Reports of Cases

JUDGMENT OF THE COURT (Ninth Chamber)

1 August 2025 *

(Reference for a preliminary ruling – Packaging and packaging waste – Meaning – Directive 94/62/EC – Article 3 and Annex I – Labels affixed directly to fruit or vegetables – National legislation prohibiting such labels, with the exception of labels that are home-compostable and composed, in whole or in part, of biosourced materials)

In Case C-772/24,

REQUEST for a preliminary ruling under Article 267 TFEU from the Conseil d'État (Council of State, France), made by decision of 6 November 2024, received at the Court on 7 November 2024, in the proceedings

Association interprofessionnelle des fruits et légumes frais (Interfel)

v

Premier ministre,

Ministre de la Transition écologique, de l'Énergie, du Climat et de la Prévention des risques,

Garde des sceaux, ministre de la Justice,

Ministre de l'Économie, des Finances et de l'Industrie,

Ministre de l'Agriculture, de la Souveraineté alimentaire et de la Forêt,

THE COURT (Ninth Chamber),

composed of N. Jääskinen, President of the Chamber, A. Arabadjiev (Rapporteur) and R. Frendo, Judges,

Advocate General: L. Medina,

Registrar: A. Calot Escobar,

having regard to the written procedure,

* Language of the case: French.

after considering the observations submitted on behalf of:

– the Association interprofessionnelle des fruits and légumes frais (Interfel), by A. Bron, A. Helfer and G. Léonard, avocats,

– the French Government, by P. Chansou and B. Travard, acting as Agents,

– the European Commission, by I. Melo Sampaio and R. Tricot, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 3 of Directive 94/62/EC of the European Parliament and of the Council of 20 December 1994 on packaging and packaging waste (OJ 1994 L 365, p. 10), as amended by Directive (EU) 2018/852 of the European Parliament and of the Council of 30 May 2018 (OJ 2018 L 150, p. 141) ('Directive 94/62'), read in conjunction with Annex I to that directive.

2 The request has been made in proceedings between the Association interprofessionnelle des fruits et légumes frais (Interfel), on the one hand, and the Premier ministre (Prime Minister, France), the ministre de la Transition écologique, de l'Énergie, du Climat et de la Prévention des risques (Minister for the Ecological Transition, Energy, Climate and Risk Prevention, France), the garde des sceaux, ministre de la Justice (Minister for Justice, France), the ministre de l'Économie, des Finances et de l'Industrie (Minister for the Economy, Finance and Industry, France) and the ministre de l'Agriculture, de la Souveraineté alimentaire et de la Forêt (Minister for Agriculture, Food Sovereignty and Forests, France), concerning the lawfulness of an implied decision rejecting an application to repeal national legislation providing for the imposition of a fine in the event of labels being affixed directly to fruit or vegetables, with the exception of labels that are home-compostable and composed, in whole or in part, of biosourced materials.

Legal context

European Union law

3 Article 3(1) of Directive 94/62, entitled 'Definitions', provides:

'For the purposes of this Directive:

1. 'packaging' shall mean all products made of any materials of any nature to be used for the containment, protection, handling, delivery and presentation of goods, from raw materials to processed goods, from the producer to the user or the consumer. "Non-returnable" items used for the same purposes shall also be considered to constitute packaging.

   "Packaging" consists only of:

(a) sales packaging or primary packaging, i.e. packaging conceived so as to constitute a sales unit to the final user or consumer at the point of purchase;
(b) grouped packaging or secondary packaging, i.e. packaging conceived so as to constitute at the point of purchase a grouping of a certain number of sales units whether the latter is sold as such to the final user or consumer or whether it serves only as a means to replenish the shelves at the point of sale; it can be removed from the product without affecting its characteristics;
(c) transport packaging or tertiary packaging, i.e. packaging conceived so as to facilitate handling and transport of a number of sales units or grouped packagings in order to prevent physical handling and transport damage. Transport packaging does not include road, rail, ship and air containers.

The definition of "packaging" shall be further based on the criteria set out below. The items listed in Annex I are illustrative examples of the application of these criteria.
(i) Items shall be considered to be packaging if they fulfil the abovementioned definition without prejudice to other functions which the packaging might also perform, unless the item is an integral part of a product and it is necessary to contain, support or preserve that product throughout its lifetime and all elements are intended to be used, consumed or disposed of together.
(ii) Items designed and intended to be filled at the point of sale and "disposable" items sold, filled or designed and intended to be filled at the point of sale shall be considered to be packaging provided they fulfil a packaging function.
(iii) Packaging components and ancillary elements integrated into packaging shall be considered to be part of the packaging into which they are integrated. Ancillary elements hung directly on, or attached to, a product and which perform a packaging function shall be considered to be packaging unless they are an integral part of this product and all elements are intended to be consumed or disposed of together.'

