

## Technical objections to derogations from art. 26, 22 and Annex V, as well as further comments on the regulation

### Environmental impact

Reuse and restrictions of unnecessary packaging are the most environmentally impactful measures proposed in the packaging regulation. Undermining these measures risks permitting 7.3 million tonnes of additional packaging waste on the market by 2030, equivalent to Spain's annual production of packaging waste; and 3.5 million tonnes of CO<sub>2</sub> emissions in 2030, equivalent to 8 million barrels of oil. In comparison, design for recycling measures are only expected to save 800 thousand tonnes of CO<sub>2</sub>eq in 2030.

Table 1: Overview of environmental benefits of reuse and restrictions

Measure	Waste prevention (million tonnes)	Carbon emissions savings (million tonnes)
Restrictions of unnecessary packaging (art. 22 & Annex V)	4.1 (2030)	2.2
Reuse targets (art. 26)	3.2 (2030) / 10.0 (2040)	1.3 (2030) / 5.5 (2040)
<b>TOTAL</b>	<b>7.3 (2030)</b>	<b>3.5 (2030)</b>

Source: EC 2022, PPWR Impact Assessment, [https://eur-lex.europa.eu/resource.html?uri=cellar:0567fd10-7165-11ed-9887-01aa75ed71a1.0001.02/DOC\\_2&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:0567fd10-7165-11ed-9887-01aa75ed71a1.0001.02/DOC_2&format=PDF)

The environmental benefits of these measures have already been proven in practice where countries have adopted the first regulatory steps to reduce packaging waste and scale-up reuse systems. For example, since January 2023 France has mandated the reuse of items in fast food establishments for on-site consumption (AGEC law 2020). The ongoing implementation of this measure has the potential to prevent each year the disposal of [180,000 tonnes of single-use packaging waste](#).

### Conflict with Waste Framework Directive

The derogations put forth by the European Parliament as well as by Italy and Finland based on collection/recycling rates do not demonstrate that single-use packaging will have a better overall environmental outcome compared to reuse. Consequently, these are insufficient to overturn the waste hierarchy. Note that art.4 of the Waste Framework Directive is very clear in requiring a demonstrated better overall environmental outcome - justified by life-cycle thinking - in order for a specific waste stream to depart from the waste hierarchy. This condition is not met by arbitrary rates of recycling or collection.

Moreover, the diverse approaches to derogations proposed by the European Parliament (granted on the basis of collection and/or recycling rates, at predominant material or packaging format level, Member State/economic operator) all carry substantial negative implications, with none presenting an optimal solution. The lack of clarity underscores the inadequate consideration given to these derogations, indicating that they have not been carefully thought through beyond the goal of providing flexibility to specific single-use producers.

### Single Market

The deletion of reuse targets and of entire rows of Annex V, as proposed by Italy and Finland, would create massive distortions within the Single Market, fostering divergent national regulatory approaches to packaging waste reduction.

The harmonised reuse targets and restrictions outlined in progress towards the attainment of the waste reduction targets set by art. 38 without a proliferation of different national rules. Deleting or diluting these harmonised measures with broad derogations, would force Member

States to adopt disparate national rules to deal with the uncontrolled growth of packaging waste and meet the targets of art.38, leading to a fragmentation of the Single Market for packaging and packaged goods.

Reducing the ambition of art.26, 22 and Annex V with broad derogations would thus directly contradict both of the key policy objectives of this revision: to reduce the environmental impacts of packaging waste and to better harmonise the EU packaging rules to strengthen the Single Market.

### **85% collection rates already widely achieved**

The poorly drafted derogations supported by the European Parliament and included in the non-paper by Italy and Finland, based on arbitrary rates of collection and recycling are clearly unambitious. Economic operators may be exempted from all reuse quotas if they either achieve a recycling rate of 85% per predominant packaging material or packaging format. Additionally, an exemption from the quotas is possible if Member States achieve 85% separate collection per packaging material. Available data suggests that many Member States already today achieve a collection rate above 85% for many of the material types used in the beverage sector (PET, aluminium cans and glass), this means that for these Member States there will be no incentive to either improve performance or implement reuse at any scale.

