Message 103

Communication from the Commission - TRIS/(2026) 2004

Directive (EU) 2015/1535

Notification: 2026/0167/IT

Forwarding of the observations of a Member State (Spain) (article 5, paragraph 2, of Directive (EU) 2015/1535). These observations do not have the effect of extending the standstill period.

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1. MSG 103 IND 2026 0167 IT EN 07-07-2026 23-07-2026 ES COMMS 5.2 07-07-2026

2. Spain

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4. 2026/0167/IT - S10E - Packaging

5. article 5, paragraph 2, of Directive (EU) 2015/1535

6. COMMENTS FROM SPAIN ON TRIS PROCEDURE 2026/0167/IT
Spain has examined the notification made by Italy in the TRIS procedure 2026/0167/IT, concerning the introduction of a mandatory national biodegradability and compostability requirement for certain single-use plastic packaging, and wishes to make the following observations in the framework of Directive (EU) 2015/1535.
On the applicable legal framework of Regulation (EU) 2025/40
Regulation (EU) 2025/40 of the European Parliament and of the Council of 19 December 2024 on packaging and packaging waste establishes a fully harmonised framework governing design requirements, the placing on the market and restrictions on the use of packaging.
In particular:
• Article 9(2) allows Member States to require compostability only:
o for the packaging referred to in Article 3(1)(1)(g), and
o for other packaging for which the Member State already required compostability before the date of application of the Regulation.
• Article 71 of the Regulation provides that the Regulation shall apply from 12 August 2026.
In accordance with the European Commission's consistent interpretation, as set out in the Frequently Asked Questions document and the Guidance on the application of the Regulation published in March 2026 (see, in particular, section VI.3 of the FAQs and point 8 of the Guidance), eligibility for the exception provided for in Article 9(2)(b) requires the national compostability requirement to be in force before 12 August 2026.
2. Inapplicability of the exception under Article 9(2) of Regulation (EU) 2025/40 to the case of Italy.
Spain notes that, according to the information provided in the TRIS file, the proposed Italian standard:
• introduces for the first time an obligation for certain packaging to be compostable,
• and sets 1 January 2030 as the date on which this obligation comes into force.
Consequently, Spain considers that Italy cannot invoke the exception provided for in Article 9(2)(b) of Regulation (EU)

2025/40 in respect of the following single-use plastic packaging:
• packaging for pre-packaged fresh fruit and vegetables weighing less than 1.5 kg;
• packaging for pre-filled food and drink intended for consumption in hotels, restaurants and catering establishments;
• packages containing individual portions of condiments, such as jams, sauces, coffee cream or sugar, with the exceptions provided for in the Italian proposal;
• single-use flexible packaging for cosmetic and hygienic products intended for the hospitality sector.
Spain considers that, since there is no prior requirement for compostability before 12 August 2026, this packaging cannot benefit from the derogation provided for in Article 9 of the Regulation.
3. Incompatibility with Article 25 and Annex V of Regulation (EU) 2025/40
Spain also points out that Article 25, in conjunction with Annex V to Regulation (EU) 2025/40, establishes a general ban on the placing on the market of certain formats and uses of single-use plastic packaging from 1 January 2030.
This prohibition applies regardless of the material, and the Regulation does not provide for a general exception for biodegradable and compostable plastic packaging, except in the cases expressly provided for.
By permitting, or even requiring, the marketing of certain types of single-use plastic packaging provided that they are compostable, the proposed Italian legislation introduces an additional national exception not provided for in EU law, which is incompatible with the harmonised framework established by the Regulation.
4. On the possibility of future changes to the compostability scheme
Finally, Spain points out that Article 9(5) of Regulation (EU) 2025/40 confers on the European Commission the power to assess technological developments and environmental conditions and, where appropriate, to submit a legislative proposal aimed at amending the list of packaging that may or must be compostable.
Therefore, following the date of application of the Regulation (12 August 2026), the only legally permissible route for extending the categories of packaging subject to compostability requirements is through an amendment of the Regulation itself at Union level, and not through national legislative initiatives.
5. Conclusion
In light of the above, Spain considers that the measure notified by Italy:
• cannot rely on the exceptions set out in Regulation (EU) 2025/40;
• introduces national requirements that are incompatible with a directly applicable legislative act;
• and may create obstacles to the free movement of goods and a fragmentation of the internal market.
Spain invites Italy to take these comments into account in the assessment of the notification made under the TRIS procedure.

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