

AccessGuide

EU legislation: Packaging and Packaging Waste

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1. Objectives

This Directive (94/62/EC) aims to harmonise national measures concerning the management of packaging and -packaging waste in order, on the one hand, to prevent any impact thereof on the environment of all Member States as well as of third countries or to reduce such impact, thus providing a high level of environmental protection, and, on the other hand, to ensure the functioning of the internal market and to avoid obstacles to trade and distortion and restriction of competition within the Community. The directive has been amended by commission decision 1999/177/EC and 2001/171/EC, in which conditions for plastic crates and plastic pallets and glass packaging have been established.

2. Scope

This Directive covers all packaging placed on the market in the Community and all packaging waste - whether it is used or released at industrial, commercial, office, shop, service, household or any other level, regardless of the material used.

This Directive shall apply without prejudice to existing quality requirements for packaging such as those regarding safety, the protection of health -and the hygiene of the packed products or to existing transport requirements or to the provisions of Council Directive 91/689/EEC of 12 December 1991 on hazardous waste.

3. Definitions

- 'packaging' shall mean all products made of any materials of any nature to be used for the containment, protection, handling, delivery and presentation of goods, from raw materials to processed goods, from the producer to the user or the consumer. 'Non-returnable' items used for the same purposes shall also be considered to constitute packaging.
- 'Packaging' consists only of:
 - (a) sales packaging or primary packaging, i.e. packaging conceived so as to constitute a sales unit to the final user or consumer at the point of purchase;

(b) grouped packaging or secondary packaging, i.e. packaging conceived so as to constitute at the point of purchase a grouping of a certain number of sales units whether the latter is sold as such to the final user or consumer or whether it serves only as a means to replenish the shelves at the point of sale; it can be removed from the product without affecting its characteristics;

(c) transport packaging or tertiary packaging, i.e. packaging conceived so as to facilitate handling and transport of a number of sales units or grouped packagings in order to prevent physical handling and transport damage. Transport packaging does not include road, rail, ship and air containers;

- 'packaging waste' shall mean any packaging or packaging material covered by the definition of waste in Directive 75/442/EEC, excluding production residues;
- 'packaging waste management' shall mean the management of waste as defined in Directive 75/442/EEC;
- Prevention shall mean the reduction of the quantity and of the harmfulness for the environment of:
 - materials and substances contained in packaging and packaging waste,
 - packaging and packaging waste at production process level and at the marketing, distribution, utilisation and elimination stages, in particular by developing 'clean' products and technology;
- 're-use' shall mean any operation by which packaging, which has been conceived and designed to accomplish within its life cycle a minimum number of trips or rotations, is refilled or used for the same purpose for which it was conceived, with or without the support of auxiliary products present on the market enabling the packaging to be refilled; such re-used packaging will become packaging waste when no longer subject to reuse;
- 'recovery' shall mean any of the applicable operations provided for in Annex IIB to Directive 75/442/EEC;
- 'recycling' shall mean the reprocessing in a production process of the waste materials for the original purpose or for other purposes including organic recycling but excluding energy recovery;
- 'energy recovery' shall mean the use of combustible packaging waste as a means to generate energy through direct incineration with or without other waste but with recovery of the heat;
- 'organic recycling' shall mean the aerobic (composting) or, anaerobic (bio-methanisation) treatment, under controlled conditions and using micro-organisms, of the biodegradable parts of packaging waste, which produces stabilised organic residues or methane. Landfill shall not be considered a form of organic recycling;
- 'disposal' shall mean 'any of the applicable operations provided for in Annex II.A to Directive 75/442/EEC;

- 'economic operators' in relation to packaging shall mean suppliers of packaging materials, packaging producers and converters, fillers and users, importers, traders and distributors, authorities and statutory organisations;
- 'voluntary agreement' shall mean the formal agreement concluded between the competent public authorities of the Member State and the economic sectors concerned, which has to be open to all partners who wish to meet the condition of the agreement with a view to working towards the objectives of this Directive.

