



2026/1435

29.6.2026

COMMISSION DECISION (EU) 2026/1435

of 26 June 2026

concerning national provisions notified by French Republic on the destruction of unsold products

(notified under document C(2026) 4364)

(Only the French text is authentic)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114(6) thereof,

Whereas:

I. FACTS AND PROCEDURE

- (1) By letters of 28 November and 26 December 2025, France notified the Commission, pursuant to Article 114(4) of the Treaty on the Functioning of the European Union (TFEU), of its wish to maintain national provisions in the French Environmental Code on the destruction of unsold products. Those national provisions differ from Regulation (EU) 2024/1781 of the European Parliament and of the Council ⁽¹⁾.

1. UNION LEGISLATION

1.1. Article 114(4) and 114(6) TFEU

- (2) Article 114(4) TFEU provides that, '[i]f, after the adoption of a harmonisation measure by the European Parliament and the Council, by the Council or by the Commission, a Member State deems it necessary to maintain national provisions on grounds of major needs referred to in Article 36, or relating to the protection of the environment or the working environment, it shall notify the Commission of these provisions as well as the grounds for maintaining them.'
- (3) According to Article 114(6) TFEU, the Commission shall, within six months of the notification, approve or reject the national provisions involved after having verified whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between Member States and whether or not they shall constitute an obstacle to the functioning of the internal market.

1.2. Regulation (EU) 2024/1781

- (4) Regulation (EU) 2024/1781 lays down, inter alia, rules on the destruction of unsold consumer products. It defines 'destruction' as any intentional damaging or discarding of a product with the exception of discarding for the sole purpose of delivering the discarded product for preparing for reuse, including refurbishment or remanufacturing operations. Under that Regulation, recycling is considered destruction.
- (5) Article 25(1) of Regulation (EU) 2024/1781 provides that the destruction of unsold consumer products listed in its Annex VII is prohibited for large enterprises from 19 July 2026 and for medium-sized enterprises from 19 July 2030. The prohibition does not apply to micro and small enterprises. Annex VII lists apparel, clothing accessories, and footwear. The Commission may adopt delegated acts adding new product categories to the list in Annex VII to Regulation (EU) 2024/1781.
- (6) Recital 59 of Regulation (EU) 2024/1781 provides that Member States should not be precluded from introducing or maintaining national measures as regards the destruction of unsold consumer products which are not subject to the prohibition under that Regulation, provided that such measures are in line with Union law.

⁽¹⁾ Regulation (EU) 2024/1781 of the European Parliament and of the Council of 13 June 2024 establishing a framework for the setting of ecodesign requirements for sustainable products (OJ L, 2024/1781, 28.6.2024, ELI: <http://data.europa.eu/eli/reg/2024/1781/oj>).

2. NATIONAL PROVISIONS NOTIFIED

- (7) The national provisions notified by France are contained in Article L.541-15-8 of the French Environmental Code. Those provisions provide that '[p]roducers, importers or distributors of non-food products intended for sale are required to reuse, in particular by donating basic necessities to associations combating precariousness and social and solidarity economy structures benefiting from the "society-based social utility enterprise" approval as defined in Article L. 3332-17-1 of the Labour Code, to prepare for reuse or recycle their unsold products, in compliance with the hierarchy of methods of treatment referred to in Article L. 541-1 of [that] Code'.
- (8) France intends to maintain the application of the national provisions to all enterprises as regards product groups not listed in Annex VII to Regulation (EU) 2024/1781, and thus not subject to the prohibition of the destruction of unsold consumer products.
- (9) In addition, with regard to products listed in Annex VII to Regulation 2024/1781, France intends to maintain the application of its national provisions to medium-sized enterprises until 19 July 2030, so that the obligations already in force in France apply to that type of economic operators without interruption, until the obligations under Regulation (EU) 2024/1781 start applying to them.
- (10) In this context, France also informed the Commission of its intention to amend the Environmental Code so as to align the national rules applicable to unsold consumer products covered by Annex VII to Regulation (EU) 2024/1781 with the requirements of that Regulation, in particular with regard to what is to be considered 'destruction' under that Regulation and the exemption for micro and small enterprises. According to France, a draft law in that respect (laying down various provisions for adaptation to European Union law – DDADUE) was presented to the Council of Ministers on 10 November 2025. The Commission notes that, to date, the amendment has not been adopted. In accordance with the update provided by France on 8 June 2026, the amendment was adopted by the Senate in February 2026 and forwarded to the National Assembly where it would be examined in the coming months.
- (11) This Decision is without prejudice to any assessment that the Commission may carry out as regards France's compliance with obligations under the Treaties related to the application of Regulation (EU) 2024/1781.

