

THE DEPOSIT-RETURN SYSTEM FOR PACKAGING – A NEW CHALLENGE IN ACHIEVING ENVIRONMENTAL PROTECTION IN ROMANIA

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Abstract: *The management of packaging and packaging waste, a component of the environmental protection strategy, determined the development of rules at the European Union level since 1975. The diversification of packaging types and the increase in the amount of waste required finding new ways to improve waste management. For this, however, it is necessary to ensure an effective selective collection of packaging waste, and not only that. This article presents the new challenges of the guarantee-return system in Romania from the perspective of the obligations imposed on economic operators in the collection, transport and recycling of packaging subject to this system.*

Key words: *packaging waste, the deposit-return system, environmental protection, extended producer responsibility, circular economy*

1. Introduction

The management of packaging and packaging waste, a component of the environmental protection strategy, determined the development of rules at the level of the European Union since 1975 (Directive, 1975). The diversification of packaging types and the increase in the amount of waste required finding new ways to improve waste management. In this regard, an important role can be attributed to scientific and technological progress regarding the processes of recovery, reuse and recycling of packaging waste. But, in order to have a high-performance management of packaging waste, it is also necessary to carry out a high-performance selective collection.

The specialized literature has deepened this topic from various perspectives: of the product life cycle (Kleyner & Sandborn, 2008), of reverse logistics (Gilanlı & al., 2012, Janczewski, 2019), of the circular economy and economic implications (McKie, 2017; Dutu, 2019; Matlob & al., 2020) or the recovery of certain types of waste (Wong, 2010; Hahladakis, 2018). Nor was the legislative perspective absent from specialist research on packaging waste management (Makuch, 2003).

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2. The introduction of new measures for the return of packaging waste

2.1. Regulation at the level of the European Union

In 2018, starting from the need for continuous improvement of packaging waste management, the European Parliament and the Council of the European Union, considered it necessary for the member states to “introduce appropriate incentives for the application of the waste hierarchy, including economic instruments and other measures” (Directive, 2018, p.6), in order to minimize the environmental impact of packaging and packaging waste.

The economic tools mentioned complement the other methods and tools previously used, such as: the waste life cycle and the use of biological materials or materials suitable for multiple recycling.

Specifically, the "economic incentives" tool can be found in the provisions of the art. 5 of Directive 62 of 1994 on packaging and packaging waste.

The new provisions show with regard to reuse that, along with respecting the waste hierarchy (Directive, 2008, art. 4), member states must adopt measures to “encourage the increase in the share of reusable packaging introduced on the market and packaging reuse systems in - an ecological way, without compromising food hygiene or consumer safety” (Directive, 1994, art.5). Among the indicated measures is found, in para. (1), letter a) of article 5 of Directive 62 of 1994, the use of guarantee return systems.

This system, along with all the other measures aimed at ensuring the greatest possible collection of packaging waste for recycling (Figure 1), is introduced to reach the new recycling targets for the years 2025 and 2030 (Table 1).

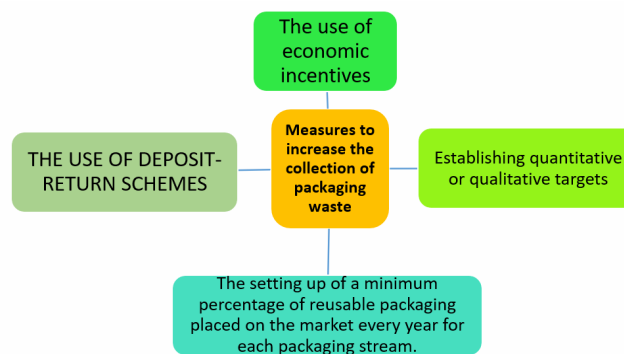


Fig. 1. Measures for collection of packaging waste

Specific targets for packaging waste recycling

Table 1

Reference year / indicator definition	2025	2030
Percentage of recycling by weight of all packaging waste	minimum 65 %	minimum 70 %
Recycling percentage for plastic by weight of all packaging waste	50 %	55 %
Recycling percentage for wood relative to the weight of all packaging waste	25 %	30 %
Percentage of recycling for ferrous metals by weight of all packaging waste	70 %	80 %
Percentage of recycling for aluminum by weight of all packaging waste	50 %	60 %
Recycling percentage for glass by weight of all packaging waste	70 %	75 %
Recycling percentage for paper and cardboard by weight of all packaging waste	75 %	85 %

In order to achieve the previously indicated objectives, each EU member state must take measures to guarantee that systems are introduced to ensure:

- a) return or collection, or both, of used packaging and packaging waste from the consumer, other end user or from the waste stream, to direct them to the best waste management alternative, and
- b) reuse or recovery, including recycling of packaging and/or collected packaging waste (Directive, 1994, art. 7).

