

FAQ note

Directive 2004/42/EC – The labelling requirement in Article 4

Representatives from several Member States have raised questions regarding the understanding of Article 4.

1. Transposition:

Question: *Article 4 of the Directive indicates the contents of the label, but not how the label should be drafted. Are Member States allowed to clarify the meaning of Article 4, when transposing the Directive, by laying down national provisions on the exact wording of the text to be found on the label?*

Answer: No.

Directive 2004/42/EC is a full harmonization Directive, based on Article 95 of the Treaty, which aims to ensure the free movement of the products covered by the Directive.

When transposing Article 4 into national law, Member States should therefore avoid going beyond the harmonised requirements laid down in the Directive, e.g. by determining a specific wording of the text of the label, which would satisfy the Competent Authorities in the Member State in question.

The reason for this is that Article 4 does not require one specific text to be reproduced on the label, but restricts itself to give a general description of the contents of the two messages to be given on the label. This, in turn, means that producers/importers are given a certain freedom with regard to how they choose to phrase the text of the label. (This freedom is, however, subject to certain specific constraints, see below under point 2)

If Member States were allowed to give their “own” more precise or specific definition of the labelling requirements in the national implementing legislation, this might lead to a situation, where a label which meets the requirements in one Member State would not comply with the requirements fixed by another Member State. Such a situation might restrict the free movement of goods and would therefore not be compatible with the fundamental principles governing the Internal Market.

Conclusion: *In order to avoid legal uncertainty or the creation of obstacles to the free movement of goods within the Internal Market, Member States are advised to stick to the wording of Article 4, when transposing the labelling requirements.*

2. Implementation

Question: *As the Directive does not define the exact words to be put on the label (see question 1 above), will the Commission provide any guidance regarding the wording and level of detail of text of the label?*

Answer: As mentioned above, Article 4 gives the producers/importers of the products to be labelled a certain amount of discretion with regard to the precise wording of the two messages, which are to be expressed on the label. Different grammatical constructions, different words - and in particular: a highly varying number of words - might be used in order to express the essence of the two messages expressed in Article 4 (a) and (b).

For practical purposes, however, it is probably less relevant to consider whether there is an "upper limit" for how many words (and how much details) may be included to express messages, but rather to seek to determine the "lower limit" - i.e.: to try to establish how condensed or compressed the text of the label may be without jeopardizing the specific purposes underlying Article 4.

2.1 Information for the ordinary consumers or users:

The structure and context of Article 4 clearly indicate that one of the objectives of the label is to provide the consumer or user with sufficient information to compare (a) the relevant legal limit value for the VOC content of the product in question and (b) with the actual VOC content of the product in question.

To achieve the above objective of the label, an important minimum criterion can be established: The information on the label aimed at the ordinary consumer/user must not be reduced to a code. This information has to be expressed in clear ordinary, un-coded language.

2.2 Information for environmental inspectors:

The ordinary consumer or user is, however, not the only target-audience of the label. For the ordinary consumer/user it is probably of no/little interest or relevance to find a precise, legal reference to the subcategory of the product as defined in the Annex I on the label.

This piece of information, which according to Article 4 has to be given on the label, is primarily meant to help environmental inspectors in Member States, e.g. when making spot-checks in shops to monitor and control compliance with the Directive.

But for the environmental inspector, who is supposed to be familiar with the legislation, a coded reference might be fully sufficient. Recognizing the practical interest for Industry of keeping the text on the label as short as possible, it might therefore be acceptable that this part of the message is given in a coded form. For example: **(cat: A/a)** in stead of: Annex IIA, subcategory (a))

2.3 Combining condensed information to consumers and to inspectors – an example:

The following is only meant as an example of one possible way to combine the considerations mentioned above in a highly condensed form:

EU limit value for the VOC content of this product (cat: A/a) is max 75 g/l"

The VOC content of this product is max ... g/l

The key point is that the text (except for the part within brackets) is addressed to and should be understandable for the ordinary public.

2.4 A special case for the labelling of Vehicle Refinishing Products:

A slightly different interpretation of the labelling requirements might be acceptable for the products covered by Annex IIB: Vehicle refinishing products.

These products are primarily bought and used by professional users and accompanied by a Technical Data Sheet (TDS) which contain detailed advice on the handling and use of the product.

It might therefore be acceptable that the labelling message on the product itself is given in a more coded form, on condition that reference is given to the TDS, where the two messages, indicated by Article 4, are given in full, in clear ordinary language.

3. Languages

Question: *In which language should the text of the label be written?*

Answer: The Directive does not explicitly indicate in which language(s) the text of the label should be written. However, it follows from the purpose of the labelling requirements in Directive 2004/42/EC that the text of the label must be in a Community language understandable to the ordinary consumer in the country where the product is sold.

Caveat: *Please note that the authoritative interpretation of EU legislation is the prerogative of the European Court of Justice and that the guidance offered in this document is not legally binding.*