4 Annex I to that directive, entitled 'Illustrative examples for the criteria referred to in Article 3(1)', provides:

'…

Illustrative examples for criterion (iii)

Packaging

Labels hung directly on or attached to a product

…'

French law

5 Article 80 of loi n° 2020-105, du 10 février 2020, relative à la lutte contre le gaspillage et à l'économie circulaire (Law No 2020-105 of 10 February 2020 on combating waste and on the circular economy) (JORF of 11 February 2020, p. 6), provides:

'By 1 January 2022 at the latest, the affixing of labels directly on fruit or vegetables shall be discontinued, with the exception of labels that are home-compostable and composed, in whole or in part, of biosourced materials.'

6 Under Article R. 543-73 of the code de l'environnement (French Environmental Code), as amended by Article 1(III)(2) of décret nº 2020-1724, du 28 décembre 2020, relatif à l'interdiction d'élimination des invendus non alimentaires et à diverses dispositions de lutte contre le gaspillage (Decree No 2020-1724 of 28 December 2020 on banning the disposal of unsold non-food products and on various provisions to combat waste) (JORF of 30 December 2020, p. 209):

'The following acts shall be punishable by the fine provided for in respect of Class 3 infractions:

…

(4) affixing a label directly to fruit or vegetables – with the exception of those labels that are home-compostable and composed, in whole or in part, of biosourced materials – thus disregarding Article 80 of Law No 2020-105 of 10 February 2020 on combating waste and on the circular economy.'

The dispute in the main proceedings and the questions referred for a preliminary ruling

7 By letter of 25 April 2022, Interfel submitted an application to the Première ministre (Prime Minister, France) for the repeal of Article 1(III)(2) of Decree No 2020-1724 of 28 December 2020 on banning the disposal of unsold non-food products and on various provisions to combat waste. The Prime Minister's failure to respond to that application gave rise to an implied refusal. On 23 August 2022, Interfel brought an action before the Conseil d'État (Council of State, France), the referring court, seeking the annulment of that decision.

8 The referring court notes that those provisions were adopted in order to implement Article 80 of Law No 2020-105 of 10 February 2020 on combating waste and on the circular economy, the purpose of which is to prohibit, on French territory, the affixing directly to fruit or vegetables of labels other than labels that are home-compostable and composed, in whole or in part, of biosourced materials. Those provisions provide that failure to comply with that article is punishable by a fine. In that context, and having regard to the wording of Article 3 of Directive 94/62, the referring court takes the view that it could be considered that such labels, placed directly on fruit and vegetables, do not constitute 'packaging' within the meaning of that directive, since they do not fully satisfy the definition and the three criteria set out in Article 3. However, the referring court notes that Annex I to Directive 94/62 explicitly describes labels hung directly on or attached to a product as packaging, by way of illustration of the criterion set out in point (iii) of the third subparagraph of Article 3(1) of that directive.

9 Consequently, the referring court asks whether it follows from Annex I to Directive 94/62 that any label hung directly on or attached to a product necessarily constitutes 'packaging' within the meaning of that directive, or whether that classification must be assessed in the light of the definition and the three criteria laid down in Article 3 thereof. In the latter case, such labels constitute packaging only if they are to be used for the containment, protection, handling, delivery and presentation of goods, from the producer to the user or the consumer, unless they are an integral part of a product and all elements are intended to be consumed or disposed of together.

10 In those circumstances, the Conseil d'État (Council of State) decided to stay the proceedings and to refer the following question to the Court of Justice for a preliminary ruling:

'Are labels directly affixed to fruit and vegetables always to be considered packaging within the meaning of Article 3 of [Directive 94/62] and of Annex I thereto?'

Consideration of the question referred

11 By its question, the referring court asks, in essence, whether point (iii) of the third subparagraph of Article 3(1) of Directive 94/62 and Annex I thereto must be interpreted as meaning that labels directly affixed to fruit and vegetables always constitute 'packaging' within the meaning of that directive.

12 It must be noted first of all that, in accordance with Article 1 thereof, Directive 94/62 is intended, inter alia, to prevent and reduce the impact of packaging and packaging waste on the environment of the Member States and of third countries, thus providing a high level of environmental protection, by, inter alia, requiring Member States to establish a system of collection and recovery of packaging and packaging waste. To that end, as is apparent from recital 5 thereof and in accordance with Article 2(1) thereof, Directive 94/62 covers all packaging placed on the market in the European Union and all packaging waste (judgment of 10 November 2016, *Eco-Emballages and Others*, C-313/15 and C-530/15, EU:C:2016:859, paragraph 23).

