

Report

Seafood labeling in France

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Warning

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REPORT SYNTHESIS

Abstract

EU regulation has established a number of rules aimed at businesses in order to better inform the consumers, notably in the sector of seafood products.

Those rules aim to ensure a high level of consumer protection on the subject of information regarding food products and they help consumers make their choices by using other indicators than price (fishing gear, capture area, etc.), thus guiding them towards a more sustainable future.

In France, those rules are poorly implemented in supermarket chains as well as in open-air markets or in fishmongers. The lack of enforcing of these rules is a direct consequence of the authorities' disinterest and their lackluster inspection policy.

Given the lack of publicity of the European regulation in this sector, it is not reasonable to expect the consumers to reject the infringing products. The authorities must act to enforce these rules for the consumer to buy more sustainable seafood.

Goals

The purpose of this report is to introduce the various European regulations regarding seafood labeling, to check their respective degree of application by retailers, and eventually to provide an inventory of the different national mechanisms of control of the application of the abovementioned EU regulations.

Results

We checked the application of EU regulation regarding seafood labeling on a sample of 145 products (sorted in 5 categories) from 9 hypermarkets and 18 open-air fisheries. We gathered from those checks that:

- the nation-wide compliance rate is 72%;
- the compliance rate in Lyon 73,4%;
- the compliance rate in Marseille is 62,7%;
- the compliance rate in Paris is 80,3%;
- the compliance rate in open-air fisheries is 70,8%;
- the compliance rate in hypermarkets is 74,8%;
- the scientific name is often lacking;
- the information regarding catch areas is often lacking.

Conclusions

We can draw a number of conclusions from the aforementioned results.

Conclusion 1:

European labeling rules regarding the labeling of seafood products, notably the regulation 1379/2013, are poorly implemented by retailers.

Conclusion 2:

This poor implementation of European rules is found everywhere in France, and it applies to a broad-spectrum of economic operators (ranging from small retailers to large supermarket chains).

Conclusion 3:

Competent national authorities, namely the DGCCRF, must supplement its enquiries with dissuasive sanctions in order for the EU regulations regarding seafood to be applied.

Final report

Foreword

In this report, we focused on seafood as it is understood in the EU regulations **n°853/2004** and **n°1379/2013**, and more specifically on seafood products included in the **a) and c) categories of the Annex I of the latter regulation**, i.e. fresh fishes and crustaceans.

Sellers of those products are required to comply with a certain number of obligations regarding labeling.

Those labeling obligations and more broadly consumer-information related obligations are in particular but not only described in the **article 9 of the EU regulation n°1169/2011** and in the **article 35 of the EU regulation 1379/2013**. In this report, we focused on the obligations regarding legibility, presence of the commercial and scientific name, presence of production method information, presence of fishing zone information, presence of fishing gear information, presence of information regarding whether or not the product has been freezed, and presence of information regarding allergens.

We only focused on **retail**, as defined in the EU regulation 178/2002 and in the EU regulation 1379/2013, and more specifically on **open-air fisheries and hypermarket fisheries**.

Structure of the report

1. **On the method we used**
2. **Results**
3. **Control mechanisms in France**
4. **Conclusions et recommandations**

1. On the method we used

1.A. Checking the level of compliance to EU regulations - In order to do this report, we filled Excel Spreadsheets provided by ClientEarth in accordance with the level of compliance by retailers. We filled one Excel Spreadsheet for every retailer we examined. Pictures of the shops, stalls and stands certify the information we gave in the Spreadsheets.

1.B. Defining the scope of our report - We carried our investigation focusing on 5 species : tuna, salmon, spearfish, squid and shrimps.

1.C. Geographical area - To give a realistic assessment of the compliance rate nationwide, we included in our sample 3 big cities, namely Marseille, Lyon and Paris. In each of these cities, we examined 9 retailers (3 hypermarket fisheries and 6 open-air fisheries).

