



FESI CONTRIBUTION TO TRIS NOTIFICATIONS 2025/0086/FR AND 2025/0087/FR

Draft French Decree on the methods for calculating and communicating the environmental cost of textile products (2025-0086-FR) &

Draft French Order on signage and methodology for calculating the environmental cost of textile clothing products (2025-0087-FR)

May 2025

The Federation of the European Sporting Goods Industry ("FESI") strongly contests the lawfulness of the draft French Decree and Order notified to the European Commission on 13 February 2025.^[1] FESI submits that the draft French Decree and Order are incompatible with existing and forthcoming EU secondary legislation in the fields of (eco)labelling, regulation of digital services and consumer protection,^[2] as well as Treaty provisions relating to the free movement of goods and the freedom to provide services. They also concern a matter which is already fully, or at least, sufficiently, covered by the proposal for a Green Claims Directive ("GCD") as well as Delegated Acts being currently drafted by the Commission under the Eco-design for Sustainable Products Regulation ("ESPR"). As such, the draft French laws are in breach of EU procedural and substantive requirements that apply to all Member States, undermining legal certainty for companies operating in, or looking to enter, the EU market, including in France.

The proposed French ecoscoring methodology and mandatory label proposed is unbalanced and would be highly disruptive to the European Union's textile products sector and to the free movement of goods and services within the EU single market. Despite being presented as a voluntary scheme, the proposed labelling regime contains elements that would render it de facto mandatory. Furthermore, it is probable that the French 2021 Climate and Resilience Act on which the draft Decree and Order are based could be the mechanism employed for mandatory labelling from the beginning of 2025 in several sectors, including textiles.^[3]

[1] TRIS notifications 2025/0086/FR and 2025/0087/FR

[2] Examples include the EU Ecodesign for Sustainable Products Regulation, the Consumer Rights Directive, the Digital Product Passport Directive, the Unfair Commercial Practices Directive, the eCommerce Directive.

[3] See Article 2 of LOI n° 2021-1104 du 22 août 2021 portant lutte contre le dérèglement climatique et renforcement de la résilience face à ses effets. Available here: <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000043956924/2025-03-31/>

To avoid any misunderstanding, FESI would like to emphasize that it welcomes policy initiatives that support the transition to greener and more sustainable products. As an industry leader in sustainability and circularity, we recognize the importance of science-based and EU-level harmonised environmental assessment methodologies, as illustrated by our continuous engagement with on-going discussions in various product sustainability files, including GCD, ESPR, and the Product Environmental Footprint Category Rules (“PEFCRs”).^[4] It is because of this commitment that FESI is deeply concerned. The draft Decree and Order constitute a threat to the EU’s objectives of the Single Market and a harmonised framework for sustainability and circular economy, which is the basis for scaling sustainable innovation across the EU, as also recognized by the Draghi report on the Future of European Competitiveness.

FESI calls on the European Commission to:

- **Issue a detailed opinion requesting the French Government to postpone the adoption** of the draft French Decree and Order until the draft EU legal acts under negotiation are finalized and the French government ensures that their draft Decree and Order are compatible with such acts, as well as other applicable EU provisions or amend these drafts to ensure that the de facto mandatory elements of the labelling scheme proposed are eliminated.
- **Require EU Member States to apply a moratorium on national measures** similar to the draft French Decree and Order until EU-wide measures have been finalized rather than adopting unilateral national measures that cause fragmentation, disruption and uncertainty.

The justification for this urgent request by FESI is based on a detailed review of:

- The draft French Decree and Order: a voluntary scheme with binding impact
- The applicable legal standards under EU law
- The incompatibility with EU secondary legislation and EU harmonisation efforts
- Violation of EU Treaties and fundamental principles of EU law
- Risk to EU industry competitiveness
- Risk to consumer trust in sustainability claims

1. The draft French Decree and Order: a voluntary scheme with binding impact

The draft Decree and Order establish a de facto mandatory regime for the disclosure of environmental costs for in-scope textile products sold in France. It would apply to all new or remanufactured textiles products marketed to consumers in France.

