



Reports of Cases

Joined Cases C-313/15 and C-530/15

Eco-Emballages SA

v

**Sphère France SAS and Others
and**

Melitta France SAS and Others

v

Ministre de l'Écologie, du Développement durable and de l'Énergie

(Requests for a preliminary ruling from the
Tribunal de commerce de Paris and from the Conseil d'État (France))

(Reference for a preliminary ruling — Environment — Directive 94/62/EC — Article 3 — Packaging and packaging waste — Definition — Rolls, tubes and cylinders around which flexible material is wound ('Roll cores') — Directive 2013/2/EU — Validity — Amendment by the European Commission of the list of examples of packaging set out in Annex I to Directive 94/62/EC — Misinterpretation of the term 'packaging' — Misuse of implementing powers)

Summary — Judgment of the Court (Third Chamber), 10 November 2016

1. *Environment — Packaging and packaging waste — Directive 94/62 — Packaging — Definition — Broad interpretation*

(European Parliament and Council Directive 94/62, as amended by Directive 2004/12, Recital 5 and Arts 1, 2(1) and 3(1))

2. *Environment — Packaging and packaging waste — Directive 94/62 — Packaging — Definition — Roll cores in the form of rolls, tubes or cylinders — Included*

(European Parliament and Council Directive 94/62, as amended by Directive 2004/12, Art. 3(1), and Annex I)

1. The term 'packaging', within the meaning 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, must be given a broad interpretation.

In accordance with Article 1 thereof, Directive 94/62 aims, 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, in particular, requiring Member States to

establish a system of collection and recovery of packaging and packaging waste. To that end, as can be seen from Recital 5 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.

(see paras 23, 24)

2. Article 3(1) of Directive 94/62 on packaging and packaging waste, as amended by Directive 2004/12, must be interpreted as meaning that roll cores in the form of rolls, tubes or cylinders, around which flexible material is wound and sold to consumers, constitute ‘packaging’ within the meaning of that provision.

First, those roll cores serve as both a support and spool for those flexible products and therefore perform the functions of protection and presentation for those products, within the meaning of the first subparagraph of Article 3(1) of Directive 94/62.

In that respect, roll cores protect from the inside the flexible products wound around them, which strengthens those products, allowing their presentation and facilitating their transport and use. A roll core is, moreover, a ‘non-returnable’ item, within the meaning of the second sentence of the first subparagraph of Article 3(1), once the flexible product wound around it has been used up.

Furthermore, since a roll core is designed to constitute, with the flexible product wound around it, a sales unit for the consumer at the point of purchase, it fulfils the definition of primary packaging set out in point (a) of the second subparagraph of Article 3(1) of Directive 94/62.

Secondly, those roll cores do not meet the criteria of the negative definition set out in point (i) of the third subparagraph of Article 3(1) of Directive 94/62. Unlike tea bags or coffee capsules, cited in Annex I to Directive 94/62 as examples of items which do not constitute packaging within the meaning of that provision, a roll core is not an integral part of the flexible product which it serves as a support and a spool and it is not intended to be consumed or disposed of with that product, but rather — on the contrary — remains and must be disposed of once that product has been used.

(see paras 32-35, 37, operative part)