1.D. Calculating the compliance rate - We have evaluated the compliance with 5 different information requirements. We have attributed a value of either 0 or 1 to quantify whether each requirement is respected or not. We were then able to give each business a grade out of 5.

2. Results

Compliance rate by species and retailer in Lyon;

	MARKET 1		MARKET 2		MARKET 3		MARKET 4		MARKET 5		MARKET 6	
	LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS	LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS	LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS	LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS	LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS	LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS
TUNA	y	20%	y	20%	n	100%	y	80%			y	100%
SALMON	y	40%	y	50%	y	80%	y	80%	y	80%	y	80%
SWORDFISH	y	80%	y	80%							y	100%
SHRIMPS	y	80%	y	80%	y	100%	y	60%	y	80%	y	80%
SQUID	y	40%	y	100%	y	100%	y	40%	y	100%	y	100%
		52%		66%		95%		65%		87%		92%

SUPERMARKET 1		SUPERMARKET 2		SUPERMARKET 3	
LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS	LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS	LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS
y	80%	y	80%		
y	60%	y	80%	y	60%
y	80%				
y	60%	y	80%	y	40%
y	80%		100%	y	40%
	72%		85%		47%

Average compliance rate : 73,4%



Compliance rate by species and retailer in Marseille;

	MARKET 1		MARKET 2		MARKET 3		MARKET 4		MARKET 5		MARKET 6	
	LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS	LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS	LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS	LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS	LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS	LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS
TUNA	y	40%			y	60%	y	80%				
SALMON	y	60%	y	60%	y	60%	y	80%	y	40%	y	60%
SWORDFIS					y	40%	y	80%	y	60%	y	60%
SHRIMPS	y	40%	y	40%	y	40%	y	80%	y	40%		
SQUID	y	60%			y	60%			y	80%	y	100%
		50%		50%		52%		80%		55%		73%

SUPERMARKET 1		SUPERMARKET 2		SUPERMARKET 3	
LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS	LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS	LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS
				y	60%
y	80%	y	60%	y	40%
		n	40%		
		n	60%	y	60%
y	80%	y	80%	y	100%
	80%		60%		65%

Average compliance rate : 62,7%



Compliance rate by species and retailers in Paris;

	MARKET 1		MARKET 2		MARKET 3		MARKET 4		MARKET 5		MARKET 6	
	LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS	LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS	LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS	LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS	LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS	LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS
TUNA	y	20%	n	40%			y	80%			y	80%
SALMON	y	40%	n	80%	y	80%	y	100%	y	80%	y	80%
SWORDFIS	y	40%	n	100%			y	100%			y	100%
SHRIMPS	y	80%	n	80%			y	80%	y	100%	n	60%
SQUID	y	20%	n	100%			y	80%			y	80%
		40%		80%		80%		88%		90%		80%

SUPERMARKET 1		SUPERMARKET 2		SUPERMARKET 3	
LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS	LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS	LEGIBILITY	MANDATORY INFORMATION FOR NON PREPACKED PRODUCTS
y	80%	n	100%		
y	60%	n	80%	y	100%
y	80%	n	100%		
		n	80%	y	100%
y	80%			y	100%
	75%		90%		100%

Average compliance rate : 80,3%



3. Control mechanisms

A. Of the institutions responsible with controlling the application of EU regulations regarding seafood labeling

A.1. Competent national authorities of the Member States

EU Regulation n°1224/2009, dictates in its article 57 §1 that “Member States shall undertake checks to ensure compliance. The checks may take place at all marketing stages and during transport”. These checks are to be undertaken by “competent national authorities”, as stated in the EU Regulation 1379/2013.

In France, the competent national authority is the *Direction générale de la concurrence, de la consommation et de la répression des fraudes*, shortened “DGCCRF”, and it is placed under the supervision of the Ministère de l'économie des finances et de la relance.