See available industry data:

- Glass (Feve) – glass collection for recycling, [11 Member States are already above or close to 85%](#)
- Aluminium (Metal packaging Europe) – [aluminium can recycling rate](#) already close to or exceeds 85% in 8 Member States (average 73%)
- PET (UNESDA) – [8 Member States already exceed 85%](#)

This demonstrates how derogations granted on the basis of an 85% collection or recycling rate would actually be too easy to meet in some countries, thus not driving the necessary circularity improvements but potentially undermining already existing reuse systems. This derogation also ignores the reality that the best overall environmental performances can be achieved by efficient systems for reusable packaging that is also recycled at its end of life.

### **Disproportionate impact on some Member States**

In contrast, available data suggests that derogations based on high collection and/or recycling thresholds would disproportionately affect many central-eastern as well as smaller Member States due to their differentiated starting points on waste management. At the same time, these derogations would exempt countries which are more prepared for the transition to reuse, some of which have already introduced national reuse targets.

It is cause of concern that several of the countries who have, so far, supported the broad derogations based on high collection and recycling rate are evidently not on track to benefit from them because of their low waste management performance (e.g. Greece, Malta, Cyprus, Bulgaria, Hungary, Croatia, Lithuania, etc.). Member States should recognise the opportunity that prevention presents to alleviate pressure on their waste management systems.

### **Material substitution risks:**

Exemptions for specific materials, broadened through intense lobbying, risk undermining reuse targets and prevention measures. Examples include exemptions for cardboard in the transport sector (where 70% of the market is cardboard) and single-use paper-based packaging in Annex V. Such exemptions will lead to material substitution, from plastic to paper, and environmental burden shifting instead of promoting true circular solutions and waste prevention. The potential impacts of massive material shifts have not been assessed. For a detailed analysis of single-use paper-based packaging effects on forests, climate, biodiversity, water-use, and human health [see here](#).

**Additional comments covering further issues:**

**Substances in packaging** - we strongly urge Member States in the Council to support the Parliament's position on substances in packaging as well as ensuring consistency with the recent agreement on the Ecodesign for Sustainable Products Regulation which also foresees the possibility to restrict substances in products to reduce risks to human or environmental health.

**Essential requirements:** packaging minimization should not be undermined by vague, unenforceable provisions such as "design for consumer acceptance" and "product recognition" as included in the Parliament's position. This would result in "design for marketing", and even increases the risk of deceptive or over overpackaging. Furthermore, derogations for products of Geographical Indication should only apply when these included specific criteria about the product's packaging.

**Article 6 and Annex II, Table 2** - provisions defining recyclability grades and recycling at scale should incentivise genuine improvements in recyclability and not simply be based on the 2030 recycling targets. Current formulations undermine the objective to make all packaging recyclable, and poses a threat to recycling, by unnecessarily rewarding difficult to recycle packaging.

**Empty space** - provisions to limit empty space should be retained to avoid the double burden of overpackaging and additional transport impacts from delivery services. The possibility to complement the 40% threshold with alternative methods such as surface area to volume packaging ratio and the packaging impact ratio may be considered (see our [position paper from 2019](#), p.6 for more information).

**DRS:** Deposit Return Systems remain the most effective way to ensure high levels of collection. Further exemptions to the mandatory introduction of DRS would undermine the effectiveness of these systems and distort the Single Market. A derogation based on an 85% collection rate does not represent a high level of performance and is inconsistent with the Single Use Plastics Directive. DRS serves as a stepping stone to well-functioning reuse systems, and further derogations should therefore be rejected. See [full position paper](#).

**Preference for industrial composting** - home compostability should not feature in the PPWR as home compostable packaging is known to poorly degrade in uncontrolled conditions and may also mislead consumers about the potential to degrade in the open environment.

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