


# Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	1992/0436(COD) Procedure completed
Packaging and packaging waste Amended by <a href="#">2001/0291(COD)</a> Amended by <a href="#">2004/0045(COD)</a> Amended by <a href="#">2013/0371(COD)</a> Amended by <a href="#">2015/0276(COD)</a>	
Subject 3.70.12 Waste management, domestic waste, packaging, light industrial waste	

Key players			
European Parliament			
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Agriculture and Fisheries</a>	<a href="#">1816</a>	12/12/1994
	Budget	<a href="#">1780</a>	25/07/1994
	<a href="#">Environment</a>	<a href="#">1765</a>	08/06/1994

Key events			
15/07/1992	Legislative proposal published	COM(1992)0278	Summary
18/09/1992	Committee referral announced in Parliament, 1st reading/single reading		
02/06/1993	Vote in committee, 1st reading/single reading		Summary
02/06/1993	Committee report tabled for plenary, 1st reading/single reading	A3-0174/1993	
21/06/1993	Debate in Parliament		Summary
23/06/1993	Decision by Parliament, 1st reading/single reading	T3-0371/1993	Summary
09/09/1993	Modified legislative proposal published	COM(1993)0416	
24/11/1993	Vote in committee, 1st reading/single reading		
24/11/1993	Committee report tabled for plenary confirming Parliament's position	A3-0365/1993	
02/12/1993	Decision by Parliament, 1st reading/single reading	T3-0683/1993	Summary
04/03/1994	Council position published	<a href="#">04543/1/1994</a>	Summary
10/03/1994	Committee referral announced in Parliament, 2nd reading		
07/04/1994	Vote in committee, 2nd reading		Summary
07/04/1994	Committee recommendation tabled for	A3-0237/1994	

	plenary, 2nd reading		
02/05/1994	Debate in Parliament		
04/05/1994	Decision by Parliament, 2nd reading	T3-0403/1994	Summary
08/06/1994	Debate in Council	<a href="#">1765</a>	
25/07/1994	Parliament's amendments rejected by Council		
20/09/1994	Formal meeting of Conciliation Committee		Summary
08/11/1994	Final decision by Conciliation Committee		Summary
08/11/1994	Joint text approved by Conciliation Committee co-chairs	<a href="#">3633/1994</a>	
12/12/1994	Report tabled for plenary, 3rd reading	A4-0113/1994	
12/12/1994	Decision by Council, 3rd reading		
14/12/1994	Decision by Parliament, 3rd reading	T4-0177/1994	Summary
20/12/1994	Final act signed		
20/12/1994	End of procedure in Parliament		
31/12/1994	Final act published in Official Journal		

### Technical information

Procedure reference	1992/0436(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Amended by <a href="#">2001/0291(COD)</a> Amended by <a href="#">2004/0045(COD)</a> Amended by <a href="#">2013/0371(COD)</a> Amended by <a href="#">2015/0276(COD)</a>
Legal basis	EC before Amsterdam E 100A
Stage reached in procedure	Procedure completed
Committee dossier	CODE/4/05848

### Documentation gateway

Legislative proposal		COM(1992)0278 <a href="#">OJ C 263 12.10.1992, p. 0001</a>	15/07/1992	EC	Summary
Economic and Social Committee: opinion, report		<a href="#">CES0345/1993</a> <a href="#">OJ C 129 10.05.1993, p. 0018</a>	24/03/1993	ESC	Summary
Committee draft report		PE204.329/A	25/05/1993	EP	
Committee draft report		PE204.329/B	25/05/1993	EP	
Committee report tabled for plenary, 1st reading/single reading		A3-0174/1993 <a href="#">OJ C 194 19.07.1993, p. 0003</a>	02/06/1993	EP	