Any statements made by a manufacturer or importer on a voluntary basis regarding the environmental impact of in-scope textile products, would be subject to three layers of de facto mandatory requirements:

- A detailed and **prescriptive calculation methodology** which includes additional impact categories beyond those covered by the EU Product Environmental Footprint (“PEF”) Recommendation (EU) 2021/2279 (such as microplastics emissions, fast fashion bias, environmental footprint of exporting products outside the EU and emotional durability instead of physical durability as foreseen in the PEF Recommendation). While based on textiles worn in France, the calculation methodology applies equally to importers and producers based in other EU Member States.^[5]

^[4]See, FESI position paper: Accelerating Transparency for Apparel & Footwear, June 2021

^[5]See D-2025-0087-EN-01, Article 5 under Impact category: “Export outside the EU” category, understood as taking into account the share of textiles worn in France and exported outside the European Union after having been collected.”

- **Specific labelling and presentation requirements** (regarding physical as well as digital labelling) apply. Labels should be updated within one month of changing information.^[6]
- **Disclosure requirements** are applicable regarding the underlying environmental cost data. Use of the label would require uploading information justifying the calculation made to a governmental database before the product can be marketed.^[7]

While presented as a voluntary scheme for now, the French Environment Ministry has stated that it does not rule out making the scheme obligatory going forward.^[8] Indeed, Article 2 of the French 2021 Climate and Resilience Act on which the draft Decree and Order are based provides for such mandatory labelling from the beginning of 2025 in several sectors, including textiles.

2. The applicable legal standards under EU law

Directive 2015/1535 – TRIS^[9]

TRIS Directive (EU) 2015/1535 aims to prevent creating barriers in the Single Market before they materialize. It provides that Member States should postpone the adoption of national measures wherever the Commission issues a detailed opinion to the effect that the measure envisaged has the potential to restrict the free movement of goods or the freedom to provide services in the Single Market, and wherever the Commission announces its finding that the draft national measures concern a matter which is covered by a proposal for a directive, regulation or decision.^[10]

Duty of loyal cooperation

It is settled case-law that, pursuant to Article 4(3) of the Treaty on the European Union Member States have a duty of loyal cooperation and must refrain from taking any measures liable to seriously compromise the attainment of the result prescribed by an EU legal act. This includes also transitional periods during which they are authorised to continue to apply divergent national measures.^[11] So, these principles shall apply, inter alia, to the transition period provides for in such a legal act, which allows for the Commission to adopt Delegated Acts.

Commission as ‘Guardian of the Treaties’

Pursuant to Article 17 of the Treaty on the European Union, the Commission is the ‘Guardian of the Treaties’. Under the 2022 enforcement communication, the Commission gives priority to tackling breaches with the biggest impact on the interests of citizens and businesses, including those breaches of EU law, which obstruct the implementation of important EU policy objectives, or which risk undermining the EU's four fundamental freedoms.^[12]

3. Incompatibility with EU secondary legislation law and EU harmonisation efforts

a. The draft French Decree and Order concern a matter which is covered by a proposal for a directive: The Proposed EU Green Claims Directive on substantiation and communication of explicit environmental claims (“GCD”)

The Commission proposal on GCD lays out in Article 7 (1) that "Only environmental labels awarded under environmental labelling schemes established under Union law may present a rating or score of a product

[6] See D-2025-0086-EN-01, Article 541-248: "shall update the presentation of the environmental cost within a period not exceeding one month"

[7] See D-2025-0086-EN-01, Article R541-250 : "Prior to the reporting of the environmental cost, [...] shall provide information on the list of reference and complementary parameters used and the specific data mobilised, on a dedicated digital portal accessible to public authorities, designated by order of the ministers responsible"

[8] « Dans un premier temps, il s'agira d'une démarche volontaire, mais nous n'excluons pas de rendre cet affichage environnemental obligatoire à partir de 2025 », dit-on au ministère. La loi Climat et résilience de 2021 prévoyait un tel affichage obligatoire dès le début de 2025 dans plusieurs secteurs, dont le textile. (*Les Echos*, 3 April 2024)