13 It follows that, as the Court has already held, the term 'packaging' must be given a broad interpretation (judgment of 10 November 2016, *Eco-Emballages and Others*, C-313/15 and C-530/15, EU:C:2016:859, paragraph 24 and the case-law cited).

14 It must also be borne in mind that, in order to constitute packaging within the meaning of Article 3(1) of Directive 94/62, an article must (i) fulfil the two conditions set out in the first and second subparagraphs of Article 3(1) of Directive 94/62 and (ii) meet the criteria set out in the third subparagraph of Article 3(1) of that directive (judgment of 10 November 2016, *Eco-Emballages and Others*, C-313/15 and C-530/15, EU:C:2016:859, paragraph 25).

15 Thus, in the first place, in order to constitute 'packaging', within the meaning of Directive 94/62, a product must be intended, in accordance with the first subparagraph of Article 3(1) of that directive, to be used for the containment, protection, handling, delivery and presentation of goods from the producer to the user or the consumer. In addition, the second sentence of that provision states that 'non-returnable' items used for the same purposes must be considered to constitute packaging (judgment of 10 November 2016, *Eco-Emballages and Others*, C-313/15 and C-530/15, EU:C:2016:859, paragraph 26).

16 As the Court has already held, the possible functions of packaging are not listed in the first subparagraph of Article 3(1) of Directive 94/62 in such a way as to mean that they are cumulative (judgment of 10 November 2016, *Eco-Emballages and Others*, C-313/15 and C-530/15, EU:C:2016:859, paragraph 27).

17 Furthermore, the product must fall within the scope of one of the three categories of packaging listed and defined in points (a) to (c) of the second subparagraph of Article 3(1) of Directive 94/62, namely sales packaging, grouped packaging or transport packaging (judgment of 10 November 2016, *Eco-Emballages and Others*, C-313/15 and C-530/15, EU:C:2016:859, paragraph 28).

18 In the second place, in accordance with point (i) of the third subparagraph of Article 3(1) of Directive 94/62, an item which fulfils the positive definition of 'packaging' referred to in the first and second subparagraphs of Article 3(1) must be considered to be packaging, unless the item is an integral part of a product and it is necessary to contain, support or preserve that product

throughout its lifetime and all elements are intended to be used, consumed or disposed of together (judgment of 10 November 2016, *Eco-Emballages and Others*, C-313/15 and C-530/15, EU:C:2016:859, paragraph 29).

19 It follows from the very wording of point (i) of the third subparagraph of Article 3(1) that the three negative criteria set out therein are cumulative. Consequently, only those items which, while fulfilling the positive definition of packaging, meet those three criteria simultaneously are not to be considered to be packaging, within the meaning of Directive 94/62 (judgment of 10 November 2016, *Eco-Emballages and Others*, C-313/15 and C-530/15, EU:C:2016:859, paragraph 30).

20 In the third place, in accordance with point (iii) of the third subparagraph of Article 3(1) of Directive 94/62, packaging components and ancillary elements integrated into packaging are to be considered to be part of the packaging into which they are integrated. Ancillary elements hung directly on, or attached to, a product and which perform a packaging function are to be considered to be packaging unless they are an integral part of this product and all elements are intended to be consumed or disposed of together.

21 In that regard, Annex I to that directive, which sets out 'illustrative examples for the criteria referred to in article 3(1)', expressly states, under the heading 'Illustrative examples for criterion (iii)', that labels hung directly on or attached to a product constitute packaging.

22 In the present case, the referring court asks whether it follows from that annex that any label hung directly on or attached to a product necessarily constitutes packaging within the meaning of Directive 94/62, or whether that classification must be assessed in the light of the definition and the three criteria laid down in Article 3 of that directive. In the latter case, such labels would constitute packaging only if they are to be used for the containment, protection, handling, delivery and presentation of goods, from the producer to the user or the consumer, unless they are an integral part of a product and all elements are intended to be consumed or disposed of together.

23 Although it follows from the wording of Annex I to Directive 94/62 that labels hung directly on or attached to a product constitute packaging, it must be noted that the example given in that annex concerns the criterion laid down in point (iii) of the third subparagraph of Article 3(1) of that directive. In accordance with the wording of the second sentence of that provision, ancillary elements hung directly on, or attached to, a product and which perform a packaging function are to be considered to be packaging unless they are an integral part of this product and all elements are intended to be consumed or disposed of together.