Text adopted by Parliament, 1st reading/single reading		<a href="#">T3-0371/1993</a> <a href="#">OJ C 194 19.07.1993, p. 0133-0154</a>	23/06/1993	EP	Summary
Modified legislative proposal		COM(1993)0416 <a href="#">OJ C 285 21.10.1993, p. 0001</a>	09/09/1993	EC	
Reconsultation		COM(1993)0570	10/11/1993	EC	
Committee final report tabled for plenary, 1st reading/single reading		A3-0365/1993 <a href="#">OJ C 342 20.12.1993, p. 0003</a>	24/11/1993	EP	
Text adopted by Parliament confirming position adopted at 1st reading		T3-0683/1993 <a href="#">OJ C 342 20.12.1993, p. 0015-0033</a>	02/12/1993	EP	Summary
Committee draft report		PE207.220	01/03/1994	EP	
Council position		<a href="#">04543/1/1994</a> <a href="#">OJ C 137 19.05.1994, p. 0065</a>	04/03/1994	CSL	Summary
Commission communication on Council's position		SEC(1994)0331	07/03/1994	EC	
Committee opinion	ECON	PE203.083/DEF	08/03/1994	EP	
Committee recommendation tabled for plenary, 2nd reading		A3-0237/1994 <a href="#">OJ C 128 09.05.1994, p. 0012</a>	07/04/1994	EP	
Text adopted by Parliament, 2nd reading		T3-0403/1994 <a href="#">OJ C 205 25.07.1994, p. 0145-0163</a>	04/05/1994	EP	Summary
Commission opinion on Parliament's position at 2nd reading		COM(1994)0204	25/05/1994	EC	Summary
Document attached to the procedure		SEC(1994)1785	03/11/1994	EC	
Joint text approved by Conciliation Committee co-chairs		<a href="#">3633/1994</a>	08/11/1994	CSL/EP	
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading		A4-0113/1994 <a href="#">OJ C 018 23.01.1995, p. 0020</a>	12/12/1994	EP	
Text adopted by Parliament, 3rd reading		T4-0177/1994 <a href="#">OJ C 018 23.01.1995, p. 0049-0060</a>	14/12/1994	EP	Summary
Committee draft report		PE209.092	16/01/1995	EP	
Follow-up document		COM(1999)0596	19/11/1999	EC	
Follow-up document		COM(2003)0250	19/05/2003	EC	Summary
Document attached to the procedure		<a href="#">SEC(2006)0972</a>	19/07/2006	EC	
Follow-up document		<a href="#">COM(2006)0406</a>	19/07/2006	EC	Summary
Document attached to the procedure		<a href="#">SEC(2006)1579</a>	06/12/2006	EC	
Follow-up document		<a href="#">COM(2006)0767</a>	06/12/2006	EC	Summary
Follow-up document		<a href="#">SEC(2009)1586</a>	20/11/2009	EC	Summary
Follow-up document		<a href="#">COM(2009)0633</a>	20/11/2009	EC	Summary
Follow-up document		<a href="#">COM(2012)0141</a>	28/03/2012	EC	Summary
Follow-up document		<a href="#">COM(2013)0006</a>	17/01/2013	EC	Summary

Follow-up document		<a href="#">COM(2017)0088</a>	27/02/2017	EC	Summary
Follow-up document		<a href="#">COM(2018)0656</a>	24/09/2018	EC	

### Additional information

European Commission

[EUR-Lex](#)

### Final act

[Directive 1994/62](#)  
[OJ L 365 31.12.1994, p. 0010](#) Summary

Final legislative act with provisions for delegated acts

## Packaging and packaging waste

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The draft report by Mr Vertemati (PSE, I) was adopted by the ENVI Committee by 25 votes to 5, with 4 abstentions, following voting of three hours on the 331 amendments tabled. The ENVI Committee adopted 98 amendments, in particular including: - 22, which excluded from the scope of application of the Directive primary packaging of pharmaceutical products and medical equipment (as a result of the risks to consumers' health) and packaging of a volume not above 100 cm<sup>3</sup> and a weight of 3 g. - 27, amending Article 4(1) to specify that 'five years at latest (10 years in the Commission proposal) from the deadline for transposition of the Directive into national law, 60% by weight (90% in the proposal) of the production of packaging waste shall be taken from the waste stream for recovery'. - 38, calling for the introduction of a database whose creation could be decided within three years of the entry into force of the Directive. - 106, establishing a 'hierarchy of priorities' in packaging policy: prevention, re-use, recycling, incineration for energy recovery, incineration without energy recovery and disposal in landfills. - 240, calling for taxation measures by Member States. - 246, calling for the establishment of a joint standardisation committee with representatives from commerce, industry and consumer protection and environmental protection organisations. The task of this committee would be to propose a timetable for the standardisation of packaging. - 9, from the Economic Committee, prohibiting the use of the re-use or recycling symbol for packaging that has to be incinerated. ?

