

EGMF position paper on the proposal for a Regulation on “Packaging and packaging waste”

28 March 2023

EGMF – the European Garden Machinery industry Federation represents the major garden, landscaping, forestry and turf equipment manufacturers, and is a strong supporter of the European environmental policy for improving the impact of products in the society. Our industry produces equipment used either by consumers for “*Do It Yourself (DIY)*” activities, or by professionals such as landscapers, greenkeepers and farmers maintaining green areas.

The products and their **packaging** in our portfolio are **already designed to reduce waste** respecting the EU Members States’ labelling requirements.

However, the **non-harmonized requirements within the EU countries**, as described in more detail in **Annex I**, create a lot of uncertainty and difficulties to our manufacturers. Consequentially, this leads to increased costs that bring no additional value to the Circular Economy, restricting the freedom of circulation of goods and going against the EU Single Market principle.

In the **new Packaging and Packaging Waste legislative proposal**, we observe some positive aspects, like the change from a Directive to a Regulation. However, we have a number of concerns, which we believe will lead to additional burden on the manufacturers of goods (see the non-exhaustive list in **Annex II**).

Therefore, we would request the EU legislators consider our proposals for their further evaluation:

- **Harmonize requirements for all Member States**, which means having the same labels for the disposal and alphanumeric code use (for example according to Decision 129/97/EC¹) for which the industry has already invested a lot of financial resources. This also includes **permitting each Member State to request additional national information only on a *voluntary basis* and not as a mandatory requirement.**
- **Permit the use of digital support**, like a QR-code or other digital marking technology connected to the internet. The use of digital support should be a *voluntary option* to provide information to the *end user*² **as an alternative** to the packaging label, simplifying the industrial process.
- **Have clear and harmonised requirements** when it is not possible to know in **which EU Member State products will be placed**.

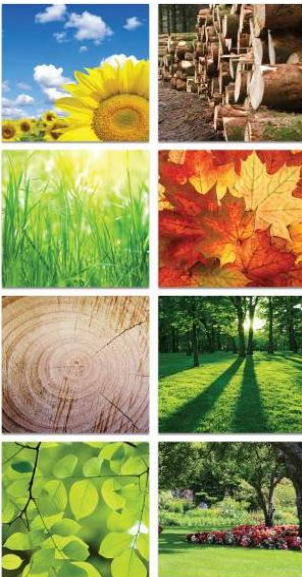
¹ Annexes Decision 129/97/EC ([link](#)).

² Draft proposal 2022/0396 (COD); Art.3(18) “means any natural or legal person residing or established in the Union, to whom a product has been made available either as a consumer or as a professional end user in the course of its industrial or professional activities and who no longer makes this product further available on the market in the form supplied to it”.



- Permit companies **to be registered to a collective EPR³ system only in one PRO⁴** (and not in each Member State where the packaging will be put on the market), for example, by registering only in the main country of reference or having an “*European collective EPR system*”.
- To achieve the proposed **minimum recycled content** in plastic packaging, we need higher production of secondary raw materials both in terms of **quantity and purity**. We also need standardisation activities to ensure the quality of the secondary plastic materials.
- Manufacturers of finished products cannot bear the full responsibility and burden of ensuring the **traceability** of the feedstock in these materials. EU suppliers of packaging materials should hold the responsibility for conformity for their products.
- To avoid double regulation, all *packaging feedstock comprising recycled and virgin materials* should only be required to be in conformity with the REACH Regulation and no other piece of legislation in order to generate a higher demand and supply of recycled plastics without legacy substances.

EGMF strongly believes in the value of a Circular Economy including the engagement to reduce packaging waste and helping consumers or professionals to correctly sort the packaging. We also stress that **the EU industry needs effective and pragmatic legislation to be competitive with other non-EU companies**.



The European Garden Machinery Industry Federation – EGMF – has been the voice of the entire garden machinery industry in Europe since 1977. With 30 European corporate members and 7 National Associations representing manufacturers of garden, landscaping, forestry and turf maintenance equipment, we are the most powerful network in this sector in Europe. Our members are responsible for employing 120,000 people in the EU, and in 2021 sold over 23 million units on the European Market.

For further information please visit www.egmf.org or contact us at secretariat@egmf.org.

³ Extended Producer Responsibility (EPR).

⁴ Producer Responsibility Organization (PRO): a collective entity set up to implement the EPR principle on behalf of all the adhering companies and to meet the recovery and recycling obligations of the individual producers.



