



Packaging and Packaging Waste Regulation implementation and enforcement

A photograph of the European Union flag, which is blue with twelve yellow stars arranged in a circle. The flag is being held by two hands, one at the bottom left and one at the bottom right, and is waving in the air. The background is a blurred green landscape with trees.

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Packaging and Packaging Waste Regulation



Regulation (EU) 2025/40 sets out **sustainability and labelling requirements** for packaging **throughout its lifecycle** (production, use, waste management).

It aims to:

- reduce the **generation of packaging waste** (promotion of reuse, refill, bans)
- promote **circular economy** (e.g. recycled content in plastic packaging)
- improve the functioning of **the internal market**

The Regulation covers **all packaging and packaging waste**

Packaging compliant with the Regulation can be freely marketed across the EU.

The Regulation **entered into force on 11 February 2025** and **applies from 12 August 2026**. Several key provision apply from 2030.

Provide conditions for sustainable and circular packaging and prevent barriers to the internal market

Implementation

- Implementation by the **Commission**
- Implementation by **Member States**
- Implementation by obliged **economic operators**

Enforcement

- **Enforcement by Member States:**
 - **Market surveillance authorities**
(sustainability and labelling requirements)
 - **Competent authorities** (innovative packaging, reuse targets, refill and re-use, plastic carrier bags, extended producer responsibility, waste prevention and packaging waste management)
 - **Customs authorities**
- **TRIS notifications**
- **Complaints**

Overview of mandatory implementing and delegated acts, as well as other mandatory tasks linked to the implementation of the new Packaging and Packaging Waste Regulation

Overview:
- 11 implementing acts
- 3 delegated acts
- 13 specific reports and/or evaluation/review requirements to be followed, where appropriate by legislative proposals (in addition to the general review clause)
- 3 standardisation requests
- 3 mandatory guidelines
- 1 establishment of a new body (reuse observatory)

In addition to these mandatory tasks, the Commission is empowered to adopt several implementing or delegated acts, or to perform evaluations of specific provisions.

Recycled content – equivalence clause in Regulation (EU) 2025/40

Art. 7(3) + 7(9): Recycled content must be recovered from post-consumer waste that:

- (a) has been collected within the EU or in a third country according to the standards for separate collection that promote high-quality recycling equivalent to those referred to in the Waste Framework Directive of the SUPD
- (b) has been recycled in an installation within the EU to which Directive 2010/75 (IED) applies, or in an installation in a third country to which equivalent rules on emission limits and performance levels related to prevention and emission into air, water and land associated with recycling apply
- (c) Has been recycled within the EU in installations that comply with the “sustainability criteria” for plastic recycling technologies (to be established by the COM by end of 2026) or in third countries using recycling technologies in accordance with standards that are equivalent to the sustainability criteria.

Aim: ensure that **recyclates** comply with **high quality standards** for env and human health and ensure a **level-playing field** between EU-sourced and third-party sourced recyclates.

Needs to ensure **WTO compatibility** + **avoid unnecessary red tape**, esp. for SMEs

Way forward: looking for **alignment** with other EU legislation and initiatives + supporting study

By end of 2026 – COM to adopt an implementing act establishing the methodology for assessing, verifying and certifying, incl. through third party audit, the equivalence of the rules

from a Directive to a Regulation...

General rule

- Date of entry into force 11 February 2025
- Date of application: from 12 August 2026
- PPWR repeals the existing Directive 94/62 from 12 August 2026

Regulations are **directly applicable** (Art. 288 TEU).

According to the **principle of primacy**, national provisions implementing or transposing Directive 94/62, that are **incompatible with the Regulation**, are **inapplicable**.

To ensure clarity of the legal framework such national provisions should be **repealed by 12 August 2026**.

But...

- Several key provisions have a **delayed application date**
 - **Transitional provisions** (Art. 70, 71) maintain in force certain provisions and decisions taken under PPWD
- => Some existing national provisions may need to be **repealed only later, when the delayed provisions become applicable**

MS may keep existing national provisions when:

- **MS are addressees of the obligation** (they need to implement it)
- the subject matter is **not fully harmonized** (e.g. when PPWR lays down only minimum requirements)
- the subject matter **is fully harmonized, but** a specific provision expressly empowers MS to make additional **exemptions** or **go beyond the harmonized requirements**, under clearly defined conditions

⇒ Some existing national provisions **may be maintained**

Dates of entry into force of key provisions

Recyclability

From **1/1/2030** or 24 months after the delegated acts on DfR => packaging designed for material recycling with min. recyclability performance grades A, B and C (= 70%)

From **1/1/2035** or 5 years from the implementing act on recycled at scale methodology => compliance with 'effective' recyclability

From **1/1/2038**: recyclable within grades A or B (= 80%)

