

THE FRENCH TRIMAN SYMBOL AND WASTE SORTING INSTRUCTIONS

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OVERVIEW

The objective pursued by French government is to increase the recycling rate of household products under EPR scheme in France. For that purpose, article 17 of the [Law N° 2020-105 of 10 February 2020](#) on the fight against waste and on the circular economy aims at enhancing consumer information about sorting rules for waste resulting from products placed on the market for household use and subject to the principle of extended producer responsibility (household packaging waste, WEEE, Battery waste, paper, textile, furniture, tires, etc.) .

The information to be provided is composed of two elements: a symbol (called Triman¹) and sorting instructions.

The draft decree notified under notification number [2020/410/F](#) lays down the conditions governing the application of the legislative provisions.

Several aspects of the draft decree can be likely to constitute a barrier to trade in the EU single market and we question the proportionality of the measure.

We call on the European Commission to assess this draft decree with regard to the risk of market fragmentation

BACKGROUND

In 2010, the French Grenelle law [n°2010-788](#) (Article 199) requires that all recyclable products subject to the principle of extended producer responsibility, excluding household glass drinks packaging, be provided with a marking and waste sorting instruction to inform the consumer that the waste of the product is associated to waste sorting instructions.

In 2012, the draft decree specifying the conditions for implementing this obligation was notified under TRIS notification ([2012/204/F](#)). Belgium, Italy, Netherlands and Slovakia issued comments and the Commission, Luxembourg, Portugal, Spain and United Kingdom issued detailed opinions.

At the WTO level, during the notification [G/TBT/N/FRA/153](#), specific trade problems were raised by Canada, the United States of America, Mexico and New Zealand, in particular for disproportionately high implementation costs, effective blocking of free movement of trade; less costly alternative options; consumer confusion and dilution of effectiveness of environmental labels and principle of mutual recognition.

The French Ministry finally modified the decree to

¹ Triman symbol :



- Allow the affixing of Triman symbol and sorting instructions on producers' websites. The affixing of the information on the products, on packaging or on user manuals is voluntary,
- Recognize other signage defined by law by another Member State of the European Union, in accordance with the principle of mutual recognition provided for in Articles 34 and 36 of the Treaty on the Functioning of the European Union.

On January 1st 2015, the [decree n° 2014-1577](#) entered into force. The decree specifies in particular that EEE and Batteries are complying with the law thanks to the cross wheeled bin, no further signage nor marking is needed. The decree also specifies that in the case of multiple packaging components, it is allowed to display the signage only on the visible or outer packaging and not on each packaging component (if the producer decided to display the signage on products despite the possibility to display it on websites).

In December 2015, the French environmental agency published a [user manual](#) to guide the producers in the implementation of the decree.

As an incentive to affix the Triman symbol on packaging (instead of websites), the Ministry decided that from 2018, household packaging marked with the Triman and sorting instructions can get a rebate of 5% on the corresponding EPR fee.

RECENT DEVELOPMENTS

The French [law n° 2020-105](#) on the fight against waste and on the circular economy modifies the Grenelle law as it specifies that the information (symbol and sorting rules) must be on the product, on its packaging or on documents delivered with the product (like user manual for instance). It withdraws the possibility to display the signage on websites.

« Art. L. 541-9-3.-Tout produit mis sur le marché à destination des ménages soumis au I de l'article L. 541-10, à l'exclusion des emballages ménagers de boissons en verre, fait l'objet d'une signalétique informant le consommateur que ce produit fait l'objet de règles de tri.

« Cette signalétique est accompagnée d'une information précisant les modalités de tri ou d'apport du déchet issu du produit. Si plusieurs éléments du produit ou des déchets issus du produit font l'objet de modalités de tri différentes, ces modalités sont détaillées élément par élément. Ces informations figurent sur le produit, son emballage ou, à défaut, dans les autres documents fournis avec le produit, sans préjudice des symboles apposés en application d'autres dispositions. L'ensemble de cette signalétique est regroupé de manière dématérialisée et est disponible en ligne pour en faciliter l'assimilation et en expliciter les modalités et le sens.

« L'éco-organisme chargé de cette signalétique veille à ce que l'information inscrite sur les emballages ménagers et précisant les modalités de tri ou d'apport du déchet issu du produit évolue vers une uniformisation dès lors que plus de 50 % de la population est couverte par un dispositif harmonisé.

« Les conditions d'application du présent article sont précisées par décret en Conseil d'Etat. »

Non official translation: "Art. L. 541-9-3.-Any product placed on the market for households and subject to I of article L. 541-10, excluding household glass beverage packaging, is subject to a symbol informing consumers that this product is subject to sorting rules.

"This symbol is accompanied by information specifying the waste sorting or take back rules. If several elements of the product or of the waste resulting from the product are subject to different sorting rules, these methods are detailed item by item. This information appears on the product, its packaging or, failing that, in the other documents supplied with the product, without prejudice to the symbols affixed in application of other provisions. All of these signages are provided together in a dematerialized way and is available online to facilitate assimilation and to explain its methods and meaning.

"The compliant schemes responsible for this signage ensures that the information written on household packaging and specifying the sorting rules or the tack-back rules evolves towards standardization when more than 50% of the population is covered by a harmonized system.

"The conditions of application of this article are specified by decree of the Council of State."

Compared to Grenelle law, this new law withdraws the possibility to only affix the symbol and the sorting rules on websites.