[9] 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. OJ L 241, 17.9.2015, p. 1–15, ELI: <http://data.europa.eu/eli/dir/2015/1535/oj>

[10] Pursuant to Article 6(2) of Directive 2015/1535, "the Member State concerned shall postpone the adoption for 6 months if the Commission or a Member State 'delivers a detailed opinion [...] to the effect that the measure envisaged may create obstacles to the free movement of goods within the internal market: Adoption would be postponed for 4 months where draft rules on services are concerned"

Pursuant to Article 6(2) of Directive 2015/1535, "the Member State concerned shall postpone the adoption for 12 months if the draft national regulation concerns a matter which is covered by a proposal for a directive, regulation or decision".

[11] See Joined Cases Stichting Natuur en Milieu and Others v College van Gedeputeerde Staten van Groningen and College van Gedeputeerde Staten van Zuid-Holland, C-165/09, paragraph 79-80, to C-167/09, Stichting Zuid-Hollandse Milieufederatie, C-316/04, paragraph 42, and Stichting Zuid-Hollandse Milieufederatie, C-138/05, paragraph 42

[12] https://ec.europa.eu/commission/presscorner/detail/en/memo_12_12

or trader based on an aggregated indicator of environmental impacts of a product or trader." Limiting the possibility for mandating labels to present a rating / score based on an aggregated indicator of environmental impacts to only those developed at the EU level aims at reducing consumer confusion and misinformation as well as overall proliferation of national labels. Only if no rules on aggregated scores are established at EU level, or targeted to be established, Member States could introduce their own schemes.

First, this means that the draft Decree and Order concern a matter which is covered by a proposal for a directive. Second, this means that, if adopted, the draft Decree and Order, could be considered measures liable to compromise the objective of the EU GCD. Under settled case law, EU Member States are required to refrain from adopting such measures.^[13]

Furthermore, products carrying the French ecolabel will likely require substantiation in accordance with EU GCD if sold outside of France. Due to the uniquely French approach to the baseline criteria, this is likely to be a highly challenging task under either following the existing (EU) substantiation rules when making environmental claims (including eco ratings/scores) or the future EU GCD substantiation criteria. Considering the above, FESI calls on the Commission to announce that the draft measures concern a matter which is covered by a proposal for a directive, under Article 6(4) of Directive 2015/1535, and to ensure that France postpones, pursuant to this provision, the adoption of the draft Decree and Order for at least 12 months.

b. The draft French Decree and Order concern a matter which is subject to a transition period allowing the Commission to adopt Delegated Acts under the Ecodesign for Sustainable Products Regulation (EU) 2024/1781 ("ESPR")

The ESPR introduces harmonised performance and information requirements (together "ecodesign requirements") to improve product sustainability and circularity, based on a defined set of product parameters set out in Annex I.

Article 3(2) of ESPR expressly prohibits Member States from restricting the placing on the market of products that comply with ecodesign requirements to be set out in Delegated Acts, on grounds that these products do not meet national requirements related to product parameters covered by those Delegated Acts. Ecodesign requirements cover aspects such as the environmental footprint of a product (Article 5(1)(o)), to be calculated using a LCA methodology grounded in the PEF method set out in the PEF Recommendation, or other recognised scientific methods adopted or implemented by the Commission in other EU law.

The results of the calculations of different product parameters are to be presented in a label. According to Article 17 of the ESPR, products that are labelled in a way that can mislead or confuse consumers are banned on the EU market.

The Commission, following consultation with Member States, including France, has identified apparel as the first product group for which ecodesign requirements will be developed and implemented through a Delegated Textile Act. This process, already underway, is expected to include mandatory durability labelling for apparel products that will be directly communicated to EU consumers. France, like all Member States, has been kept informed of this ongoing work by the Commission.