3. PROCEDURE

- (12) Following France's notification, the Commission, by letter of 4 February 2026, informed the other Member States on the notification and gave them the opportunity to submit comments thereon within 30 days. Lithuania submitted comments on 4 March 2026. In Lithuania's opinion, maintaining stricter national measures in this area raises concerns regarding compliance with the principles of proportionality and necessity and may affect the integrity of the internal market. This is because such measures may create additional administrative and financial burdens for companies, create legal uncertainty regarding responsibility and enforcement mechanisms, and distort competitive conditions between Member States. Lithuania therefore did not support France's request.
- (13) The Commission also published a notice regarding the notification in the *Official Journal of the European Union* ⁽²⁾ in order to inform interested parties of France's national provisions as well as the grounds invoked to support the request. No comments on the notification were received.

II. ASSESSMENT

1. ADMISSIBILITY

- (14) Under Article 114(4) and (6) TFEU, a Member State may, after the adoption of a harmonisation measure, maintain its more stringent national provisions on grounds of major needs referred to in Article 36 TFEU, or relating to the protection of the environment or the working environment, provided that it notifies these national provisions to the Commission and the Commission approves them.

⁽²⁾ Notification pursuant to Article 114, paragraph 4 of the Treaty on the Functioning of the European Union – Request for an authorisation to maintain national measures which are more stringent than provisions of an EU harmonisation measure (OJ C, C/2026/1806, 17.3.2026, ELI: <http://data.europa.eu/eli/C/2026/1806/oj>).

- (15) The French notification relates to national provisions derogating from Regulation (EU) 2024/1781 in relation to the destruction of unsold products.
- (16) Those national provisions are more stringent than Regulation (EU) 2024/1781 in so far as they would apply to medium-sized enterprises with regard to products listed in Annex VII to that Regulation before 19 July 2030, and in so far as they apply to consumer product groups not listed in Annex VII to that Regulation.
- (17) In so far as the national provisions notified by France apply to products other than consumer products, the Commission considers that the rules governing the destruction of such unsold products are not harmonised under Regulation (EU) 2024/1781. The rules set out in Regulation 2024/1781 (EU) with regard to destruction of unsold products concern 'consumer products', as defined in Article 2, point 36 of that Regulation, and are provided for under Chapter VI therein. The notification of France with a view to obtaining authorisation to maintain its national provisions regarding the destruction of unsold products other than consumer products is therefore not admissible under Article 114(4) TFEU. Therefore, the said measures are not addressed in this Decision.
- (18) In accordance with Article 114(4) TFEU, the notification was supplemented by a description of the grounds relating to the protection of the environment. France refers to a report providing data on unsold products in France and environmental benefits from diverting them for reuse or recycling. France claims that maintaining national provisions will help limit waste and preserve natural resources, biodiversity and climate.
- (19) In the light of the foregoing, the Commission considers that the application submitted by France with a view to obtaining authorisation to maintain its national provisions is admissible under Article 114(4) TFEU in so far as it concerns consumer products.

2. ASSESSMENT OF MERITS

- (20) In accordance with Article 114(4) and Article 114(6), first subparagraph, TFEU, the Commission is to ascertain that all the conditions enabling a Member State to maintain its national provisions derogating from a Union harmonisation measure provided for in that Article are fulfilled.
- (21) In particular, the Commission is to assess whether or not the national provisions are justified by the major needs referred to in Article 36 TFEU or relating to the protection of the environment or the working environment and do not exceed what is necessary to attain the legitimate objective pursued. In addition, where the Commission considers that the national provisions fulfil those conditions, it is to verify, pursuant to Article 114(6) TFEU, whether or not the national provisions are a means of arbitrary discrimination or a disguised restriction on trade between Member States and whether or not they constitute an obstacle to the functioning of the internal market.