2.2. Transposition of the directive's provisions into national legislation

The deadline for the transposition of the provisions of Directive 852 from 2018 was July 5, 2020, as follows from art. 2 of this normative act. We note that a 2-year period was left to the member states to harmonize the national provisions with those of the directive, but also a period for them to establish and introduce the instruments mentioned in Figure 1, including the guarantee-return system for packaging waste. In the national legislation of Romania, the transposition of the obligations was carried out through:

(i) three amending normative acts:

- Emergency ordinance no. 74/2018 for the amendment and completion of Law no. 211/2011 regarding the waste regime, of Law no. 249/2015 regarding the method of managing packaging and packaging waste and Government Emergency Ordinance no. 196/2005 on the Environmental Fund (Ordinance, 2018)

- Emergency ordinance no. 50/2019 for the amendment and completion of the Government Emergency Ordinance no. 196/2005 regarding the Environmental Fund and amending and supplementing Law no. 249/2015 regarding the method of managing packaging and packaging waste (Ordinance, 2019)

- Ordinance no. 1/2021 for the amendment and completion of Law no. 249/2015 on the method of managing packaging and packaging waste (Ordinance, 2021) and

(ii) a new normative act that provides for the technical and systemic elements for the realization of the guarantee-return system: Government Decision no. 1,074 of October 4, 2021, regarding the establishment of the guarantee-return system for non-reusable primary packaging (Decision, 2021).

This last act shows that the guarantee-return system (SGR) is unique at the national level, and that it will come into operation starting from October 1, 2022, it being mandatory for all manufacturers and traders, applying both to products manufactured on national territory, as well as products imported or purchased intra-community, under non-discriminatory conditions (Decision, 2021, art.10).

The SGR covers only non-reusable primary packaging, specifically identified in Annex 1 to the decision, namely packaging made of “glass, plastic or metal, with volumes between 0.1 l and 3 l inclusive, used for beer, beer mixes, drink mixes, alcoholic beverages, cider, other fermented beverages, juices, nectars, soft drinks, mineral waters and drinking waters of any kind, wines and spirits” (Decision, 2021).

We remind you that non-reusable packaging is that “packaging that has been conceived, designed and put on the market to achieve, within its life cycle, a single cycle or a single rotation, not being able to be refilled or reused for the same purpose for which it was designed” (Decision, 2021) and the primary packaging, or sales packaging is that “packaging designed and made to fulfil the function of a sales unit, for the end user or consumer, at the point of purchase” (Law, 2015, Annex 1). SRG-like regulations are introduced for reusable primary packaging, but they are not included in the SGR.

2.3. Legal form and administration of SGR

SGR is managed by an administrator, a Romanian legal person, constituted in the form of a joint-stock company, which makes the provisions of Law 31 of 1990 on commercial companies applicable to it (Law, 1991). The newly established company, with a share capital of at least 5 million lei, will only have the purpose of implementing, managing, operating and ensuring the financing of the guarantee-return system. The shareholders of this company consist of:

- the Romanian state represented by the central public authority for environmental protection with a percentage of 20% of the shares,
- the representative associative structures of producers and traders for the remaining 80%, but with their redistribution as follows:
 - o a maximum of 60% for the associative structures of the producers and which together hold a market share of at least 30%, in relation to the number of SGR packaging units introduced on the market in the last fiscal year before the submission of the documentation for accreditation;
 - o maximum 20% for the associative structures of traders who introduce and sell products packed in SGR packaging on the national market.

The rules regarding the appointment of the administrator and his obligations, as well as those regarding the withdrawal of the administrator capacity, can be found in art. 18 – 22 of Government Decision no. 1.074/2021.

3. Obligations resulting from the introduction of SGR

The obligations established in achieving the purpose of SGR can be grouped into 3 categories, as follows:

- obligations of packaging manufacturers regarding registration in the SGR system and regarding the achievement of the SGR target;
- obligations of traders of packaged products regarding registration in the SGR system and regarding the achievement of the target of the SGR;
- obligations of local councils and intercommunity development associations regarding the achievement of the SGR goal.

3.1. Warranty provisions

Under the SGR, the guarantee represents the amount paid by the consumer or end user at the time of purchase of a product in the packaging that is the subject of the SGR, separate from the price of the product. Throughout the commercial chain, starting from producers, distributors and up to the marketing of products, including to consumers or end users, the grant is clearly highlighted in fiscal documents. The value of the guarantee is currently 0.50 lei for all types of SGR packaging, a value that can be changed by decision of the Government, at the initiative of the central public authority for environmental protection.