[13] Stichting Natuur en Milieu and Others, C-165/09, paragraph 78

The unilateral introduction under the draft Decree and Order of an alternative environmental score calculation methodology, ahead of EU-level regulation and based on parameters not foreseen in the ESPR and inconsistent with the PEF methodology and the resulting ecolabel, is effectively equivalent to France:

- legislating differently on ecodesign requirements that are harmonised at EU level and which it supported during the co-decision procedure leading to the recent adoption of the ESPR in 2024;
- breaching Article 3(2) ESPR, which prohibits national measures in areas covered by future Delegated Acts, such as the Delegated Textiles Act;
- exposing companies to potential violations of Article 17, as the draft Decree and Order ecolabel may be considered confusing or misleading for consumers;
- disregarding the ongoing development of EU-level Delegated Acts, of which France is fully aware; and
- ignoring the significant burden on businesses that would be required to calculate and communicate two divergent sustainability scores for the same product that are potentially inconsistent, conflicting, and/or confusing.,.

Once the ecodesign requirements for apparel are finalised (forecasted for 2027), the EU-wide methodology and ecolabel will take precedence over national schemes. The coexistence of both schemes would create legal and practical conflicts, requiring companies to comply with two different systems for assessing the sustainability performance of their products and potentially leading to consumer confusion due to inconsistent labelling.

The ESPR also requires products to be accompanied by a DPP that includes comprehensive information about each product's origin, materials, environmental impact, and disposal recommendations, to ensure transparency and comparability at the EU level. The draft Decree and Order will conflict with the information presented in the DPP, thus creating confusion for consumers and placing businesses at risk of displaying misleading information.

Further, the draft French Decree and Order are premature since the EU Textile Labelling Regulation^[14] is currently under revision, establishing uniform rules across the EU for labelling textile products that may be different from the French ecoscore system. This would lead to additional burdens on the textile products sector in terms of compliance and consistent consumer information across the EU.

Product Environmental Footprint Category Rules ("PEFCR")

Finally, the Apparel and Footwear PEF Category Rules will officially be launched by the Technical Secretariat for the apparel and footwear PEFCR in June 2025. The Technical Secretariat is the guiding body that developed the PEF Category Rules (PEFCR) for the apparel & footwear industry. It is made up of representatives of various stakeholders including brands (about 50% of the European market), fibre and textile sectors, NGOs, scientific experts, and governments to ensure different perspectives in the decision-making process. This final launch marks the culmination of a five-year project at the EU level to support the development of an environmental performance assessment methodology for the apparel and footwear sector.

Although the PEF methodology is voluntary, it creates a harmonised way to calculate environmental performance across all 27 Member States. The PEFCR may be approved by the European Commission for B2C communication of the environmental score of apparel and footwear later in 2025. If approved, the parallel introduction of a French ecoscore would lead to two different LCA methodologies being applicable to products available on the French market, and potentially beyond.^[15]

[14] Regulation (EU) No 1007/2011 of the European Parliament and of the Council of 27 September 2011 on textile fibre names and related labelling and marking of the fibre composition of textile products and repealing Council Directive 73/44/EEC and Directives 96/73/EC and 2008/121/EC of the European Parliament and of the Council. OJ L 272, 18.10.2011, p. 1–64, ELI: <http://data.europa.eu/eli/reg/2011/1007/oj>

Furthermore, the EU Strategy for Sustainable and Circular Textiles reiterates using the PEF method as a basis for validating voluntary green claims.^[16] It specifically provides that the use of the PEF method is a way to substantiate and communicate environmental claims, rating and scoring included. Whilst non-mandatory in nature, PEFCRs can be referenced by binding EU legislation and/or used at national level for the purpose of calculating and presenting environmental impact of apparel and footwear.

France's competing national methodology establishing different rules to quantify and communicate the environmental impact of products contradicts this effort and risks regulatory fragmentation, contrary to the EU's ambition set out in the 2025 European Commission Competitiveness Compass.^[17]

Considering the above, FESI calls on the Commission to ensure that France, pursuant Article 4(3) of the Treaty of the European Union, postpone the adoption of the draft Decree and Order until the above rules are finalized.

c. The draft French Decree and Order are incompatible with applicable EU secondary legislation, as well as with Treaty provisions regarding free movement of services

Unfair Commercial Practices Directive (2005/29/EC) ("UCPD") and Consumer Rights Directive (2011/83/EU) ("CRD")

The draft Decree and Order will also be incompatible with consumer protection legislation that complements the GCD, namely the UCPD, the CRD and transposing national consumer protection legislation.

