



European Furniture Industries Confederation

EFIC POSITION PAPER

Portugal: Draft Decree-Law (Notification in TRIS database: 2021/118/P)

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

25 May 2021

EFIC, the European Furniture Industries Confederation, welcomes the possibility to provide comments to the Draft Decree-Law notified by the Portuguese authorities in the European Commission's TRIS database on 23 February 2021¹. This Decree-Law would introduce market-specific packaging rules, hindering the possibility to circulate the same packaging in Portugal and in other European countries. We encourage the European Commission to present a detailed opinion in response to this notification and Portugal to work towards a European approach as opposed to national rules which will bring barriers to the Single Market.

EFIC key concerns are related to article 28 of the draft decree.

4th paragraph: *"In order to facilitate collection, reuse and recovery, including recycling, packaging shall indicate the nature of the packaging material(s) used, for the purposes of identification and classification by their industry, in accordance with the identification system established in Commission Decision No 97/129/EC of 28 January 1997, the system of which is set out in Annex IX to this Decree-Law and of which it forms an integral part."*

- Comment: Annex IX does not seem to have been notified as a part of the Draft Decree-Law, which makes it impossible to evaluate how this paragraph should be implemented.

5th paragraph: *"In order to promote the correct separation of waste and increase the levels and quality of recycling, recyclable packaging placed on the market is subject to marking with the indication of its appropriate destination, namely the colour of the recycling bin where it should be placed, under the terms to be determined by ordinance of the members of the Government responsible for the areas of the economy and the environment."*

- Comment 1: Regarding the requirement to mark with appropriate sorting instructions, it is important to note that relevant sorting instructions for the consumers are set locally and may change over time. As of today, sorting rules differ between EU Member States. To accommodate today's local differences, an option would be to allow for the instruction to 'Check your local recycling requirements'.
- Comment 2: Obligations to mention the appropriate colour of the recycling bin: Given that the colour of the bins and the recycling systems are specific to each Member State, this requirement will create a clear trade barrier. Being compliant with this rule in Portugal, while

¹ <https://ec.europa.eu/growth/tools-databases/tris/en/index.cfm/search/?trisaction=search.detail&year=2021&num=118&mLang=PT>



European Furniture Industries Confederation

using the same packaging in other Member States, will likely result in breaching other national rules (for example, if other Member States impose different rules on sorting instructions, as is already the case, as proposed in [France](#)). It could also have the effect of undermining recycling efforts in other countries, if consumers are misled by the representation of a collection system that differs from their local requirements. As recycling rules may change over time depending on local needs, the effectiveness of having the information on-pack is also unclear, as it could be outdated over time. The consequences are that either extra-marking processes must be applied (with large financial and logistic implications) or producers must have different packages for the Portuguese market, which is logistically not feasible and would disproportionately raise costs.

6th paragraph: *“The marking referred to in the previous paragraph shall comply with the following requirements: a) It may be presented by iconography or written text, or both; b) It must be printed in a visible, legible and indelible form.”*

- Comment: The written instructions would imply the need for translations. We strongly suggest working out a standardised iconographic solution which is as generic and simple as possible. To positively support free movement of goods, we call for an EU-wide symbol and solution. If this is lacking, any marking will likely cause confusion across borders.

8th paragraph: *“Packaging whose size does not permit marking in accordance with paragraph 6 shall be exempt from the obligation referred to in paragraph 5.”*

- Comment 1: Clarification is needed on the definition of ‘*packaging whose size does not permit marking*’ and on what is considered as too small. Clear advice on minimum dimensions must be added to this point.
- Comment 2: The exception does not apply to paragraph 4 (material ID). Size-exception should be clearly defined for the material marking as well.

9th paragraph: Concerning the prohibition of the tidy-man symbol, restricting specific symbols at national level has the likely effect to create conflicting requirements within the EU, where a Member State sanctions the use of a symbol which is mandatory in another Member State. We call on Portugal and other Member States to work on common rules at the EU level, to preserve the free circulation of goods and to not create unjustified and disproportionate barriers. In addition, we see that the restriction that would be introduced via this paragraph is in contradiction to article 2 of the same draft Decree-Law.

EFIC supports paragraph 2 of article 28.

EFIC is the European Furniture Industries Confederation, representing over 70% of the total turnover of the European Furniture Industries, a sector employing 1 million people in about 120.000 enterprises across the EU and generating a turnover of 96 billion Euros. The EFIC membership is composed of 16 national federations and one individual company member: <https://www.efic.eu/about-our-members>

For further information, please contact:

EFIC - European Furniture Industries Confederation

A: Rue Montoyer 24, PO Box 2, BE-1000 Brussels

T: 0032 (0)2 287 08 86; E: info@efic.eu