Minimum recycled content in plastic packaging:

1/1/2030 or 3 years from the date of entry into force of the implementing act (which is to be adopted by 31/12/2026)

1/1/2029: Compliance with the methodology how to calculate and verify the % of recycled content

Compostable packaging:

12/02/2028: tea & coffee bags + stickers + national flexibilities for tea & coffee system single serve units, LPCBs and VLPCBs and other packaging if required to be compostable before Feb 2026

Substances of concern:

12/08/2026
Decisions 2001/171 and 2009/292 (related to exemptions for heavy metal content) remain in force

Implementation by economic operators

Minimisation

1/1/2030: compliance with the performance criteria in annex IV

Existing standard and essential requirement apply until end of 2029

By 12/02/2027: COM to request a new standard

Reusable packaging:
From the date of entry into force (**11/2/2025**)

Minimum number of **rotations** depending on the date that will be specified in the IA (to be adopted by 12/02/2027)

Labelling

Consumer sorting => from **12/08/2028** or 24 months after the entry into force of the IA (to be adopted by 12/08/2026)

Recycled content, bio-based content => from **12/08/2028** or 24 months after the entry into force of the IA

Reusable packaging label => from **12/02/2029** or 30 months from the implementing act

EPR labelling rules => **12/02/2027**

Reuse targets

From **1/1/2030** (for the mandatory targets) or 18 months from the entry into force of the implementing act on the calculation of reuse targets (to be adopted by 30/06/2027)

Refill obligation: by 12/02/2027

Reuse offer: by 12/02/2028 and from 1/1/2030: 10% aspirational target

Packaging bans => from **1/1/2030** (COM guidelines by 12/02/2027)

Obligations of manufacturers

Manufacturer: person who has packaging, or a packaged product designed or manufactured under its own name or trademark
If that person is a **microenterprise** and the supplier of packaging is in the same Member State, the supplier is 'manufacturer'

Art. 4: Only PoM packaging that is in conformity with sustainability and labelling requirements

Art. 15: Exemption for manufacturers who are **microenterprises**: if **supplier** is in the EU, supplier takes over 'manufacturer's obligations

Keep technical documentation and provide it to MSA at request

Identify packaging

Before PoM: conformity assessment procedure (Art. 38) + draw up **technical documentation** (Annex VII)

Series production remains in conformity

Changes in packaging design, or applicable standards: verify if conformity is affected and update DoC

Take corrective measures and inform MSA thereof

Technical documentation must be passed along the supply chain

- Description of packaging and its intended use
- Drawings, materials, components
- List of standards, technical specifications
- Description of how assessments were carried out
- Test reports

Declaration of Conformity (DoC):

- model in Annex VIII;
- continuously updated
- Single DoC for packaging and packaged product

Obligations of other economic operators

Importer: person established in the EU placing packaging from third countries on the market



Same obligations as manufacturer, except that they do not themselves do the conformity assessment and draw up the DoC
No exemption for importers that are a microenterprise

Distributor: person in the supply chain other than manufacturer or importer making packaging available on the market



- Obligation to verify (a) EPR registration; (b) labelling; (c) identification of packaging and manufacturer/importer.
- If having doubts about conformity of packaging with sustainability requirement, labelling or identification requirements, they shall not sell such packaging/product.
- Obligation to take corrective actions and to cooperate with MSA

Authorised representative: person that has received a written mandate from a manufacturer



Tasks defined in a written mandate by the manufacturer, but at least keeping DoC, cooperation with MSAs
Cannot be mandated to do conformity assessment

Supplier (of packaging or packaging materials):



