



Ministry for the Environment and Energy Security

REGULATORY IMPACT ASSESSMENT (RIA)

Measure: Proposal for a technical regulation defining the reusability requirements for plastic products intended to come into contact with food referred to in Part B of the Annex to Legislative Decree No 196 of 8 November 2021.

Competent administration: Ministry for the Environment and Energy Security

Contact at the competent administration: Legislative Office

SUMMARY OF THE RIA AND MAIN CONCLUSIONS

With reference to the legislative proposal in question, it should first be pointed out that it intervenes on the provisions contained in the Legislative Decree transposing Directive (EU) 2019/904 (SUP) with the aim of providing detailed technical characteristics to ensure the reusability of certain products listed in Part B of the Annex, for which Article 5 of the Legislative Decree lays down a ban on placing them on the market.

The proposed technical regulation aims to identify the technical reusability requirements of the aforementioned plastic products for their placing on the market, thus ensuring the correct application of the SUP Directive and avoiding the marketing of products labelled as reusable but perceived and used by consumers as disposable.

1. BACKGROUND AND PROBLEMS TO BE ADDRESSED

The aforementioned SUP Directive, on the reduction of the impact of certain plastic products on the environment, aims to prevent and combat the dispersion of waste into the environment and in particular into the marine environment. The SUP Directive was transposed into national law by Legislative Decree No 196 of 8 November 2021, which, in line with the EU provisions, prohibited the placing on the market of certain single-use plastic products.

Specifically in Article 3(1)(b) defines that 'single-use plastic product is a product made entirely or partially of plastic, with the exception of the product made of natural polymers not chemically modified, and which is not conceived, designed or placed on the market to carry out, during its lifetime, multiple movements or rotations to be returned to a manufacturer for refill or otherwise reused for the same purpose for which it was conceived.' The first paragraph of Article 5 of the Decree, entitled "*Restrictions on placing on the market*", prohibits the placing on the market of the single-use plastic products listed in Part B of the Annex to the Decree, which include the plastic products covered by the proposed legislation.

It should also be noted that the European Commission, in its Communication of 7 June 2021, provided guidance concerning the interpretation and implementation of Directive (EU) 2019/904 on single-use plastic products. Specifically, paragraph 2.2.2., entitled '*Single-use*' provides that *the*

design characteristics of the product may help to determine whether a product is to be considered a single-use or a multi-use product. The fact that a product is conceived, designed and placed on the market for re-use can be assessed by considering the expected functional life of the product, i.e. whether it is intended and designed to be used several times before final disposal, without losing its functionality, physical capacity or quality, and whether consumers normally conceive, perceive and use it as a reusable product. The relevant product design characteristics include the composition, cleanability and repairability of the materials, which would allow multiple displacements and rotations for the same purpose for which the product was originally conceived.

In addition, section 4.3 of the same guidelines sets out Table 4-4 entitled ‘*Illustrative application of criteria for interpreting the definition of single-use plastic cutlery, dishes, straws and shakers*’ which excludes from the scope of the aforementioned Directive ‘*Cutlery, dishes, straws, long-term plastic shakers for multiple use, specially designed and placed on the market with the aim of being used more than once and generally designed and used by the consumer as such*’.

Although the Commission’s guidelines provide the general principles to be followed for determining the reusability of products, there are no specific provisions in supranational legislation containing the technical characteristics for defining a plastic product as reusable under the SUP Directive.

This, as the operators have pointed out, creates critical issues as regards the unambiguous identification of plastic products that are actually reusable compared to single-use plastic products. The regulatory proposal in question aims to overcome these critical issues.

2. AIMS OF THE INTERVENTION AND RELATED INDICATORS

2.1 General and specific objectives

The objective of the proposed technical regulation is to include in national law unambiguous parameters for determining the reusability of the plastic products referred to in Part B of the Annex to Legislative Decree No 196 of 8 November 2021, in order to overcome the critical issues highlighted by operators in the sector following the entry into force of the ban on the placing on the market of single-use plastic products referred to in that Annex.

2.2 Indicators and reference values

The indicator that will allow to verify the degree of effectiveness of the regulatory intervention, is represented by the compliance with the technical regulation of products placed on the market.

3. Evaluation of the legislative intervention

3.1 Economic, social and environmental impact by target group

The regulatory intervention, in defining the technical requirements to be met by certain plastic products in order to be considered reusable, has positive impacts in economic, social and environmental terms, since, first of all, it is intended to correctly implement the prohibitions on the placing on the market of single-use products referred to in the SUP Directive and to overcome the critical issues highlighted by operators in the sector consisting of the current marketing of products labelled as reusable but perceived and used by consumers as single-use, thus ensuring the principles of fair competition between all enterprises concerned. The purpose of the legislative proposal is, inter alia, to limit the production and dispersion of waste resulting from the use of plastic products covered by it, as the technical requirements ensure multiple uses of these products.

3.2 Specific impacts

The introduction of technical requirements to define reusability will allow the placing on the market of plastic products intended for multiple uses and easily distinguishable from similar single-use plastic products (currently banned), ensuring the exclusion from the market of those products sold as 'reusable' or 'washable' but perceived and used by consumers as single-use products, thus frustrating the pursuit of the objectives of reducing plastic consumption.

A. Effects on small and medium-sized enterprises

The legislative proposal will have a positive impact on small and medium-sized enterprises as it aims to clearly and unambiguously define the reusability of products and thus overcome the application ambiguities that arose following the entry into force of the ban on the placing single-use products on the market pursuant to Legislative Decree No 196/2021.

B. Effects on competition

The legislative proposal, aimed at overcoming the critical issues highlighted by operators in the sector consisting of the current marketing of products labelled as reusable but perceived and used by consumers as single-use, ensures the practical implementation of the principle of fair competition between all the enterprises concerned.

C. Reporting obligations

The provision provide for new reporting obligations.

D. Compliance with European Union regulation minimum levels

The provision does not interfere with the minimum levels regulated under EU law. The proposed technical regulation implements the provisions of the SUP Directive, as transposed into national law by Legislative Decree No 196 of 2021.

4. IMPLEMENTATION AND MONITORING ARRANGEMENTS

4.1. Implementation

Enterprises in the sector targeted by this provision are responsible for implementing it.

4.2 Monitoring

Implementation of the provision will be monitored by the competent Directorate-General of the Ministry of the Environment and Energy Security.