Under the recent revision of both Directives,^[18] environmental claims that in any way deceive or have the potential to deceive the average consumer can be considered misleading. The ecolabel introduced under the draft Decree and Order could be considered misleading under the UCPD if it contains claims that are unsubstantiated under the GCD. Substantiating claims for the French ecolabel could be challenging due to diverging LCA parameters under the GCD and the draft Decree and Order.

Article 8 of the CRD provides for exhaustive harmonization of pre-contractual information requirement regarding, inter alia, the main characteristics of the goods at issue, while Article 5(5) of the UCPD sets out an exhaustive list of commercial practices which shall in all circumstances be regarded as unfair, and which shall apply in all Member States. By imposing further disclosure requirements online, the draft Decree breaches the CRD and by prohibiting 'confusing' scores regarding environmental impact, under Article R. 541-244 of the French Environmental Code, it may be incompatible with the UCPD.

E-Commerce Directive (2000/31/EC)

Given that the French ecolabel must also be displayed electronically, the draft Decree and Order restrict the free provision of services in France by information society service providers established in other Member States, in violation of Article 3(2) of the e-Commerce Directive.

[15] Furthermore, the French Decree and Order introduce microplastic emissions as a standalone impact category, despite unresolved scientific and methodological challenges. Current PEFCR (v3.1) guidance explicitly acknowledges that fibre fragment impact assessments are "limited and embed high uncertainty" due to gaps in the data modelling. For example:

a) Incomplete Lifecycle Coverage - the PEFCR methodology only partially addresses microfiber shedding during the use phase and omits shedding during raw material production or end-of-life stages. The French methodology does not resolve these gaps, instead introducing speculative metrics that conflate synthetic and natural microfibers. This contradicts the European Commission's directive to treat plastic microfibers as a distinct hazard category.

b) Lack of Cause/Effect Relationships - microplastics are excluded from PEF impact categories due to high uncertainty on their fate and the associated impacts. Introducing such a category without robust characterisation factors risks misallocating resources toward unproven mitigation strategies.

[16] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. EU strategy for sustainable and circular textiles (30 March 2022). Available here: [14] Regulation (EU) No 1007/2011 of the European Parliament and of the Council of 27 September 2011 on textile fibre names and related labelling and marking of the fibre composition of textile products and repealing Council Directive 73/44/EEC and Directives 96/73/EC and 2008/121/EC of the European Parliament and of the Council. OJ L 272, 18.10.2011, p. 1-64, ELI: <http://data.europa.eu/eli/reg/2011/1007/oj>

[17] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. A Competitiveness Compass for the EU (29 January 2025). Available here: [14] Regulation (EU) No 1007/2011 of the European Parliament and of the Council of 27 September 2011 on textile fibre names and related labelling and marking of the fibre composition of textile products and repealing Council Directive 73/44/EEC and Directives 96/73/EC and 2008/121/EC of the European Parliament and of the Council. OJ L 272, 18.10.2011, p. 1-64, ELI: <http://data.europa.eu/eli/reg/2011/1007/oj>

[18] Directive (EU) 2024/825 of the European Parliament and of the Council of 28 February 2024 amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and through better information. OJ L, 2024/825, 6.3.2024, ELI: [14] Regulation (EU) No 1007/2011 of the European Parliament and of the Council of 27 September 2011 on textile fibre names and related labelling and marking of the fibre composition of textile products and repealing Council Directive 73/44/EEC and Directives 96/73/EC and 2008/121/EC of the European Parliament and of the Council. OJ L 272, 18.10.2011, p. 1-64, ELI: <http://data.europa.eu/eli/reg/2011/1007/oj>

Restrictions to the free movement of services under the e-Commerce Directive are only allowed under very specific and narrowly construed grounds under Article 3(4), including that they stem from measures taken against a 'given information society service', which does not include general and abstract measures aimed at a category of given information society services described in general terms and applying without distinction to any provider of that category of services, according to settled case-law.^[19] This means that France may not impose general and abstract regulatory measures, such as the online display of its ecolabel, on information service providers established in other Member States.^[20]

