



Reporting on packaging waste – legal situation

29 April 2022

Directive 94/62/EC on packaging and packaging waste¹ (hereafter: the Directive), as last amended by Directive 2018/852², sets out new recycling targets (Article 6(1), points (f) to (i)) and new calculation rules to account for their attainment. These new and clearer calculation rules are set, in particular, in provisions of Article 6a of the Directive as well as in new Articles 6a to 6d and Article 6f of Commission Decision 2005/270³ as last amended by Commission Implementing Decision 2019/665⁴).

However, attainment of the old targets, as set out in Article 6(1), points (a) to (e), of Directive 94/62, may still be shown. The old calculation rules for these targets are described in particular in Articles 3 to 6 of Commission Decision 2005/270, as last amended by Commission Implementing Decision 2019/665.

Member States must fully **apply the new calculation rules from the reference year 2020 onwards, for which data are to be reported at the latest by 30 June 2022.**

This follows from the new provision of **Article 12(3a) of the Directive**, which states:

3a. Member States shall report the data concerning the implementation of points (a) to (i) of Article 6(1) and data on reusable packaging, for each calendar year to the Commission.

They shall report the data electronically within 18 months of the end of the reporting year for which the data are collected. The data shall be reported in the format established by the Commission on the basis of Annex III in accordance with paragraph 3d of this Article.

The first reporting period concerning the targets set out in points (f) to (i) of Article 6(1) and data on reusable packaging shall start in the first full calendar year after the adoption of the implementing act that establishes the format for reporting, in accordance with paragraph 3d of this Article, and shall cover the data for that reporting period.

The implementing act that establishes the format for reporting (Commission Implementing Decision (EU) 2019/665) was adopted on 17 April 2019. Therefore, **the first reference year for reporting** (i.e. the first reporting period) **on the new targets will be year 2020**. Member States shall report the data electronically within 18 months of the end of that reporting year for which the data will be collected – that is at the latest by 30 June 2022.

¹ OJ L 365, 31.12.1994, p. 10

² OJ L 150, 14.6.2018, p. 141–154

³ OJ L 86, 5.4.2005, p. 6–12

⁴ OJ L 112, 26.4.2019, p. 26–46

Member States can still choose to report the attainment of the old targets based upon the old calculation rules, although they are encouraged to report this according to the new rules. Any Member State who wishes to continue reporting on the attainment of the old targets based on the old rules must also fill in a separate table (Table 1a) in the Eurostat questionnaire. Those who wish to report attainment of the old and the new recycling targets based on the new calculation rules, only need to complete Table 1.

This follows from the following legal provisions:

- Article 6e of Commission Decision 2005/270/EC, as last amended by Commission Implementing Decision 2019/665:

“For the purposes of calculating and verifying attainment of the targets set in points (a) to (e) of Article 6(1) of Directive 94/62/EC [i.e. the old targets], Member States may apply the calculation rules laid down in Articles 6a to 6d” [i.e. the new calculation rules].

- Article 9(5) of Commission Decision 2005/270/EC, as last amended by Commission Implementing Decision 2019/665:

“5. Where, for the purposes of verifying compliance with the targets set in points (a) to (e) of Article 6(1) of Directive 94/62/EC [i.e. the old targets], a Member State does not apply the calculation rules laid down in Articles 6a to 6d [i.e. a Member State decides not to use the new calculation rules], that Member State shall submit the data for verifying compliance with the targets set in points (a) to (e) of Article 6(1) of Directive 94/62/EC separately by using the format laid down in Table 1 of the Annex”.

In addition, Article 12(3b) of the Directive states:

3b. The data reported by Member States in accordance with this Article shall be accompanied by a quality check report and a report on the measures taken pursuant to Article 6a(3) and (8), including detailed information about the average loss rates where applicable.

Member States must thus accompany their report by a quality check report as set out in Commission Decision 2005/270/EC as amended by the Commission Implementing Decision 2019/665.