2.1. Position of France

- (22) France claims that its national provisions ensure a higher level of environmental protection than Regulation (EU) 2024/1781.
- (23) According to France, almost 10 000 tonnes of unsold non-food products are destroyed each year. France also states that, for all sectors combined, unsold products accounted on average for 3 % of the turnover of the undertakings concerned. In this context, France notes that diverting 1 kilogramme of textiles and household linen from household waste for reuse or recycling saves 14 kilogrammes of CO₂-equivalents.
- (24) As regards product groups not listed in Annex VII to Regulation (EU) 2024/1781, France refers to recital 59 of that Regulation, according to which Member States should not be precluded from introducing or maintaining national measures as regards the destruction of unsold consumer products for products which are not subject to the prohibition under that Regulation, provided that such measures are in line with Union law.
- (25) France further states that economic operators have started to organise themselves and adapt their practices to the requirements laid down in the French national law, and that it is important that all enterprises be covered by the requirements, irrespective of their size, especially since some sectors, such as the furniture sector, are largely made up of small and medium-sized enterprises.

- (26) As regards the products listed in Annex VII to Regulation (EU) 2024/1781, France notes that, while for large enterprises the rules laid down in that Regulation will take over from 19 July 2026 without interruption, this is not the case for medium-sized enterprises. France submits that, without the maintenance of its national provisions, it would be required to suspend all obligations applicable to medium-sized enterprises between 19 July 2026 and 19 July 2030. According to France, such an interruption would lead to the renewed destruction of unsold products in the sectors concerned and would run counter to the gains already achieved in terms of environmental protection.
- (27) France also contends that its national provisions apply in a non-discriminatory manner to all undertakings operating on its territory, whether French or foreign, and concern both domestic products and products manufactured in other Member States and imported into France.

2.2. Evaluation of the French position

2.2.1. *Justification on grounds relating to the protection of the environment*

- (28) The French national provisions aim to achieve a higher level of environmental protection by preventing waste and by promoting the reuse, and otherwise the recycling, of unsold products.
- (29) Keeping products and materials in use for as long as possible is a core principle of the circular economy. The reuse, donation, refurbishment or remanufacturing of products instead of their disposal reduce waste generation, lower resource extraction, and cut greenhouse gas emissions. Recycling of unsold consumer products as a second option, while considered 'destruction' under Regulation (EU) 2024/1781, is still aligned with the waste hierarchy. Recycling allows to recover some materials and helps reduce the need for raw materials, and thus it is still a better option than other recovery or disposal. The notified national provisions therefore appear suitable for contributing to the reduction of waste and to the preservation of natural resources, biodiversity and climate.
- (30) The French measures apply to consumer products not listed in Annex VII to Regulation (EU) 2024/1781, for which no rules concerning destruction have been set at Union level, and are therefore stricter than the rules established at Union level. Similarly, as regards products listed in Annex VII to Regulation (EU) 2024/1781, namely apparel, clothing accessories and footwear, the Union legislator established that the prohibition is to apply to medium-sized enterprises from 19 July 2030. For those enterprises, France seeks to maintain national obligations already in force in order to avoid a temporary lowering of the existing level of environmental protection. Those national rules are therefore also stricter than the rules established at Union level. Importantly, however, this should be only a transitional measure.
- (31) Finally, recital 59 of Regulation (EU) 2024/1781 explicitly states that Member States should not be precluded from introducing or maintaining national measures as regards the destruction of unsold consumer products for products which are not subject to the prohibition under that Regulation, provided that such measures are in line with Union law.
- (32) On the basis of the information available, the notified national provisions can be accepted on grounds relating to the protection of the environment.

2.2.2. *Absence of any arbitrary discrimination, any disguised restriction of trade between Member States or any obstacle to the functioning of the internal market*

2.2.2.1. **Absence of arbitrary discrimination**

- (33) Article 114(6) TFEU obliges the Commission to verify that the envisaged measures are not a means of arbitrary discrimination. According to the jurisprudence of the Court of Justice, in order for there to be no discrimination, similar situations must not be treated in different ways and different situations must not be treated in the same way.
- (34) The French national provisions apply to all undertakings operating on French territory, irrespective of nationality, and concern both domestic products and products originating in other Member States. In the absence of evidence to the contrary, it can be concluded that they are not a means of arbitrary discrimination.