Violation of EU Treaties and fundamental principles of EU law

- Restriction to free movement of goods (Articles 34 and 35 TFEU)

It is settled case-law that the prohibition of measures having equivalent effect to quantitative restrictions on imports laid down in Article 34 TFEU applies to any national measure that is capable of hindering, directly or indirectly, actually or potentially, intra-EU trade.^[21]

The draft Decree and Order would infringe Article 34 TFEU by imposing restrictions on the circulation of textiles within the Single Market. The draft Decree and Order force textile products that carry environmental claims to apply the French ecoscore when placed on the French market and restrict the communication of a textile product's environmental impact based on other EU or national methodologies, and/or internationally recognized environmental (performance) assessment methodologies (e.g., PEFCR, Delegated Acts under the EU ESPR, etc.).

-Restriction to free movement of goods to France

The draft Decree and Order would create barriers to market entry for companies operating in various Member States, leading to regulatory fragmentation. It would make access to the French market more difficult, requiring compliance with an additional ecoscore and labelling scheme that diverges materially from existing or anticipated EU-level approaches. Although a measure does not need to result in favourable treatment of domestic goods over imported ones to be considered restrictive under Article 34 TFEU,^[22] the draft Decree and Order would afford preferential treatment to domestic textile products, resulting in discrimination, since products from other Member States would be placed in a less favourable position than French products, which are more likely to be aligned with the national scheme. The draft Decree and Order do not include provisions ensuring mutual recognition of LCA methodologies applied in other Member States, effectively discriminating against non-French methodologies.

-Restriction to free movement of goods from France to other EU Member States

The draft Decree and Order would restrict the movement of goods from France to other Member States. French businesses exporting textile products bearing the national ecolabel to other EU Member States may be perceived as non-compliant with EU-wide ecodesign standards by virtue of the differing methodology underlying the French ecoscore and label. This misalignment risks contributing to regulatory fragmentation within the Single Market, would create barriers to market access for French textile products in other EU Member States.

This is not the first time that a French labelling regime has been found to constitute an unlawful trade barrier. In its 2024 "November Infringement Package," the European Commission reported the failure of France to address the incompatibility of its labelling requirements concerning waste sorting instructions with the requirements of free movement of goods ("TRIMAN" decision).

[19] Article 3(4) of Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market. OJ L 178, 17.7.2000, p. 1-16, ELI: <http://data.europa.eu/eli/dir/2000/31/oj>

[20] Google Ireland v KommAustria, C-376/22

[21] Austria v Germany, C 591/17, paragraph 120

[22] Austria v Germany, C-591/17, paragraph 121

The Commission noted that such labelling regimes are particularly problematic for the Single Market: “National labelling requirements are also repeatedly indicated by industry as a major internal market barrier and seriously undermine the free movement of goods”.^[23] Similar to TRIMAN, the draft Decree and Order would impede the free movement of goods in the Single Market.

- Restriction to freedom to provide services (Directive 2006/123 and Article 56 TFEU)

Since the draft Decree and Order mandate the use of the French national label where a voluntary label on environmental costs of a garment is used in its territory, this will create a barrier to non-French service providers of sustainability labels to offer their services on the French market. Where an ecolabel for a specific apparel clothing product is chosen, economic operators would have to (1) comply with the rules that are prescribed under that particular providers’ sustainability label, (2) ensure that the sustainability label chosen has been approved under the future GCD, but (3) also invest additional financial resources to comply with the French LCA and related label. This will disincentivise the use of environmental costing approaches adopted by other label providers (whether French or non-French) in France.

- Lack of proportionality

Article 36 and 52 TFEU as well as Article 16 of Directive 2006/123 allow national measures restricting the free movement of goods on the condition that they are objectively justified under limited circumstances and are proportionate to the objective pursued.