4. Other contents

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- Recovery and recycling
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5. The Directive in short

A summary of the principal features and consequences of the European Packaging Directive is given in the following table:

Key provisions	Details in summary	Comment
Objectives	<p>The Directive aims to:</p> <ul style="list-style-type: none"> • reduce the overall impact of packaging on the environment by reducing packaging at source, eliminating harmful materials in packaging waste, maximising the recovery of packaging waste for re-use, recycling composting or energy generation and minimising the quantity going for final disposal; • bring national measures closer together in order to remove obstacles to trade and distortion of competition 	<p>The balance between environmental protection and trade freedom is a sensitive one and open to interpretation by the member states themselves</p>

Scope	It covers all packaging placed on the market within the EU, "whether used or released at industrial, commercial, office, shop or any other level, regardless of the material used".	
Recovery and recycling	<p>Within five years of the Directive being implemented in national law (i.e. six-and-a-half years from its adoption; 30 June 2001):</p> <ul style="list-style-type: none"> • Between 50% and 65% of packaging by weight must be recovered (some form of value regained) • Between 25% and 45% of packaging by weight must be recycled, with a minimum of 15% of each material being recycled <p>By 1 January 2001, there must have been a review of practical experience and the Council and the European Parliament will fix "substantially increased" targets to be achieved for the second five-year period, ending 30 June 2006</p>	The recovery and recycling targets were the most controversial elements during negotiations. Germany, Denmark and The Netherlands voted against adoption of the Directive on the grounds that the targets were not high enough. They were outvoted by the (then) 9 other member states who believe that targets should be attainable by all. Nevertheless, Greece, Ireland and Portugal have been given longer to attain the targets, having to achieve them only by the end of 2005.
Marking	Packaging must be clearly marked to indicate the material used in order to help collection, recover and re-use. The Council must decide on the marking systems within two years of the implementation of the Directive	Earlier drafts of the Directive contained detailed particulars of symbols to be used, but agreement could not be reached in time to include this section in the official Directive.
Heavy metals	<p>Levels of heavy metals concentrations (lead, cadmium, mercury and hexavalent chromium) must be within certain limits. The maximum sum of concentrations of lead, cadmium, mercury and hexavalent chromium in packaging is 100 ppm.</p> <p>Exceptions have been made for plastic crates and plastic pallets made of recycled material (up to 80% of the total weight) from other plastic crates and pallets (Decision 1999/177).</p> <p>Also for glass packaging an exception has been made. Glass packaging is allowed to exceed the limit of 100 ppm by weight of the sum of heavy metals, if this is caused by the use of recycled material (decision 2001/171).</p>	

Information	EU governments are required to provide information to the Commission for monitoring purposes. Moreover they must make sure that the public is aware of the targets and the systems available to achieve them; packaging users' own role in re-using, recycling and recovering used packaging; the meaning of the packaging markings; and the key elements of national schemes for recovery and recycling.	
Trade freedom	No EU country will be able to block the use of packaging so long as it meets the requirements of the Directive	This is clearly intended to prohibit barriers created by banning certain forms of packaging
Essential requirements	Member states must ensure that packaging complies with certain "essential requirements". These include minimisation of weight and volume, and suitability for re-use, recycling, energy recovery or composting	CEN, the European standards organisation, has been instructed by the Commission to draw up the necessary standards
Economic instruments	The EU Council may adopt economic instruments to promote and achieve the objectives of the Directive	Since fiscal measures, under current Treaty articles, have to be passed unanimously, there is little likelihood of EU-wide economic instruments being adopted in the foreseeable future. Individual member states, however, adopt their own economic instruments, conditional on them complying with EU environment policy.

Summary of heavy metal requirements

Substance:	Lead, cadmium, mercury and hexavalent chromium
CAS Number:	7439-43-9 (lead), 7440-43-9 (cadmium), 7439-97-6 (mercury) and 18540-29-9 (hexavalent chromium)
Products:	packaging
Requirement:	Maximum sum of concentrations of lead, cadmium, mercury and hexavalent chromium in packaging is 100 ppm. Plastic crates and pallets from recycled material and glass packaging are allowed to exceed the maximum concentration (see table).
Status:	Existing legislation.
Source:	Directive 94/62/EC, Command decision 1999/177/EC and 2001/171/EC