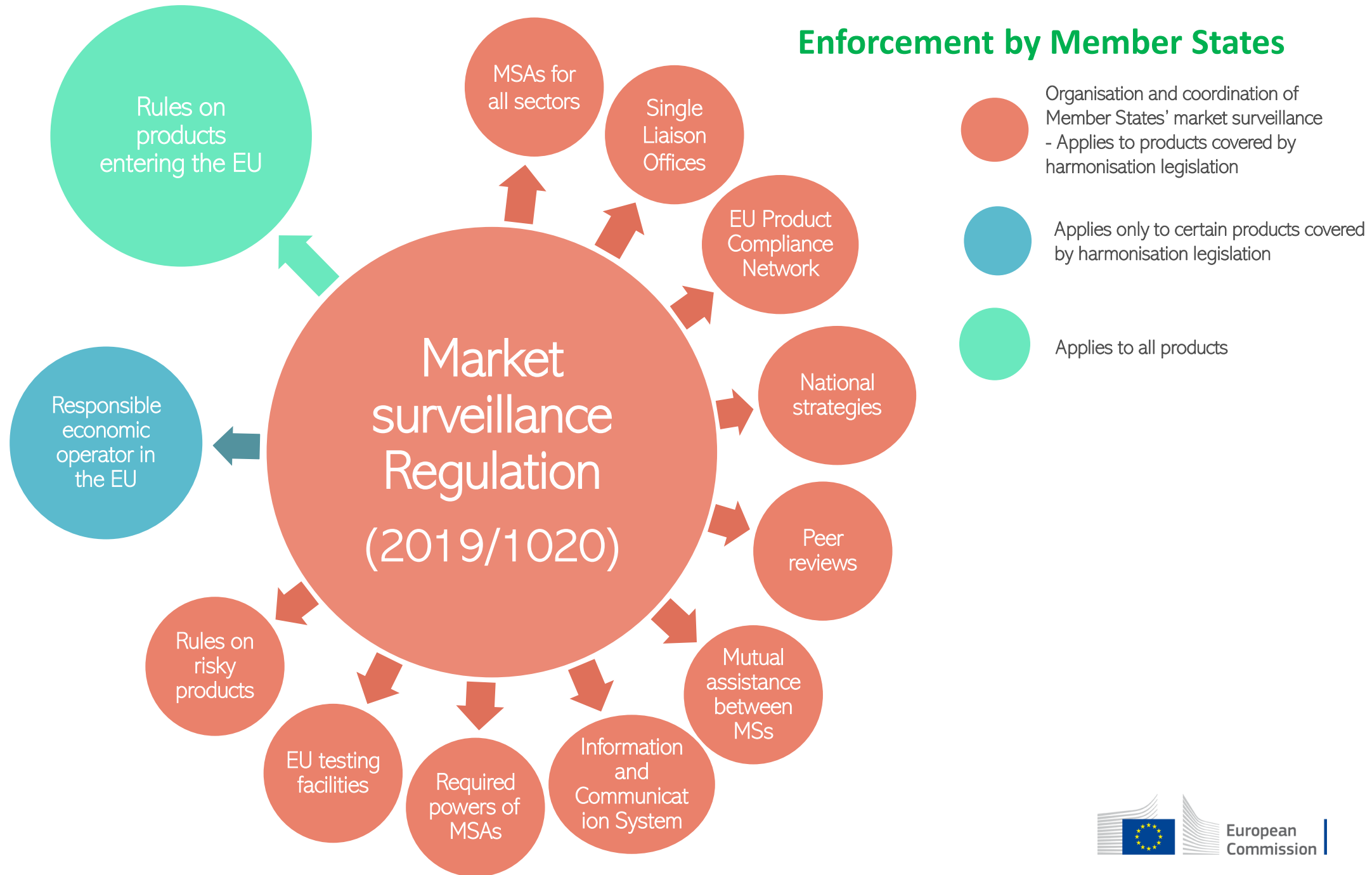
- Provide manufacturer with all the information and documentation necessary for the manufacturer to demonstrate compliance
- Cooperate with the Market Surveillance Authorities to establish the supply chain

Presumption of conformity and the use of standards

- Under PPWD => compliance with essential requirements was presumed if packaging was compliant with the harmonised standards which have been published in the Official Journal of the European Communities*
- Under PPWR, the old harmonised standards can be used only as guidance (see recital 58), which means that there is no presumption of conformity based on these standards. The only exception is foreseen in Article 70(1)(b) in relation to the essential requirement on packaging minimisation, which applies until end of 2029
- The Commission will consider taking formal measure to repeal the list of old harmonised standards before the new Regulation becomes applicable to avoid any confusion as to the presumption of conformity with the old standards
- The use of harmonised standards cited in the OJEU is not compulsory (they presume conformity with requirements of the Regulation they aim to cover from the date of their publication in the OJEU).

* Commission Communication in the framework of the implementation of Directive 94/62/EC (OJ C 44, 192.2005, p. 23- 23)

Enforcement by Member States



Safeguard Procedures – National Safeguard Procedure

National Safeguard Procedure (Art. 58): MSA have sufficient reason to believe that packaging is presenting a risk to the environment or human health => MSAs carry out an evaluation in relation to all relevant requirements of PPWR

If necessary, MSA will ask the relevant EO to take appropriate and proportionate **corrective actions** within reasonable timeline

If there is a **risk to human health** related to contact sensitive packaging and that there is a risk of transfer to the product => MSAs alert competent health authorities

If MSAs consider that there is a **transboundary effect** => MSAs inform Commission and other MSs of the results of the evaluation and measures taken through **information and communication system (ISCMS)**; now available in digital format

If the **non-compliance persists** (no corrective measures taken or measures ineffective) => MSA takes **provisional measures** to prohibit the making available of the packaging on their territory, withdraw it or to recall it

If **no objection** has been made by COM or other MS within **3 months** of receipt of the information through ISCMS, the **provisional measure is considered justified**