A.2. The decentralized action of the DGCCRF

The DGCCRF contains different services with respective missions and competences. Among the missions of the DGCCRF is Consumer protection and market regulation. This mission is directed at the national level by the *Sous-direction des produits et des marchés agroalimentaires*.

The DGCCRF usually works in a decentralized manner: the services whose mission it is to investigate on consumer protection and concurrence are departmental service. Depending on the Département, these services can be the *Directions départementales de l'emploi, du travail, et des solidarités* (“DDETS”) or the *Directions départementales de l'emploi, du travail, et des solidarités, et de la protection des populations* (“DDETSPP”), under the authority of the *Préfet*. Regional services (the *Directions régionales de l'économie, de l'emploi, du travail et des solidarités*, shortened “DREETS”) are competent to pilot and support investigations.

NB : “DREETS” are the regional services of the metropolitan area; in *Île de France*, the competent service is the *Direction régionale et interdépartementale de l'économie, de l'emploi, du travail et des solidarités* (“DRIETS”); in ultramarine territories, the competent services are the *Directions de l'économie, de l'emploi, du travail et des solidarités* (“DEETS”); in Guyane the competent service is the *Direction générale de la cohésion et des populations* (“DGCOPOP”), and in Saint Pierre et Miquelon, the competent service is the *Direction de la cohésion sociale, du travail, de l'emploi et de la population* (“DCSTEP”).

A.3 The various sanctions applicable by the DGCCRF

When the DGCCRF has completed its investigation and has found a failure to comply with applicable legal rules, it may follow-up on this investigation in one of three ways: 'educational' actions, corrective actions or repressive actions. They are respectively proportional to the gravity of the offense in question.

These powers of investigation and the applicable sanctions are written in Book V of the Code de la consommation. The authorisations and investigative powers of the DGCCRF can also be found in this book of the Code de la consommation, Title I, articles L511-1 to L512-65. Title II of this Code presents the possible follow-ups to an investigation in the articles L521-1 to L525-1. Finally, Title III determines the sanctions that can be incurred in the event of a failure to comply with the rules, in articles L531-1 to L532-5.

Educational actions are for minor offenses, they consist of a written warning sent to the offender in question (said offenses are often the results of a negligence or a lack of knowledge in the legislation) that orders them to comply with the legislation. A second check is later scheduled to ensure compliance from the offending professional.

Corrective actions are different from educational actions only in the fact that they impose a timeframe in which the offender needs to comply with the rules. They aim to ensure the compliance of the offending business and put a stop to its illegal conduct. They include injunctions to comply, or summons in front of a judicial judge that can trigger a procedure to order an immediate stop to the illegal conduct.

Repressive actions, or sanctions, are reserved to actions of a particular gravity. They can be civil in nature, such as civil fines, or they can be penal fines or prison sentences, lastly they can be administrative fines.

B. Ways to refer to the proper authorities

Citizens have two ways to contact the DGCCRF to report an issue.

B.1 The 'Signal conso'

The so-called 'Signal conso' is a new service created by the DGCCRF. It is an automated system that allows consumers to report an anomaly to the administration and the business in question and to obtain advice to act accordingly. The reports transmitted to the businesses can help them better their practices or correct their mistakes, thus helping the administration with knowing where to concentrate their efforts and intervene if necessary. Since the national launch of the platform in February 2020 (after a test period in three regions in 2018), it has received more than 50 000 reports, 66% of which were acknowledged by the business involved and of these reports, 80% have led to a response by the business in question.

This platform's goals are to help protect the consumers by detecting the infringing businesses. It is staffed by DGCCRF agents trained and specialised in answering clearly and concisely to the users.

NB: These statistics are directly available on the website of the 'Signal conso', <https://signal.conso.gouv.fr/stats>

B.2 The consumers' request for enquiry

While every citizen can use the streamlined procedure of the 'Signal conso', they can still contact directly the local (departmental) offices of the DGCCRF by e-mail or by phone to ask for an enquiry to be opened. The agency can choose to follow-up on the requests at its discretion.

