

4.5 FRENCH BAN ON SINGLE-USE PLASTICS TRIGGERS INDUSTRY AND COMMISSION ROADBLOCKS

France's 2020 plans for a comprehensive ban on single-use plastics sent the packaging lobby into a frenzy and has sparked the launching of an infringement procedure by the Commission. Other European countries face similar challenges when passing laws to protect their people and environments.

Products made from plastic are a major threat to the vitality of ecosystems and wildlife around the world. Our seas are full of microplastics, which inflict serious harm on the ocean environment and aquatic life. Single-use plastic packaging is a particularly strong driver of this environmental pollution. In 2021, the European Commission adopted the Single-Use Plastics Directive, which prohibits the sale of disposable plastic plates, cutlery and straws in the EU.

However, previous attempts by Member States to independently prohibit environmentally damaging products have been frustrated by relentless pressure from industry associations. The following example of the French ban on single-use plastics illustrates that companies do not always choose to go the route of a formal complaint to eliminate distasteful national laws. The notification procedure on technical regulations is yet another tool that can be used to spark Commission action.

Pioneering French plastic plans thwarted by industry groups

In 2016, France was the first European Member State to ban the use of plastic cutlery, cups and plates. The measure was part of the country's Energy Transition for Green Growth Act, which aims to mitigate climate change. As expected, corporations did not embrace the French measure. Although industry representatives publicly threatened to complain to the European Commission, they ultimately did not proceed. In 2020, however, corporate threats turned into coordinated action when France informed the Commission under the notification procedure of plans for a more comprehensive [*ban on single-use plastic \(2020/401/F\)*](#) and a circular economy act to improve the [*recycling efforts of French citizens \(2020/410/F\)*](#). With the recycling measure, France intended to introduce a 'Triman' logo on products to remind consumers of their obligation to recycle.

The Commission received numerous negative opinions from industry associations about the French attempts to reduce plastics. In total, 15 organisations forwarded detailed, critical remarks on the single-use plastic measure to the Commission, and some 30 industry groups commented on the waste reduction initiative.⁶¹

Based on these findings, we submit the following requests to the Commission:

- We request the Commission to adopt a detailed opinion concluding that the notified Draft Implementing Decree may create barriers to the free movement of goods and violates EU secondary legislation. By extending the standstill period by six months following the TRIS notification in accordance with Article 6(2) of the TRIS Directive (*i.e.*, three months following the end of the three-month standstill period), this detailed opinion would provide France with the opportunity to explain how it intends to address the issues identified above.

Industry objections to the French single-use plastic notification

The activities of EUROPEN (the European Organisation for Packaging and the Environment) and FoodDrinkEurope are particularly noteworthy. As CEO's freedom of information requests have revealed, these lobbying heavyweights hired the law firm [*Van Bael & Bellis*](#) to draft two legal memoranda on the claimed incompatibility of the French [*single-use plastic ban*](#) and its [*waste reduction initiative*](#) with Single Market law. In addition, EUROPEN wrote to several Commissioners and [*Commission President Ursula von der Leyen*](#) to point out its perspective on breaches of Single Market regulation. In its legal assessment, Van Bael & Bellis found an infringement of the freedom to provide goods in both cases. The law firm asked the Commission to adopt a detailed opinion in the notification procedure, a step towards opening a dialogue between the Member State and the Commission, and a possible infringement procedure.⁶² This possibility became a reality in February 2023, when the European Commission sent a letter of formal [*notice to France demanding an explanation of the introduction of the Triman labelling*](#). At the time of writing, the Commission's inquiry was ongoing and the outcome of the infringement procedure still remains to be seen.

Since the 2016 French initiative to ban single-use plastics, countries including Greece, Portugal, Slovenia and Spain have also announced plans to introduce [*tighter regulations on plastic waste*](#). Like France, Spain faced industry opposition with its draft Law on Waste and Contaminated Soils within the notification procedure for technical regulations; a joint industry statement from more than 50 companies and industry associations warned the Commission that the law could "infringe [upon] the principle of free movement of goods".⁶³ Once again, the industry association EUROPEN, together with soft drink giant UNESDA and bottled water company EFBW, commissioned Van Bael & Bellis to assess the draft law. And once again, the law firm "request[ed] the Commission to adopt a detailed opinion".⁶⁴

And it is not only progressive initiatives at the national level – such as the reduction of plastics, CO2 emissions or other environmentally harmful products and activities – that galvanise industry opposition. Even local measures are at risk, as shown in the following case study of the small Spanish island of Formentera, which was suddenly bombarded with opposition by the international tourist industry after restricting holiday home rentals for social and environmental reasons.