24 It is therefore apparent from point (iii) of the third subparagraph of Article 3(1) of Directive 94/62 that the labels mentioned, by way of example, in Annex I to that directive, may be classified as 'packaging' if they constitute ancillary elements which perform a packaging function, unless they are an integral part of the product concerned and all the elements are intended to be consumed or disposed of together. That interpretation is supported by the wording of the third subparagraph of Article 3(1) of that directive, according to which, in order to be classified as 'packaging', an item must 'further' meet the criteria set out in that subparagraph.

25 Accordingly, it must be held that it cannot be considered that the criteria defining the concept of 'packaging' laid down in the first subparagraph of Article 3(1) of Directive 94/62 need not be met solely on the ground that a label is hung directly on or attached to a fruit or vegetable.

26 As regards the possible functions of packaging referred to in the first subparagraph of Article 3(1) of Directive 94/62, although they are not listed cumulatively, they are however listed exhaustively, with the result that, in order to constitute packaging, a label directly affixed to a fruit or vegetable must fulfil at least one of those three functions.

27 The French Government submitted, in that regard, that labels affixed directly to fruit and vegetables appear to have diverse characteristics and to meet a wide range of objectives. They are most frequently small labels, which cover only a marginal part of the surface of the fruit or vegetable concerned. Nevertheless, some of those labels may surround or cover a larger part of the fruit or vegetable concerned. In addition, while some labels appear to display the logo or the name of a trade mark, others appear to contain certain information relating to the characteristics of the fruit and vegetables concerned or a barcode or encrypted identification code.

28 Thus, subject to the verifications to be carried out by the referring court, it appears, first of all, that labels affixed directly to fruit and vegetables are frequently smaller than those fruit and vegetables and, therefore, are not intended, in principle, to contain and protect them.

29 Next, for the same reasons, those labels do not appear to be intended, in all cases, to be used for the handling and delivery of the fruit and vegetables concerned to the place of consumption.

30 Lastly, although it cannot be ruled out that certain labels affixed directly to the fruit and vegetables may be used for the presentation of those goods, it is also not apparent from the documents before the Court that they are always intended for that purpose.

31 Accordingly, it must be held that the reference, in Annex I to Directive 94/62, to 'labels hung directly on or attached to a product', as an example for the criterion listed in point (iii) of the third subparagraph of Article 3(1) of that directive, cannot be interpreted as meaning that all labels affixed directly to fruit and vegetables must systematically be regarded as packaging within the meaning of that directive.

32 It should also be noted in that regard that it is apparent from the file before the Court that, in his Opinion relating to the case in the main proceedings, the rapporteur public (public rapporteur of the Council of State, France) took the view that 'a label affixed directly to a fruit or vegetable does not perform any of the functions' listed in the first subparagraph of Article 3(1) of Directive 94/62.

33 Furthermore, the broad interpretation of the concept of 'packaging' does not mean that it is necessary to adopt an interpretation of Annex I to Directive 94/62 which would disregard the wording of point (iii) of the third subparagraph of Article 3(1) of that directive.

34 It will ultimately be for the referring court to assess, in the light, inter alia, of the considerations set out in paragraphs 23 to 30 of the present judgment and on the basis of all the relevant information available, whether labels directly affixed to a fruit or vegetable perform at least one of the three packaging functions defined in the first subparagraph of Article 3(1) of Directive 94/62 and fall within the scope of one of the three categories of packaging listed and defined in points (a) to (c) of the second subparagraph of Article 3(1) of that directive.

35 In the light of all the foregoing considerations, the answer to the question referred is that point (iii) of the third subparagraph of Article 3(1) of Directive 94/62 and Annex I thereto must be interpreted as meaning that labels directly affixed to fruit and vegetables do not always constitute packaging within the meaning of that directive. Such labels can be regarded as packaging only if

they fulfil one of the three packaging functions defined in the first subparagraph of Article 3(1) of Directive 94/62 and fall within the scope of one of the three categories of packaging listed and defined in points (a) to (c) of the second subparagraph of Article 3(1) of that directive.

Costs

36 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Ninth Chamber) hereby rules:

Point (iii) of the third subparagraph of Article 3(1) of Directive 94/62/EC of the European Parliament and of the Council of 20 December 1994 on packaging and packaging waste, as amended by Directive (EU) 2018/852 of the European Parliament and of the Council of 30 May 2018, and Annex I to Directive 94/62, as amended,

must be interpreted as meaning that labels directly affixed to fruit and vegetables do not always constitute packaging within the meaning of Directive 94/62, as amended. Such labels can be regarded as packaging only if they fulfil one of the three packaging functions defined in the first subparagraph of Article 3(1) of Directive 94/62, as amended, and fall within the scope of one of the three categories of packaging listed and defined in points (a) to (c) of the second subparagraph of Article 3(1) of that directive, as amended.

[Signatures]