



## European Federation of Jewellery

# Position paper on the mutual recognition of goods

*The jewellery sector is one of the non-harmonised sectors in the EU and thus the free circulation of its products is not completely free. The European Federation of Jewellery demands that the principle of mutual recognition is fully applied to jewellery products and hopes that the new Regulation on mutual recognition recently adopted by the EU will help the sector to overcome the existing barriers.*





### Key points:

- ❖ The European Federation of Jewellery (EFJ) welcomes the adoption by the European Union of a new Regulation on mutual recognition of goods lawfully marketed in another Member State with the hope that it will help overcome some of the obstacles that jewellery products face on the internal market.
- ❖ The jewellery sector is one of the non-harmonised sectors in the EU and thus the free circulation of jewellery products in the single market is not guaranteed.
- ❖ The countries which apply the hallmarking system demand further checks and the application of an additional mark on jewellery products lawfully produced and marketed in another Member State. This creates obstacles to the free circulation of goods and represents a major economic burden for EU economic operators.
- ❖ The EFJ demands that the principle of mutual recognition is fully applied to jewellery products and thus urges the European Commission to intervene in order to standardize and harmonise all technical and methodological rules for jewellery products (fineness, soldering, etc.) in the EU.
- ❖ The EFJ also demands that the fineness and identification marks are directly mutually recognised among EU countries.

*The EFJ was founded in 2013 to represent the jewellery sector at the European level. The EFJ supports free trade among EU Member States and with third countries as a mean to increase the competitiveness of the sector while contributing to the creation of growth and jobs. In this respect, the EFJ warmly welcomes the adoption early 2019 of the Regulation on the mutual recognition of goods lawfully marketed in another Member State<sup>1</sup>.*

Despite the principle of ‘mutual recognition<sup>2</sup>’ enshrined in Article 28 and 30 of the TFEU, jewellery products are still partially excluded from free circulation in the EU internal market. In fact, the jewellery sector is one of the non-harmonised sectors in the EU and despite the efforts made by the European Commission with the support of some Member States, it has not been possible to reduce the obstacles to the free circulation of jewellery products until now. As a matter of fact, many Member States demand further checks, the so-called preventive control, on their own territory and the placement of an additional mark on jewellery products even when the products have been legally marketed in another Member State.

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<sup>1</sup> REGULATION (EU) 2019/515 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 March 2019 on the mutual recognition of goods lawfully marketed in another Member State  
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019R0515>

<sup>2</sup> According to the mutual recognition principle, Member States must allow goods that are legally sold in one Member State to be sold also on their own territory.



It must be mentioned that there is no effective ‘mutual recognition’ even among the Member States that decided to adopt the ‘hallmarking’ system while, according to the Court case 293/93 (Houtwipper case<sup>3</sup>), this should not be the case. The hallmarking system requires that all products made of precious metals need to be checked and marketed by a third independent body which received an authorisation by the State, generally the Assay Office, before being put on the market. These operations represent an additional cost for the economic operators as they are supposed to pay to perform these additional checks. Furthermore, the only international recognised method of analysis<sup>4</sup> is a destructive one entailing such damages that the analysed products are completely ruined and cannot be sold. To deal with this problem, verifications are done only on a sample of the presented batch but this system does not have any statistical value.

To partially overcome these obstacles, many countries which adopted the hallmarking system, decided to sign a specific international treaty: the Vienna Convention<sup>5</sup>. The Convention establishes the Common Control Mark (CCM)<sup>6</sup> which allows to market goods among the Members of the Convention without further testing and marking.

While the Convention is sufficient to allow free circulation of jewellery products between the parties, many important EU countries that apply preventive controls are not members of it such as France and Spain. For this reason, the EFJ would rather support the establishment of an EU system aimed at reinforcing the mutual recognition principle in order to overthrow the anachronistic and costly barriers that make jewellery products less competitive on the internal market.

The EFJ generally supports all initiatives aimed at deepening and completing the EU Single Market. With particular regard to the new Regulation on mutual recognition, the EFJ is pleased with the introduction of the ‘mutual recognition declaration’ which should make easier for the economic operators to demonstrate that their products are lawfully marketed in one Member State.

However, in order to allow free circulation of jewellery products in the EU, the EFJ urges the European Commission to intervene in order to standardize and harmonise all technical and methodological rules for jewellery products (fineness, soldering, etc.) in the EU. Furthermore, the EFJ demands that the fineness and identification marks are directly mutually recognised among EU countries.

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<sup>3</sup> The Court of Justice of the EU states that “Where national rules require the hallmark to be affixed by an independent body, the marketing of articles of precious metal imported from other Member States may not be prohibited if those articles have in fact been hallmarked by an independent body in the Member State of exportation.”

<sup>4</sup> The International Organization for Standardization established an international standard for the cupellation method (fire assay ISO 11426), which is the only one legally recognized for the determination of gold in gold jewellery alloys.

<sup>5</sup> Convention on the Control and Marking of Articles of Precious Metals, signed in Vienna on 15 November 1972. Austria, Croatia, Cyprus, the Czech Republic, Denmark, Finland, Hungary, Ireland, Israel, Latvia, Lithuania, the Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Sweden, Switzerland and the United Kingdom are members of the Convention: <http://www.hallmarkingconvention.org/>

<sup>6</sup> The Common Control Mark (CCM) is the first and only international hallmark. The CCM is applied by national Assay Offices and has the same legal status as a national hallmark. Articles bearing the CCM - together with the national Assay Office Mark, the responsibility mark and the fineness mark - are accepted without further testing or marking by any of the Vienna Convention’s parties.



Finally, the EFJ believes that market surveillance instruments would be much more appropriate to check the products compliance with EU legislation and technical rules than preventive controls. According to the EFJ, a system based on market surveillance would guarantee consistency across the EU and would ensure better consumer protection.

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**EFJ members:**

- ❖ **UFBJOP** - Union Française de la Bijouterie, Joaillerie, Orfèvrerie, des Pierres et des Perles (France)
- ❖ **ARS NOBILIS** – Fédération Belge du Bijou et de la Montre (Belgium)
- ❖ **AORP** - Associação de Ourivesaria e Relojoaria de Portugal (Portugal)
- ❖ **FEDERORAFI** - Federazione Nazionale Orafi Argentieri Gioiellieri Fabbricanti (Italy)
- ❖ **AWDC** - Antwerp World Diamond Centre (Belgium)

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