



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs
Single Market Enforcement
Notification of Regulatory Barriers

Message 103

Communication from the Commission - TRIS/(2024) 3374

Directive (EU) 2015/1535

Notification: 2024/0527/PL

Forwarding of the observations of a Member State (Austria) (article 5, paragraph 2, of Directive (EU) 2015/1535). These observations do not have the effect of extending the standstill period.

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1. MSG 103 IND 2024 0527 PL EN 20-12-2024 17-12-2024 AT COMMS 5.2 20-12-2024

2. Austria

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4. 2024/0527/PL - S10E - Packaging

5. article 5, paragraph 2, of Directive (EU) 2015/1535

6. The framework legislation on the Polish deposit system was adopted in August 2023, with the Act scheduled to enter into force on 1 January 2025. Under the Act, distributors of beverages are required to achieve a collection rate of 77 % for their packaging in 2025 (increasing thereafter). Failure to comply may result in penalties. Although it is not mandatory to place products that are subject to a deposit on the market, only products that are subject to a deposit are counted for the purposes of the collection rate, i.e. the switch to products that are subject to a deposit is de facto mandatory. In July 2024, the Polish Ministry of Climate and Environment published a draft amendment to the Act. The draft did not affect the date of entry into force, but the Act was then adopted in the Council of Ministers with a postponement, and scheduled to enter into force on 1 July 2025. Given this postponement to the entry into force, it is still not fully clear whether only the date of entry into force has changed – or also the period within which the collection rates are to be achieved.

This draft, with the entry into force date of 1 July 2025, was notified in the TRIS system.

In October 2024, i.e. after notification in TRIS, a further postponement was discussed, which was adopted in the Council of Ministers at the end of October and postponed the entry into force to 1 October 2025. The draft legislation is scheduled to be finally adopted in the parliamentary session starting on 3 December 2024, and subsequently submitted to the President of Poland for signature and publication. This new postponement is not expected to be notified again in TRIS, as 'only' the date is to be changed.

The present legislative text amending the Packaging and Packaging Waste Management Act and certain other legal acts prompts the following comments:

It is not clear to Austrian businesses when the planned measures will come into force. As of today, producers of



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beverages that supply their products to Poland have to assume that the Act in its current form will enter into force on 1 January 2025, but at the same time they know that a postponement until 1 July 2025 is likely (as already notified), and a postponement to 1 October 2025 is possible (as this has political majority support and has been agreed in parliament). Given this legal and factual situation, Austria's beverage producers are facing legal uncertainty.

Furthermore, there are operational difficulties that the system involving several deposit management companies entails. This may be inconsistent with the minimum requirements for deposit and return systems set out in Annex X of the forthcoming Packaging and Packaging Waste Regulation, which is due to be adopted shortly. Although existing deposit systems established before the entry into force of the Packaging and Packaging Waste Regulation and achieving a collection rate of 90 % by 1 January 2029 are exempted from mandatory adaptation to the minimum requirements, Member States should also make efforts for these systems to ensure that the existing systems meet the minimum requirements.

Before the entry into force of the deposit and return system, national legislation must enable the producers and distributors concerned to adapt their production methods and the management of single-use packaging waste to the requirements of the new system. The Member State must ensure that, at the time of the changeover of the packaging waste management system, all producers and distributors concerned can effectively participate in a functioning system. This applies in particular to labelling provisions, which are a basic requirement for ensuring that products can be designed, produced, and subsequently marketed in accordance with the law. It is feared that companies may be subject to administrative criminal proceedings with a financial penalty.

Austria therefore invites the Polish authorities to ensure that there is an appropriate transitional period for companies to adapt to the legal situation and that, at the time of the changeover of the packaging waste management system, all producers and distributors concerned can effectively participate in a functioning system.

European Commission

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