Similar possibilities for action of MSAs and COM exist in relation to **compliant packaging** (compliant with Art. 5 – 12 PPWR) **which presents a risk** (Art. 60 PPWR)

Safeguard procedures – Union Safeguard Procedure

Union Safeguard Procedure (Art. 59): in case objections are raised by other MS or if the Commission (COM) considers that the provisional measure is against the EU law => COM enters consultation with the MS and the relevant economic operator

Based on the results, **COM adopts an implementing** act determining if a national measure is justified (comitology procedure); the act shall be addressed to all MS

MS concerned must then implement the implementing act, by either ensuring that non-compliant packaging is withdrawn or by removing the measure

If non-compliance is related to shortcomings in the harmonised standards => COM applies procedure in Art. 11 of Reg. 1025/2012 (formal objection to HS with the possibility to withdraw references to the HS from the *Official Journal of the EU*)

Safeguard procedures for packaging entering the Union market

General framework

- **Chapter VII of Regulation (EU) 2019/1020 on market surveillance (Art. 25-28)**
 - In general, customs authorities control non-compliance or serious risks based on risk management
 - In case of 'hit' & suspicion of non-compliance or serious risks, they notify market surveillance authorities (MSA)
 - MSA have 4 working days to assess and confirm to customs: approval to release for free circulation / maintain suspension / refusal to release for free circulation
- but... customs are 'blind': no info in customs declaration as packaging is classified together with the main product (unless packaging is imported as standalone product)

Additional risk information for packaging

- **Art. 61 PPWR**
 - MSAs enter information in ISCMS when taking 'provisional measures' (i.e., measures to prohibit the making available of the packaging on their territory, to withdraw it or to recall it (Art. 58(6))
 - This additional risk information will feed into the customs' risk management system (CRMS) and be used for the customs risk analysis
 - Customs use additional info for risk analysis to stop non-compliant packaging before it is placed on the market
- Communication of information will be automated based on interconnection between ISCMS and Customs Risk Management System (CRMS)

Safeguard procedures for packaging entering the Union market => Interconnection between ISCMS and CRMS

- Art. 61(4): the **Commission shall develop the interconnection**
- Art. 61(5): The Commission is empowered to adopt **implementing acts** to specify
 - the procedural rules and the details of the interconnection
 - functionalities, data elements and data processing, rules on the processing of personal data, confidentiality and controllership
 - the interconnection shall start operating no later than 24 months from the adoption of the implementing act
- IA to be adopted by ENV committee with support of GROW (ISCMS) and TAXUD (CRMS)
- **No strict deadline** for adoption, but discussion already launched for similar projects (Forced labour)

Timeline:

- Current situation → Chapter VII of MSR applies
- Transitional phase: adoption of implementing act and IT development
- Final phase: no later than 2 years after the IA → automated exchange of risk information

Safeguard Procedures: Formal non-compliance

Formal non-compliance (Art. 62):

If issues related to **identification** of packaging or economic operator, **mistakes or lack of documentation** on packaging (DoC, technical documentation): MSA will ask the economic operator **to correct** the mistake; if the problem persists: **prohibition to market/withdrawal**

If issues related to **other obligations**: (excessive packaging, packaging bans, establishment and participation in reuse system, compliance with requirements related to refill (information to consumers, refill stations), reuse targets, reuse and refill obligations for take-away, recyclability and recycled content: **after the request for correction, penalties** as defined by MS in accordance with Art. 68 PPWR shall apply

TRIS notification procedure

Directive (EU) 2015/1535 lays down a system of notification of technical regulations in draft form applying standstill periods during which the Commission and all Member States can react in a specific form

The concept of technical regulation is very broad and includes technical specifications (product requirements) but also other requirements related to the entire life cycle, e.g. conditions of use, recycling, reuse, disposal (basically, all implementation measures for PPWR)

Directive aims to ensure smooth functioning of the internal market by avoiding trade barriers before they appear.

Scope: 27 EU Member States, Liechtenstein, Norway and Iceland (EEA States), Switzerland, Turkey, UK for Northern Ireland

Notification has to be made when substantial amendments can still be made

Possibility to react with comments (MS take into account), detailed opinion (MS respond and take it into account), or postponement of adoption (blocking decision) in case of ongoing EU legislative procedure

Non-notified technical regulations are unenforceable (CIA Security case (C-194/94))

Online data base + contact: GROW-DIR2015-1535-CENTRAL@ec.europa.eu

=> new rules give **legal certainty** for investment decisions and ensure that **compliant packaging can circulate freely in the EU**
=> **challenging implementation timeline** for the COM, MSs and economic operators;
=> implementation of the **market surveillance approach** for packaging with gradual better information and participation of the **customs authorities**

Thank you



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