Annex I

Today's requirements: each MS has its own "rules"

The requirements on the environmental labelling of packaging, introduced in several Member States also in application to the Directive 2018/852/EU⁵, impose significant difficulties to the manufacturers of garden machinery.

Following is a short overview of different requirements within EU Member States.

Italian⁶ law requires **the mandatory display of alphanumeric code** according to **Decision 129/97/EC**¹ (Figure 1) on the products' packaging (or, in some cases, accessible by QR-code) to indicate the material of which it is made. It also aims to provide **additional disposal information, depending** on the destination of the good contained in the packaging, and whether it is a **consumer** or **professional** such.



Figure 1. Some examples of alphanumeric code according to the **Decision 129/97/EC**¹

French⁷ law requests the placement of a **symbol, the "Triman Logo"**⁸ (Figure 2), on household products' packaging, which is accompanied by **additional information labels on how to sort the waste**. Moreover, there are materials requirements, e.g. **the ban on the use of any mineral oils**⁹ in the packaging.



Figure 2. Triman logo with sorting instruction

Spanish¹⁰ decree stipulates voluntary placement of an alphanumeric code (according to Decision 129/97/EC¹), and a mandatory indication (i.e information) if the packaging is "reusable". It also bans ecological labels that could mislead consumers and sets a **maximum content of some substances like lead, cadmium, mercury and hexavalent chromium**. Moreover, an accredited entity needs to certify the use of **plastic in the packaging**.

In **Germany**, a new amendment to the law "*VerpackG*"¹¹, requests the company that first puts on the market packaging containing "goods" (like a foreign economic operator or a German importer), to be

⁵ Amending Directive 94/62/EC on packaging and packaging waste ([link](#)).

⁶ Decreto Legislativo n.116, 03/09/2020.

⁷ Décret 2020-1725, 29/12/2020.

⁸ Décret n°2021-835 du 29 juin 2021.

⁹ Arrêté du 13 avril 2022.

¹⁰ Real Decreto 1055/2022, de 27 de diciembre, de envases y residuos de envases ([link](#)).

¹¹ Verpackungsgesetz – VerpackG, 05/07/2017 that replaces the regulation on the packaging (VerpackV) from January 2019 with a new amendment (03/07/2021).



responsible for its correct disposal and to subscribe to a **contract with a packing recovery system** (paying a fee), if these products are designated for final consumers. This poses additional difficulty to the manufacturers, since it is challenging to understand who is effectively responsible and whether the good could be considered for a final consumer or not. Furthermore, the respective database that is available is only in the German language¹².

For the other EU Member States¹³, it is necessary to evaluate **case by case** the various rules. For instance, if the labelling with the alphanumeric codes laid down in Decision 129/97/EC¹ is used for packaging originating in Bulgaria, Slovenia and Luxembourg¹³, before distributing it in Portugal, it needs to pass compliance verification with another local requirement. Furthermore, the new Portuguese *draft decree*¹⁴ intends to also ban the use of the “Tidy man” (*Figure 3*) on the recycled packaging.



Figure 3. Likely ban to use this symbol in Portugal.

Another issue for manufacturers is the **different collecting material colours** in various countries (*Figure 4*). There are even some paradoxes, like the logo in *Figure 5* (which indicates that the producer has made a financial contribution to a packaging recovery system, financing the sorting, recycling and recovery of their packaging when it eventually becomes waste). While it is mandatory in some countries, in others it is voluntary or even forbidden.



Figure 4. Different colours requirements

¹² <https://www.verpackungsregister.org/en/foundation-authority/system-participation-requirement-catalogue/catalogue-search>.

¹³ Bulgaria (Постановление №420 от 31 декември 2020 г. за изменение и допълнение на нормативни актове на Министерския съвет – [link](#)); Slovenia (Uredba o embalaži in odpadni embalaži, stran 3176 – [link](#)); Luxembourg (Loi du 9 juin 2022 modifiant la loi du 21 mars 2017 relative aux emballages et aux déchets d'emballages.- [link1](#), [link2](#)).

¹⁴ Draft Decree-Law is the fifth amendment to Decree-Law No 152-D/2017 of 11 December 2017, as amended by Law No 69/2018 of 26 December 2018 and Law No 41/2019 of 21 June 2019, by Decree-Law No 86/2020 of 14 October 2020, and amended and republished by Decree-Law No 102-D/2020 of 10 December 2020 ([link](#)).