2.2.2.2. Absence of disguised restriction on trade

- (35) National measures which impose stricter standards than a Union harmonisation measure may constitute a barrier to trade. The preconditions laid down in Article 114(6) TFEU are intended to prevent restrictions based on the criteria set out in paragraphs (4) and (5) of that Article from being applied for inappropriate reasons, and constituting in effect economic measures to impede imports from other Member States, that is to say, a means of indirectly protecting national production.
- (36) The French national measures introduce stricter environmental standards on economic operators operating within the French territory and the measures apply without discrimination to all economic operators. This indicates that their objective is environmental protection rather than economic protectionism.
- (37) In the absence of any evidence suggesting that the national provisions constitute in effect a measure intended to protect national production, it can be concluded that they are not a disguised restriction to trade between Member States.

2.2.2.3. Absence of obstacles to the functioning of the internal market

- (38) This condition cannot be interpreted in such a way that it precludes the approval of any national measure likely to affect the functioning of the internal market. Indeed, any national measure derogating from a harmonisation measure aimed at the establishment and operation of the internal market constitutes in substance a measure likely to affect the internal market. Consequently, in order to preserve the useful character of the procedure laid down in Article 114 TFEU, the concept of obstacle to the functioning of the internal market must, in the context of Article 114(6) TFEU, be understood as disproportionate in relation to the pursued objective.
- (39) The aim of the national measures notified by France is to promote reuse, in particular through donation, as well as preparation for reuse and recycling of unsold products, in line with the hierarchy of waste management options. With a view to ensuring proportionality, the national provisions also provide for derogations, in particular where disposal is required by the competent authority or where reuse, preparation for reuse or recycling pose risks to health, safety or the environment. In addition, products subject to extended producer responsibility that have been offered to at least three suitable donees, and no recipient has been found for them, may be handed over free of charge to an approved eco-body that will manage them.
- (40) Given the environmental benefits invoked by France and the fact that the national measures prohibit recovery and disposal while allowing all other waste management options, including recycling, and provide derogations from this prohibition in justified cases, the Commission considers that the national provisions do not constitute a disproportionate obstacle to the functioning of the internal market within the meaning of Article 114(6) TFEU.
- (41) In the light of this analysis, the Commission considers that the condition relating to the absence of obstacles to the functioning of the internal market is fulfilled.

III. CONCLUSION

- (42) In the light of the above considerations, the Commission is of the opinion that the request by France, received by the Commission on 28 November and 26 December 2025, for maintaining its national provisions in the French Environmental Code on the destruction of unsold products should be approved in so far as they apply to consumer products and are more stringent than those of Regulation (EU) 2024/1781.
- (43) Therefore, the French national provisions concerning the application of the prohibition of destruction of unsold consumer products listed in Annex VII to Regulation (EU) 2024/1781 to medium-sized enterprises should be approved until 19 July 2030, when the provisions of that Regulation will start applying. The French national provisions applying to the destruction of unsold consumer products not listed in Annex VII to Regulation (EU) 2024/1781 should be approved until, if ever, harmonised provisions at Union level regarding the destruction of any of those products become applicable and are equal or more stringent than the French national provisions.

- (44) The notification of French national provisions applying to the destruction of unsold products other than consumer products is not admissible under Article 114(4) TFEU,

HAS ADOPTED THIS DECISION:

Article 1

The national provisions concerning the application to medium-sized enterprises of national rules on the destruction of unsold consumer products listed in Annex VII to Regulation (EU) 2024/1781, notified by France by letters of 28 November and 26 December 2025 pursuant to Article 114(4) TFEU, are approved until 19 July 2030.

Article 2

The national provisions concerning the destruction of unsold consumer products not listed in Annex VII to Regulation (EU) 2024/1781 are approved until, if ever, revised harmonised provisions applicable at Union level concerning the destruction of any of those products and setting requirements equal to or more stringent than those set out in the French national provisions become applicable.

Article 3

The notification related to unsold products other than consumer products is rejected as inadmissible.

Article 4

This Decision is addressed to France.

Done at Brussels, 26 June 2026.

For the Commission
Jessika ROSWALL
Member of the Commission