-mail address.**

## 5. END-OF-LIFE MANAGEMENT OF BATTERIES (CHAPTER VII)

### 5.1 Extended producer responsibility (Article 47)

vzbv welcomes the extended producer responsibility in Article 47 including, inter alia, the organisation of the separate collection of waste batteries as well as the subsequent transport, treatment and recycling; reporting obligations; the promotion of the separate collection of batteries including surveys; the provision of information including end-of-life information; and in particular financing all these activities.

vzbv welcomes that Member States have to establish a mechanism to ensure a regular dialogue between relevant stakeholders involved in the fulfilment of extended producer responsibility obligations for batteries, including civil society organisations, local authorities and re-use and repair networks. vzbv assumes that consumer organisations will be sufficiently involved.

vzbv appreciates the extended user responsibility of producers of batteries. It is further positive that a regular dialogue between relevant stakeholders involved in the fulfilment of extended producer responsibility obligations for batteries has to take place. vzbv assumes that consumer organisations will be sufficiently involved.

### 5.2 Collection of waste portable batteries (Article 48)

vzbv welcomes the obligations for producers and responsibility organisations in Article 48 as well as the collection targets of waste portable batteries for 2025 and 2030. However, the collection target for 2023 should already be set higher since most EU countries already reached a collection rate of 45 percent and higher in 2018<sup>2</sup>.

vzbv also appreciates that Member States have to carry out a compositional survey of collected mixed municipal waste and waste electric and electronic equipment streams every 5 years to determine the share of waste portable batteries therein and that the first survey has to be carried out by the end of 2023. In this way, it becomes clear if there is a need for corrective action to increase the network of connected collection points and carry out information campaigns.

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<sup>2</sup> eurostat: Waste statistics - recycling of batteries and accumulators, 2020, [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Waste\\_statistics\\_-\\_recycling\\_of\\_batteries\\_and\\_accumulators](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Waste_statistics_-_recycling_of_batteries_and_accumulators), 18.02.2021

vzbv welcomes the collection targets for waste portable batteries for 2025 and 2030 as well as the review of the target for 2030. However, vzbv demands **a collection rate for 2023 of 55 percent** since most EU countries achieved more than 45 percent already in 2018.

### 5.3 Collection of waste automotive, industrial and electric vehicle batteries (Article 49)

vzbv welcomes that producers of automotive batteries, industrial batteries and electric vehicle batteries have to take back free of charge and without obligation to buy a new battery nor to have bought the battery from them, all waste automotive batteries, industrial batteries and electric vehicle batteries of the respective type that they have made available on the market.

However, vzbv recommends to explain the phrase „that they have made available on the market for the first time“ (Art. 49 (1)). There is the need to clarify that this includes second-hand batteries and not only those batteries they sold for the first time. It should also specify clearly what happens to batteries that were repurposed.

vzbv welcomes the obligations in Article 49 but recommends to **clarify the exact meaning of “making batteries available for the first time” in order to avoid creating loopholes in the collection of batteries.**

### 5.4 Collection rates for waste portable batteries (Article 55)

As already mentioned in the feedback concerning Article 48, vzbv recommends to set the target for 2023 at 55 percent. Moreover, the review of the target for 2030 should already happen in 2027 to ensure that measures are taken in time to increase the collection rates.

vzbv welcomes the review of the collection target as well as the consideration of the best solution for batteries powering light means of transport. However, **the review of the target for 2030 should already take place in 2027.**

### 5.5 End-of-life information (Article 60)

vzbv welcomes the provisions of Article 60 on end-of-life information, in especially that end-users shall be informed about good practices concerning the use of batteries aiming at extending their use phase, that safety instructions to handle waste batteries including lithium batteries have to be made available, and that distributors that supply batteries to end-users shall provide information in their retail premises and through their online marketplaces.

However, vzbv suggests to add in paragraph 4 that distributors have to provide the information listed in paragraphs 1 and 2 and information on how waste batteries may be returned **permanently** in their retail premises and through their online marketplaces.

## Article 60 – paragraph 4

EU Commission proposal	vzbv´s amendments
<p>Distributors that supply batteries to end-users shall provide in their retail premises, in a visible manner, and through their online marketplaces the information listed in paragraph 1 and 2, and information on how the end users may return waste batteries free of charge to the respective collection points established at retail outlets or on behalf of a marketplace.</p>	<p>Distributors that supply batteries to end-users shall provide in their retail premises, and through their online marketplaces, <b>permanently and</b> in a visible manner, the information listed in paragraph 1 and 2, and information on how the end users may return waste batteries free of charge to the respective collection points established at retail outlets or on behalf of a marketplace.</p>

vzbv welcomes the end-of-life information specified in Article 60. **vzbv especially appreciates the information on good practices concerning the use of batteries aiming at extending their use phase** as well as the impact of substances contained in batteries on the environment and on human health. **vzbv suggests to make clear that distributors have to provide information in their retail premises and online marketplaces permanently.**

## 6. UNION MARKET SURVEILLANCE, CONTROL OF BATTERIES ENTERING THE UNION MARKET AND UNION SAFEGUARD PROCEDURES (CHAPTER IX)

Regarding Chapter IX, vzbv welcomes that in case of the economic operator not taking adequate corrective action in case of batteries presenting a risk, the market surveillance authorities take measures to prohibit or restrict, withdraw or recall batteries from a market. The same applies to persistent non-compliance, where Member States have to take all appropriate measures to restrict, prohibit, recall or withdraw batteries from the market.

In terms of Article 69 and non-compliance of batteries, vzbv suggests that there should also be a way for consumers to report non-compliance in an easy way to a competent authority.

vzbv welcomes that market surveillance authorities will take measures to prohibit or restrict, withdraw or recall batteries from the market if they present a risk. vzbv suggests that **there should be an easy way for consumers to report non-compliance.**