In order to be able to request the payment and return of the guarantee, the manufacturers have the obligation to mark the SGR packaging. Starting from the date of entry into operation of the SGR, traders are obliged to sell products packed in SGR packaging purchased only from producers registered within the SGR administrator or from distributors of these producers. Failure to comply with the obligation is sanctioned from 20,000 lei to 40,000 lei. Also, under the penalty of the same fine, traders have the obligation not to sell products packed in SGR packaging that are not marked according to the legal provisions.

3.2. The obligation to inform consumers

The success of SGR can also be influenced by the level of information of the final consumer, the merchant's customer. Emergency Government Ordinance no. 21 of 1992 on consumer protection obliges traders to make available to consumers all useful and necessary information so that they can make a willing and conscious purchase decision (Ordinance, 1992).

The obligation of traders to inform consumers about the guarantee retained for SGR packaging refers to (art. 6, paragraph (1), letters b, f-f8):

- the types of products that are part of the SGR;
- the amount of the guarantee, which must be indicated separately on the shelf and on the fiscal documents related to the product in SGR packaging;
- the possibility to return the SGR packaging in order to redeem the value of the guarantee at any return point on the territory of Romania;
- the address and opening hours of the return point operated by the trader;

- the method of taking over the packages;
- the available ways to return the guarantee;
- the right of the person returning the SGR packaging to request the return of the guarantee value in cash, by voucher or by bank transfer;
- situations of refusal to return the guarantee, including those determined by the association for the establishment of return points or the assumption of obligations by the local public administration or inter-community development associations.

Producers also have an obligation to inform consumers. This consists in the transmission of information about the start or end of the placing on the market of a certain type of product packed in SGR packaging, through the SGR administrator, who posts on his website the details of the product, brand, type of material, weight and volume of the packaging received from producers (art. 4 par. (1), letter i).

3.3. Packaging return points

Decision 1074/2021 defines the return point as "the space organized and managed by one or more traders, respectively by them in partnership with UAT or ADI where SGR packaging is returned by consumers or end users of SGR packaging in order to recover the guarantee" (letter i) of Annex 1).

It can be seen from the provisions of the normative act that the obligation to collect SGR packaging falls mainly on the merchants, who either alone or in partnership, must ensure the establishment of return points.

For those traders who have small areas of the commercial space, namely less than 200 square meters, SGR packaging return points can be established by the administrative-territorial units (UAT), by decisions of the local Council, as well as by the inter-community development associations (ADI).

These return points must be within the administrative-territorial radius of the respective UAT/ADI. When establishing the return points, collaboration with the SGR administrator is considered and their activity is carried out under the coordination of the SGR administrator. In these situations, the SGR operator substitutes itself in the traders' obligations taking over the SGR packaging, returning the guarantee (cash, bank transfer or voucher), reporting, providing information and control.

From an organizational point of view, the delivery-reception of SGR packages can be done in an automatic or manual system, in both cases, the SGR label must be intact. It is shown that the logistics infrastructure of a return point is very complex: buildings, production, equipment, counting centers, to which is added all the transport infrastructure for picking up the packaging from the stores to the sorting and counting centers and then to the recycling factories (Environmental Forum, 2022).

The importance of keeping the label intact is given by the validation of the return just by reading it, which still has an influence on the degree of fulfilment of the return objectives. These objectives are calculated by the ratio between the total number of SGR packaging introduced on the national market (transmitted by manufacturers and traders) and the total number of SGR packaging validated based on the barcode as being returned within the SGR in the reference calendar year. The Environment Fund

administration has the obligation to verify the fulfilment of the return objectives, as it is also the one that ensures the funding and costs necessary for the state's participation, as a shareholder, in the establishment of the SGR administrator.

4. Conclusions

On August 26, 2022, Government Decision no. 1,059 of August 24, 2022, regarding the designation of S.C. RetuRo Sistem Garantie Returnare - S.A., as the administrator of the guarantee-return system for non-reusable primary packaging, was published in the Official Gazette no. 841 (Decision, 2022a). According to article 2 of the mentioned normative act and based on art. 21 of HG 1074 of 2021 S.C. RetuRo Sistem Garantie Returnare - S.A. was established in 2022 as a Romanian legal entity, unique at the national level, with the aim of implementing, managing, operating and ensuring the financing of the guarantee-return system for non-reusable primary packaging.

Until the date of completion of this article, no SGR collection point has been established, and even more, it is expected that a period of 18 months is necessary for the operationalization of the SGR (Environmental Forum, 2022). On October 7, 2022, by Government Decision no. 1214 (Decision, 2022b), the initial deadline of October 1, 2022 for the entry into operation of the SGR is modified, the new deadline being November 30, 2023. Since the analysis was conducted only theoretically, we reserve the right for further research to follow the implementation of the SGR and its results.

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