

The Conseil d'État rescinds the list of fruit and vegetables that can still be sold in plastic packaging

The French Law on preventing waste and the circular economy gave the Government the task of creating a list of fruit and vegetables that present a risk of spoilage if sold loose, so they could be definitively exempt from the ban on plastic packaging, which came into force on 1 January 2022. Several organisations objected to the list created by the Government and took their case to the Conseil d'État, which today ruled that it was illegal.

The Law on the preventing waste and the circular economy¹ banned the sale of fruit and vegetables in plastic packaging on 1 January 2022. However, the law provided for some exceptions, including for fruit and vegetables that could spoil if sold loose. The Government was given the task of identifying them.

In a decree of 8 October 2021, the Government set out a list of around 40 fruit and vegetables that could still be sold in plastic packaging, specifying for each one how long they could continue to be sold in this type of packaging². Several occupational trade unions challenged the list before the Conseil d'État, which today rescinded it.

The Conseil d'État observed that the Law on preventing waste and the circular economy – like the parliamentary debates that preceded its adoption – was clear: it assigned the Government the task of listing only those fruit and vegetables that present a risk of spoilage if sold loose, so that they could be definitively exempt from the ban on plastic packaging.

The Government, however, included on the list fruit and vegetables that are not necessarily at risk of spoilage, and it specified how long each of these fruit and vegetables could continue to be sold in plastic packaging after 1 January 2022.

The Conseil d'État, therefore, rescinded the Government decree. The Government must now establish a new list by decree that fulfils the task assigned to it by law.

Decision Nos. 458440 et seq., syndicat Alliance Plasturgie & Composites du futur (Plastalliance) and others, 9 December 2022

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¹ Law No. 2020-105 of 10 February 2020 on the preventing waste and the circular economy

² Decree No. 2021-1318 of 8 October 2021 on the obligation to present for sale fresh, unprocessed fruit and vegetables without packaging made up entirely or partly of plastic