The French government consulted the public and the stakeholders on the draft implementing Decree at [national level](#) (notification period from 29/06/2020 to 06/07/2020) and notified it under TRIS procedure under number [2020/410/F](#) (end of Standstill: 01/10/2020).

We notice that the draft decree is more demanding than the law itself on two aspects:

1. *For packaging covered by the packaging EPR scheme, **the symbol shall be affixed on the packaging itself** whereas the law offers the possibility to affix the symbol and the information on sorting rules on the user manual (or any other documents supplied with the product).*
2. *The information on sorting rules shall be **contiguous** to the symbol. Whereas the law says the symbol **is accompanied by** the information on sorting rules.*
For example, according to the law, it could be possible to mark the symbol on the packaging and write the sorting rules on instruction sheets. But according to the decree the symbol and the information on sorting rules must always come together and be contiguous.

Furthermore, we notice that **the decree doesn't exclude the EEE nor the Batteries from the obligation to affix the Triman symbol**, despite those products already bear the crossed-out wheeled bin. The decree includes the mutual recognition principle that recognize other signage defined by law by another Member State of the EU. It may be a possibility to take into account the crossed-out wheeled bin and avoid a double marking but it brings high legal uncertainty compared to the previous decree which explicitly recognized the crossed-out wheeled bin.

To be noticed that in addition to the symbol (Triman and/or crossed-out wheeled bin), the law requires to affix sorting instructions on the product, on the packaging of the product or on the documents delivered with the product.

KEY ISSUES

1. **The more stringent requirement for packaging in the draft decree than in the law** (symbol + sorting instructions shall be affixed on the packaging itself) creates many difficulties which we consider disproportionate to the benefits of that measure, more strict than necessary and constitute a barrier to the free movement of goods within the internal market:

It should be allowed, for all packaging elements, to display the symbol and the sorting instructions on the accompanying documents such as the manual instruction.

For EEE, manual instructions are important documents that the consumer refers to when using a product for the first time and is more likely to be read than searching for symbol and sorting instructions on the packaging.

In global supply chains, producers do not design packaging specifically for one Member State.

Bearing in mind that the sorting instructions for packaging waste are not harmonized across EU, affixing sorting instructions applicable in France on the packaging itself is very likely to mislead the consumers in other EU countries on the relevant sorting instructions to follow.

Consumers’ understanding of generic symbols varies considerably, it questions the chosen way to increase recycling rates of households waste. The [Eurobarometer survey](#) on consumer empowerment published in 2011 tested consumers’ ability to recognize 5 symbols: organic farming (16%), the CE symbol (66%), the Ecolabel symbol (17%), the recyclable paper symbol (55%) and the one indicating health hazard (64%). More than one in ten (11%) claimed they did not know the symbols. For all the symbols, the understanding of their meaning drops considerably. For instance, the CE symbol is the most recognized symbol by European consumers but only 25% actually knows its meaning.

2. **Small items and items sold without packaging, but only with a hangtag, represent a technical challenge** due to the lack of space available to display essential information, in particular safety information and warnings which by law are required to be visible at the point of purchase. The unintended consequence would be an increase of the size of the packaging elements and this would undermine the waste hierarchy to prevent and reduce waste.
3. **The TRIMAN symbol duplicates some EU legislations.**
The EEE and batteries bear a crossed-out wheeled bin symbol which informs the consumer that these products shall not be discarded in the normal household waste. The goal to achieve with these 2 symbols (crossed-out wheeled bin and Triman) is the same².
Although the draft decree includes a provision on mutual recognition, there is no certainty on the effective recognition of the crossed-out wheeled bin by the French government. An explicit recognition of the crossed-out wheeled bin in the decree would give more visibility and legal security to the producers.

RECOMMENDATION

While we support efforts to empower the consumer to sort waste and participate in higher collecting rates, we advocate for:

1. **A proportionate approach to meet this objective.** Aligning the modalities of application of Triman according to the art 17 of the law: the symbol and information on sorting rules should be on the packaging **OR** any accompanying documents as it has been explicitly allowed by the French Parliament.
2. **In exceptional cases**, where this is necessary because of the size or the function of the product, or for products without packaging nor instructions sheets, **a derogation should be allowed to display the symbol and the sorting instruction on a website.**
3. Products falling under the scope of the **2006/66/CE and 2012/19/EU directives**, which are covered by the crossed-out wheeled bin symbol, **should be excluded from displaying the Triman symbol.**

² DIRECTIVE 2012/19/EU – article 14.4 “*With a view to minimising the disposal of WEEE as unsorted municipal waste and to facilitating its separate collection, Member States shall ensure that producers appropriately mark — preferably in accordance with the European standard EN 50419 (25) — EEE placed on the market with the symbol shown in Annex IX. In exceptional cases, where this is necessary because of the size or the function of the product, the symbol shall be printed on the packaging, on the instructions for use and on the warranty of the EEE.*”

DIRECTIVE 2006/66/EC – annex II: SYMBOLS FOR BATTERIES, ACCUMULATORS AND BATTERY PACKS FOR SEPARATE COLLECTION “*The symbol indicating ‘separate collection’ for all batteries and accumulators shall be the crossed-out wheeled bin shown below*”

4. **A longer transition period to January 2023** should be granted to let producers do the necessary modifications on products, packaging or documentation such as user manuals.