Figure 5. “Green Dot” logo is prohibited in France¹⁵. However, this logo is allowed to be used in other Member States.

Finally, we need to take into account the difficulty to understand the labelling requirement in the case when the final user could be a consumer or a professional. An example from our sector are lawnmowers that could be sold to both type of users.

All above mentioned aspects show how European companies that place goods on the EU markets need to pay a fee to different national collective EPR systems, implement different symbols, and different instructions (multi-language information), **forcing them to make customised packaging for each Member State, for the same product.**

¹⁵ It was suspended by The French Supreme Administrative Court, the Conseil d’État ([link](#)).



Annex II

Regarding the new Regulation proposal, we would point out some observations:

- Art.3: **“Substances of Concern” is not clearly defined in the Regulation**, therefore is not clear for a *producer*¹⁶ for which substances they should receive information from *supplier*¹⁷. Today, due to lack of supply information, many manufacturers are already not able to receive enough information to address Art.33 of the REACH Regulation¹⁸ (for example, SCIP Database¹⁹ requirements).
- Art.5.2: imposing **the limit of the concentration of certain substances** (lead, cadmium, mercury and hexavalent chromium) **should be deleted** to avoid double regulation (REACH Regulation is in place);
- Art.6: **“all packaging should be recyclable”**, but **some paper materials are not recyclable** due to degraded fibres and/or amyloidosis cellulose, therefore **it could be necessary foreseen some exemptions for such materials**;
- Art.9: for the *packaging minimisation*, manufacturers of finished goods invariably purchase packaging articles such as plastic bags and cardboard cartons from suppliers that produce a range of standard sizes. This may on occasion require the manufacturer of the finished good to choose a bag or carton that is a little larger than is necessary to fulfil the minimum size relative to the size of the good being placed in it.
- Art.11: bear a label on packaging reusability **and** a QR-code (or other type of digital data) will **increase the burden** without any additional environment benefit;
- Art. 12: there should be **exemptions** for articles where the material composition is obvious such as paper bag, which has to be marked PAP;
- Art.13: the obligation for the manufacturers to draw up an **EU declaration of conformity** (applying harmonized standards *-if any-*) to respect design for recycling criteria and performance grades, will **increase the burden for a manufacturer** which is considered the *producer*²⁰ only because it applies its trade mark. Moreover, it seems that no CE marking is required, therefore the *end user*²¹ will not know any information on the requirements respected lay down by the Regulation;
- Art.13(5): Marking of type, batch or serial number brings no benefit either to consumers, recyclers, nor authorities. **This point should be deleted.**
- Art.26: **“re-use and refill targets”**, it is **difficult to imagine how stretch film and pallet strapping can be reused**. These materials are supplied in roll/reel form and unwound/cut to length by the application equipment. After the transit period when they are removed, they are damaged, torn, dirty etc and are now finite lengths.
- Art.39: the **Register of Producers** requests the *producers*¹⁶ to **submit an application for registration in each Member State** where they make packaging available on the market for the first time. **It is not clear what the value of EU-free market space** is if for each MS the manufacturers have to comply for the same “product”, different national applications;
- Art.65: the **application of the Regulation should be at least 48 months** to permit to the manufacturers design, produce and evaluate alternate packaging materials, considering it takes several months to

¹⁶ Draft proposal 2022/0396 (COD); Art.3 (10) “means any manufacturer, importer or distributor, who, irrespective of the selling technique used, including by means of distance contracts as defined in Article 2(7) of Directive 2011/83/EU, makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark”.

¹⁷ Draft proposal 2022/0396 (COD); Art.3(11) “means any natural or legal person who supplies packaging or packaging material to a manufacturer who uses this packaging for the containment, protection, handling, delivery or presentation of products under its own name or trademark”.

¹⁸ Registration, Evaluation, Authorisation and restriction of Chemicals -REACH- Regulation 1907/2006/EC (consolidate version: [link](#)).

¹⁹ Substances of Concern In articles as such or in complex objects -Products- SCIP Database ([link](#)).

²⁰ Art.3 (10) “means any manufacturer, importer or distributor, who, irrespective of the selling technique used, including by means of distance contracts as defined in Article 2(7) of Directive 2011/83/EU, makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark”.

²¹ Art.3(18) “means any natural or legal person residing or established in the Union, to whom a product has been made available either as a consumer or as a professional end user in the course of its industrial or professional activities and who no longer makes this product further available on the market in the form supplied to it”.



transport goods from other continents to the European market after manufacturing a product with new packaging.

