



*Brussels, 9 May 2022*

To: European Commission  
DG Growth, Unit E.3 - Notification of Regulatory Barriers  
DG Environment B.3 - Waste Management and Secondary Materials

Ref: Italian Decree No 114 of the Minister for Ecological Transition of 16 March 2022 adopting the Guidelines on the labelling of packaging, pursuant to Article 219(5) of Legislative Decree No 152/06 – TRIS Registry no. 2022/196/I (Italy)

On April 7<sup>th</sup> 2022, Italy has notified a draft decree no. 114/2022 which foresees the adoption of Guidelines on the labelling of packaging, pursuant to Article 219(5) of Legislative Decree No 152/06. The objective of this regulatory intervention is to provide clear and uniform indications to operators subject to packaging labelling obligations, also in order not to incur legal infringements and consequent penalties. The application of the Guidelines in question will have an impact on the productive, social and environmental sectors.

Prior to that, Italy has notified via TRIS ([Registry no. 2022/18/I](#)) a provision introduced by Decree-Law No 228 of 30/12/2021 ('Milleproroghe [Thousand Extensions] Decree') concerning the amendment of Article 219(5) of Legislative Decree No 152/2006. This provision concerned only the entry into force of the labelling requirements on packaging by product manufacturers presented in detail by the mentioned Decree and Guidelines. The notification was problematic as it only covered the postponement of the entry into force of the abovementioned labelling obligations.

EuPC, the European Trade Association of plastics converters, would like to provide its views on the possible violations of EU legislation that could take place, should the mentioned Decree and Guidelines be adopted in the version notified to the European Union.

*EuPC also supports the Joint Industry Comments submitted by a group of other associations on the TRIS notification 2022/18/I.*

#### **Violation of EU legislation**





The Legislative Decree no. 114 of 2022 and the application of a mandatory labelling obligations appear to be well beyond European legislative framework. **The Decree violates Article 18 of the Packaging and Packaging Waste Directive as well as Article 34 of TFEU as it will likely impact the free circulation of goods in the Single Market:** labelling requirements can be considered barriers to entry which hampers the need of harmonisation related to packaging and packaging labelling across Member States.

Furthermore, currently the European Commission is working in the revision of the PPWD which will be most likely be revised in the form of a Regulation. **The new Packaging Regulation will contain dedicated rules related to composition of waste and preferred disposal in a harmonised way**, therefore there is no need for Italy to establish unilaterally new and unnecessary labelling requirements since soon the whole European packaging system will be subject to one European labelling scheme.

### Italian collection system

It is important to keep into consideration the context in which the Decree at issue is going to work. The proposed labelling system is superfluous. The mandatory information that the decree requires to include on a packaging, namely composition and ideal disposal, appear to be superfluous in a system like the Italian one where the **existing national Producer Responsibility Organisation, CONAI (Consortio Nazionale Imballaggi)** collects and sorts all types of packaging, including those made of plastics.

In fact, the Italian Legislative Decree no. 22/97, or the Ronchi Decree, assigned to CONAI the task of achieving the overall target of recycling and recovery packaging across the whole of Italy<sup>1</sup>. In detail, for plastics, CONAI directs the activities and guarantees the recovery results of a **dedicated consortium, among others, in charge of collecting plastics packaging (COREPLA)**, ensuring the necessary link between these Consortiums and Public Administration<sup>2</sup>.

Therefore, it is in question what would be the added value of having a mandatory labelling system in a country that, as said, collects all plastics packaging. **This labelling obligations seems to rather target non-Italian packaging, thus limiting and negatively affecting their free circulation in the Italian territory.**

### Similar initiatives and environmental effects

Unfortunately, Italy is not the only country that pending a revision of European packaging legislations that is foreseeing to adopt a national labelling system. **EuPC strongly recommends the need for blocking such unilateral initiatives and ensure that divergent national measures are kept on hold until a clear, harmonised framework is in place.**

---

<sup>1</sup> Information available at <https://www.conai.org/en/about-conai/conai-system/> (last checked May 9, 2022).

<sup>2</sup> For reference <https://www.conai.org/en/about-conai/what-is-conai/> (last checked May 9, 2022).





If implemented, the Decree **could lead to negative environmental effects as risks for product scrappage, reduced flexibility in production and supply chains or limitation to sell stocks** thus creating more waste and hampering the reason why the labelling has been created in the first place.

## Conclusion

In the light of the abovementioned reasons, EuPC believes that the Italian draft Decree undeniably **creates an unjustified barrier for the free circulation of packaging in the Single Market**, which will result in a violation of EU Law and an unjustified bigger fragmentation of the Single Market. This Decree goes beyond the provisions set in the policy objectives foreseen by the European Legislator, while at the same disregarding other fundamental principles set by other pivotal pieces of legislation and ongoing regulatory activities.

Therefore, **EuPC kindly invites the European Commission and Member States to adopt a Detailed Opinion according to these considerations**, thus inviting the Italian Authorities to clarify the lack of coherence with the European legislative framework and to **ultimately de cease to proceed with the adoption of labelling obligations** as drafted in the proposed Decree and related Guidelines.

