

Principal remarks

The French decree constitutes an infringement of the EU internal market as it imposes additional requirements for testing furniture of which wood based panels are a part of the structure. It creates a technical barrier to trade resulting in large additional costs for the producers and leading to a distortion of the competition. The obligation to label and measure only applies to furniture containing wood based panels. Other materials do not have to comply.

It is commonly known that wood based panels certified as E1 are safe to use. But when using panels with a small surface it is possible to use E2 panels and still be compliant while the use of E1 would have a larger reduction of the emissions. So this decree is missing its goal.

Furthermore using the same labels as construction products but with different thresholds for the classes will mislead the consumer. The consumer is not aware that 2 different test methods are used giving a totally different result but with the same unit. The lowest emitting construction products class is the same as the high emitting furniture class.

There is also a conflict with the ecolabel. Furniture granted an ecolabel is supposed to be low emitting while according to this decree it would be high emitting. Therefore this decree confuses the consumer instead of advising him.

Technical grounds

- The proposed test method differs from the standard approved method for classifying wood based panels as E1 (EN717-1).
- The result of the emission is depending on the used surface of panel in the piece of furniture. It also depends on the materials around the panel that is fitted in the furniture. This has an effect on the emission level. To give an accurate emission level the furniture piece as a whole should be measured. This is not possible for large pieces of furniture due to the lack of sufficient large emission test chambers.
- The proposed classification is too narrow. With the accuracy and the lack of robustness of the measuring methods ISO16000-9 and EN717-1 a reliable distinction between the classes is impossible. EN ISO 16000-9 is a standard adopted for the determination of VOC emissions from building products and not intended to determine equilibrium concentrations of formaldehyde. EN 717-1 is a standard developed for the determination of the equilibrium concentrations of formaldehyde emissions from wood-based panels, and other products as required by regulations in various European countries. Furthermore, the variability on the ISO 16000 standards can be very high (often 30-50% difference in the results between laboratories and sometimes even up to 160%!).
- Since the WHO recommend $100\mu\text{g}/\text{m}^3$ as a safe level for exposure to formaldehyde in dwellings, the proposed classification is way out of proportion to guarantee this safety. Instead this will give the costumer a false anxiety towards materials emitting formaldehyde. Already E1 wood based panels with an emission limit of $124\mu\text{g}/\text{m}^3$ are considered as safe for use.
- The proposed classification is not in line with the already existing French decree, " Décret no 2011-321 du 23 mars 2011 (Decree on the labelling of construction products or wall or floor coverings and paints and varnishes with their volatile pollutant emissions.) The differences between the already existing and the new proposal are expressed in the following table. Bear in mind that the units are the same but the tested surface is totally different.

Scheme ($\mu\text{g}/\text{m}^3$)	A+	A	B	C
Already existing for construction products	<10	<60	<120	>120
New proposition furniture	>3	<5	<10	>10

Legal grounds

- The French decree does not respect the provision that Member States have to give detailed information on the effects of the measure on hygiene, health and the environment. An impact assessment accompanying this decree is missing. This is clearly contrary to the European rules.
- Contrary to what is stated within the notification page on EC's website, the notified text is a draft technical rule project as defined within point g) of Article 1 of the Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services.
- It is also a technical specification according to the point c) of Article 1 of this Directive as it obliges furniture producers and importers to address the emission characteristics in respect to the materials used and with a fixed methodology as well as the size and characteristics of this information to be provided for to consumers.
- It should be underlined that the barrier to trade that will be created by the French decree could only be justified if there would be a compelling and absolute necessity for the measure. Such a necessity is not supported by documentary evidence at all. On the contrary this evidence is missing.
- It should be highlighted that the Notification Directive 98/34/EC requires that the measures to be introduced must not be disproportionate to the objectives to be achieved. It is clear that the French situation is not fundamentally different to that in the other Member States. The French decree is thus clearly not proportionate.
- This French decree excludes other products than wood based panels in the scope regardless if they have higher emission levels or not.
- This draft technical rule project's domain is already covered by Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel.
- As regards its implementation by producers, importers and controllers, this draft technical rule project is likely to violate the mutual recognition principle applying to the circulation of goods in Europe as it is based on a methodology that is not technically robust irrespective of the State of the art in the production of panels.

Economic grounds

- The implementation of the requirements proposed in the French draft decree would create substantial additional costs for the manufacturers without any noticeable advantage neither for the health of the consumers nor for the environment. Furthermore, there is a big risk of further proliferation of national requirements not being in line with each other.

- In view of the test duration (28 days), the amount of furniture on the market and the limited number of facilities for testing, it will take many years to test all concerned furniture that are being put on the market in France.
- The implementation of the French decree would distort competition for furniture containing wood-based panels. Only this furniture would need to do those extra tests making it more expensive.
- When furniture containing wood based panels would like to achieve an ecolabel it should be tested according to 2 different methods making this piece of furniture much too expensive.
- Producers of furniture do not always know in which country their products will be sold. As such, this labeling obligation is a barrier to trade and limits the free movement of goods in the EU.