EU law provides for exceptions to the free movement of goods and services in the form of mandatory requirements or limited derogation grounds of public interest laid down in Article 16(1) of Directive 2006/123 and the case law.^[24] Environmental protection is listed under this provision and has also been recognised by the Court as one of the public interest objectives “*which may justify certain limitations of the principle of the free movement of goods*” and of the principle of the freedom to provide services.^[25] In either case, for a measure to be considered proportionate, it must be appropriate for securing the attainment of the objective pursued (suitability test) and must not go beyond what is necessary to attain it (necessity test).

With regard to suitability, a restrictive measure can be considered an appropriate means of securing the achievement of the legitimate objective pursued if it genuinely reflects a concern to secure the attainment of that objective in a “consistent and systematic manner”.^[26] The draft Decree and Order are not accompanied by robust scientific justification for the introduction of a national LCA methodology and ecolabel that are materially different from those being developed at EU level.^[27] The French government has not in any way substantiated that its decision to: a) include additional impact categories in the calculation methodology for environmental cost; and b) consider other factors such as biodiversity, microplastics fast fashion and water resources,^[28] is scientifically sound and offers added environmental benefits beyond those achieved by the introduction of ecodesign requirements under the ESPR and PEFCR.^[29]

As such, the draft Decree and Order are not proportionate to the objective of protecting the environment.

[23]European Commission. November Infringement Package: key decisions. Available here: https://ec.europa.eu/commission/presscorner/detail/en/inf_24_5223

[24]Austria v Germany, C-591/17, paragraph 122

[25]Commission of the European Communities v Kingdom of Denmark, C-302/86, paragraph 8.

[26]Scotch Whisky Association and Others, C-333/14, paragraph 37

[27]Scientific research related to textile-based microfibers is still in its infancy. This is due in part to the recent emergence of health and environmental concerns related to our consumption of plastics, of which microplastics are a consequence. The figures presented should therefore be interpreted with caution.

[28]The French ecoscoring methodology considers parameters that go beyond what existing LCA standards such as the PEFCR Apparel & Footwear project (v1.3) include, such as the environmental impacts linked to the release of microfibers into the environment. Available here: <https://fabrique-numerique.gitbook.io/ecobalyse/textile/complements-hors-acy/microfibres>

[29]Ecobalyse uses a semi-quantitative approach to estimate the impact of microfibres due to limited scientific data. Current research indicates that all materials and fibres have some environmental impact, but further study is needed—hence why the PEF does not make this parameter mandatory.

As to the potential objective of consumer protection, the French Government has also not in any way explained how the draft Decree and Order fulfil the goal of better informing consumers of the environmental cost of the textiles they purchase or consider purchasing, and enabling them to make informed purchasing decisions. In any case, this objective is not part of the limited list of derogations set out in Article 16(1) of Directive 2006/123. Considering the above, FESI calls on the Commission to deliver a detailed opinion to the effect that the draft French Decree and Order may create obstacles to the free movement of goods and the freedom to provide services, and to make sure that France does not adopt such drafts until they are brought into conformity with all applicable EU law provisions.

4. Risk to EU industry competitiveness

The competitiveness of the EU industry is a strategic priority of the newly established European Commission. The recently published “Draghi Report”^[30] and the “Letta Report”^[31] have highlighted barriers to greater EU competitiveness as a result of regulatory fragmentation. In this regard the 2025 European Commission Competitiveness Compass, specifically pointed out “market fragmentation deriving from diverging national rules on product sustainability”.^[32]

Regulatory harmonisation that allows for the reduction of the regulatory burden and compliance cost born by businesses, is essential as it ultimately strengthens the competitiveness of EU industry. In the field of sustainability, this has recently been demonstrated by the European Commission’s “Omnibus” proposals. National approaches like the draft Decree and Order which depart from EU initiatives on product sustainability undermine these very efforts and contribute to fragmentation of the market leading to higher costs for businesses, logistical challenges and undermine legal certainty for operators.

Higher costs for businesses

Compliance with a national French methodology and French mandatory labelling scheme means that companies are required to conduct separate LCA calculations for the French market, provide for additional labelling solutions for the French consumer, and potentially also having to substantiate the French ecoscore label in other jurisdictions, adding complexity and compliance costs reaching millions of euros to their operations.^[1] Since the EU textile sector is made up predominantly of SMEs, they will be particularly severely impacted by diverging calculation methods and labelling requirements.