In order to contact the national office of the DGCCRF, one must have already contacted a consumer association and tried a mediation. Then, it is possible to send them a registered mail with a receipt.

B.3 The companies' request for conformity

On October 9, 2017, the DGCCRF launched a new tool to help professionals to make sure they have the pricing information on their labels. For prices this procedure concerns only the display of prices covered by Article L112-1 of Code de la consommation. The DGCCRF gives an answer on labels, prices and their display. This answer is binding for the agency.

C. On the effectiveness of controls

According to the DGCCRF's activity report of 2020 (concerning every activity controlled by the agency, not just the sale of fishing products), 94 000 businesses were controlled in 2020, less than the 99 500 businesses controlled in 2019. However, the agency has controlled 20 700 websites in 2020, more than the previous year's 15 000 websites. The DGCCRF has sent 30 700 written warnings and 6 600 letters of injunction. 95% of these actions were followed by a normalization. The agency has also issued 1 400 administrative fines and opened 4 100 penal cases.

C. 1 Rate of enquiry after 'Signal conso' or request for enquiry

Regrettably, the 'Signal conso' is a very underused tool in the fishing sector, even less so when it comes to the labelling of seafood products. Indeed in 2021, there were only about a hundred reports for the whole fishing sector, with only one of these pertaining to a labelling issue (the report was about a mislabeled product that was bought online).

Every report goes straight to the professional who can then take the appropriate action and communicate their plan to deal with the perceived issue. They can also flag certain reports as abusive or false. The DGCCRF, with these information in hand and after studying the history of the professional, will decide whether to take action or not.

C.2 Programmed enquiries

Most of the controls are carried out following a departmental program based on quotas established on a regional scale. Each investigator plans the businesses he or she will control according to these quotas. This system is advantageous because it is flexible and because the agents can inspect every step of the process: production, wholesale, retail or markets. It is however currently stretched thin, as the agents are facing an ever increasing workload with a shrinking workforce.

C.3 Rates of non-compliance after enquiry

The precise numbers for the years 2020 and 2021 for the fishing sector are not published at this time. Therefore, the following data comes from the report for the year 2019. That year, 1 174 enquiries in 1 132 establishments were realized on the subject of the labeling of seafood products. The DGCCRF found that the rate of non-compliance of supermarket chains in 2019 was 42%, while the rate of non-compliance of fishmongers reached 63%. The agency aims to reinforce their vigilance in that area, as these rates are still far too high.

The agency also notes that, as far as mandatory labeling information is concerned, the biggest problem areas are the lack of the catch areas and catch methods. The DGCCRF also warns that there are still too many deceptive marketing practices in this sector. Indeed, sometimes the commercial designation is sometimes changed to something more appealing that might deceive the customers. In addition, there are cases where transformed or frozen products are sold without any indication about their preparation. The agency notes that this problem is most common for tuna, swordfish, squid and cod.

C.4 Number of sanctions

These checks, carried out in 61 departments of 13 regions, have resulted in 2019 in 391 written warnings, 135 injunctions, 113 penal procedures and 6 administrative procedures.

In conclusion it is hard to say that the current system to control the labeling of seafood products works very well when it comes to direct reporting by the consumers. While the programmed controls seem to function adequately, the tools that can be used by the consumers to report wrong or incomplete information are not used by the public. Moreover, there are criticisms inside the DGCCRF about the time-consuming nature of the controls and the lack of a simpler and faster procedure for penal infractions.

Conclusions and recommendations

Our examination of the application of the various EU regulations regarding seafood labeling demonstrates a poor or lacking application of the aforementioned rules.

This lack of application is a consequence of the inherent limits of the French system of consumer requested inquiry, and of the insufficient number of administrative sanctions by the DGCCRF when the Direction controls on its own initiative.

Eventually, the lack of control of the application of European regulations endangers the consumer and prevents him from orienting his consumption choices towards sustainable fishing.