Logistical challenges

Products may require specific re-labelling or packaging changes, further complicating the distribution process and supply chains. Companies will be forced to allocate additional resources to manage compliance, rather than focusing on sustainability innovation. According to the draft French Decree and Order information may also be provided online, however, the cost implications for updating websites and digital labelling solutions accordingly are also very high. Additionally, retailers may require market operators to add information such as a single score on products or in stores/at POS, including repair and traceability elements, with a penalising score in case of non-compliance.

5. Risk to consumer trust in sustainability claims

In its notification to the European Commission, France is positioning its proposed environmental labelling as “[...] an essential tool to guide consumers towards more sustainable products”.^[34]

[30] The future of European competitiveness (9 September 2024). Available here: https://commission.europa.eu/topics/eu-competitiveness/draghi-report_en#paragraph_47059

[31] Much More than A Market. Empowering the Single Market to deliver a sustainable future and prosperity for all EU citizens (April 2024). Available here: <https://www.consilium.europa.eu/media/ny3j24sm/much-more-than-a-market-report-by-enrico-letta.pdf>

[32] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. A Competitiveness Compass for the EU (29 January 2025). Available here: https://commission.europa.eu/document/download/10017eb1-4722-4333-add2-e0ed18105a34_en, page 24

[33] FESI position paper on Cost Implications of TRIMAN waste sorting instructions, June 2024, provides detailed information on the average cost that manufacturers would bear for design updates of sportswear.

[34] TRIS notification 2025/0086/FR

However, the lack of alignment between the draft Decree and Order on the one hand and EU initiatives on the other, risks achieving the exact opposite by causing significant consumer confusion. Differences between the French and EU methodology will make it hard for consumers to compare products effectively and make informed choices, undermining the EU's objective of ensuring a "high level of consumer protection."

For example, the emotional durability parameter provided for in the draft legislation, introduces legal ambiguity. Unlike physical durability, which can be measured by clear and repeatable testing protocols, emotional durability has no objective or enforceable standards, and constitutes, therefore, a (potentially) unreliable element of the French ecoscoring model. Proposed measures like price or fashion cycles are highly subjective, and can be easily manipulated (for instance, brands could raise prices to appear more "durable" even if those items are quickly discarded). Given that there is no reliable way for regulators to verify such claims, this does not close but opens the door to greenwashing and unfair competition, where brands could make vague or misleading assertions about emotional value. These subjective criteria would create confusion for consumers, undermine trust, and fragment the Single Market as different national authorities interpret and enforce emotional durability inconsistently, which is unavoidable and would ultimately render the PEF meaningless for both consumers and regulators.

There is a clear risk of undermining consumer trust in sustainability claims. Different LCA methodologies produce different results. If companies are forced to use France's nationally chosen methodology for the French market whenever they display another label reflecting environmental costs, consumers will be presented with at least two different labels with potentially inconsistent environmental impact assessments for the same product.

Research has shown that consumer recognition of labels takes time. The introduction of a national French methodology for the French market risks obfuscating the understanding of ecolabels by EU consumers, thereby further delaying their uptake. Such obfuscation and delay are not to the benefit of French / EU consumers, nor in the interest of European textile industry.

We remain available to answer any questions or provide further information.

CONTACT

Jérôme Pero - Secretary General

pero@fesi-sport.org

+32 (0)2 762 86 48

ABOUT FESI

Founded in 1960 FESI, the Federation of the European Sporting Goods Industry, is the unique pre-competitive platform representing the interests of the sporting goods industry in Europe, advancing its members' priorities and promoting initiatives that benefit the sector, EU citizens and the society as a whole. FESI represents the interests of approximately 1.800 sporting goods manufacturers (85% of the European market) through its National Sporting Goods Industry Federations and its directly affiliated member companies. 70-75% of FESI's membership is made up of Small and Medium Sized Enterprises. In total, the European Sporting Goods Industry employs over 700.000 EU citizens and has an annual turnover of some 81 billion euro.