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In rejecting by 172 votes to 108, with 22 abstentions, amendments 10 and 70 of the ENVI Committee under which that Member States were authorised to maintain in force legislative provisions or agreements between the public authorities and industry intended to ensure a higher level of protection of the environment than the provisions of this Directive ... 'provided that such provisions comply with the Treaty and are clearly in the interests of better protection of the environment', Parliament came out against national measures stricter than Community measures, of the type applied, for instance, in Denmark. Commissioner Bangemann pointed out during the vote that the Commission would reject amendment 70. He noted that the Member States had to notify the Commission of national provisions stricter than the Community legislation to enable him to ascertain whether or not they hampered the freedom of movement of goods. Parliament also adopted the part of amendment 76 from the ENVI Committee under which Member States, within a maximum of five years from the entry into force of the Directive, were to take measures to limit the concentration of heavy metals in packaging: lead: 150 ppm, cadmium: 1.5 ppm, chromium: 100 ppm, copper: 100 ppm, nickel: 50 ppm, mercury: 1 ppm, zinc: 400 ppm (151 votes to 138). It adopted the part of the amendment under which intermediate targets were to be set in order progressively to reduce materials containing halogenated or chlorinated components (i.e. all PVCs), but rejected the part of the amendment under which this packaging was also to be prohibited within ten years. Parliament rejected the part of amendment 83 under which the concentration levels of heavy metals did not apply to crystal. Parliament also adopted the first part of amendment 106 under which the recovery and management systems introduced in Member States were recognised as equivalent throughout the Community, given that account needed to be taken of the particular problems of SMEs. As regards the objectives of upgrading and promoting reusable packaging, Parliament adopted amendment 37 of the ENVI Committee under which, in particular for recovery, 60% by weight of the production of packaging waste would be taken from the waste stream for recovery within five years. In addition, 40% by weight of

each material included in packaging waste would be taken from the waste stream for recycling. Re-filling and/or re-use systems existing in the Community would be maintained. Packagings would contain a minimum percentage of recycled materials. ?

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The Council's common position contained new elements, some of which took account directly or indirectly of European Parliament amendments that were not incorporated by the Commission in its amended proposal. Moreover, 28 EP amendments already accepted by the Commission had been retained in the common position. The text provided for the adoption by the Member States of measures whose priority was to prevent packaging waste and whose other fundamental principles included reusing packaging, recycling and recovering packaging waste, and, hence, reducing the final disposal of such waste. - In terms of prevention, the Member States should implement measures that could involve national programmes or similar actions adopted in consultation with all the economic operators; - With regard to reuse, the Member States could promote the reuse of packaging which could be used in an environmentally sound manner; - In respect of recovery and recycling, the Member States should take the necessary measures to attain, during a first phase of five years from the entry into force of the directive, the following targets: . recovery: between 50% as a minimum and 65% as a maximum by weight of the packaging; . recycling: between 25% as a minimum and 45% as a maximum by weight of the totality of packaging materials contained in packaging waste, with a minimum of 15% for each material. Within 10 years, on the basis of a Commission proposal, the Council should provide for a substantial increase in these percentages. Transitional derogations would be granted to Greece, Ireland and Portugal due to their geographic situation and current low level of packaging consumption. Member States that implemented programmes whose recovery and recycling targets exceeded those laid down in the directive would be permitted to pursue those targets on condition that the measures avoided distortions of competition. To this end, provision was made for the Commission to verify the conformity of the measures with the internal market, in collaboration with the Member States. Furthermore, other provisions were included with regard to return, collection and recovery systems in order to meet the objectives laid down. Also, in relation to the composition of packaging, the text stipulated that three years after the adoption of the directive, the Member States should ensure that packaging was placed on the market only if it complied with the essential requirements defined by the directive. Member States should comply with the directive no later than 18 months following its adoption. ?

## Packaging and packaging waste

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The Committee on the Environment adopted the draft recommendation of Mr. Vertemati (I, PES). The current situation in Europe in the field of package and packaging waste is hardly acceptable. The directive needs to enter into force as soon as possible to prevent any further divergence between the countries which have already introduced national measures and those which have not yet done so. The provisions that some member states have implemented are laudable in aim, they have in many cases created difficulties for the recycling industries in other areas. The rapporteur expects that the directive will promote fairer competition in the internal market, since the existence of so many disparate national provisions inevitably has led to market distortion. Mr. VERTEMATI points out that the common position includes improvements, for example provisions for the prevention of packaging waste. But the common position does not go far enough and therefore most of the amendments at first reading have been retabled and again adopted.

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Parliament maintained at second reading the essential elements of its philosophy in the area of packaging waste, and stated that the best way of preventing the production of packaging waste was to reduce the overall volume of packaging, which was a vital condition for sustainable development. In its 18 amendments to the Council's common position, Parliament extended the definition of packaging to include all items used for the containment and protection of goods. It encouraged reusing packaging, including the use of auxiliary products enabling packaging to be refilled. Landfill would not be considered a form of organic recycling. The public authorities and statutory organisations were added to the list of economic operators involved and a definition of voluntary agreements was introduced as a form of cooperation. Parliament called for the harmonisation of the databases which should also include information on the toxic or dangerous nature of materials. In this respect, the Member States were required to ensure that the economic operators provided reliable data in this field. Parliament also hoped that the procedure laid down to determine the objectives at the end of the first phase would be repeated every five years. Finally, with regard to the adoption of economic instruments to facilitate the implementation of this directive (at Community level or, by default, at Member State level), the European Parliament laid down the following conditions: respect for the principle of the polluter pays, no distortion to competition, no obstacles to the free movement of goods and no discrimination against imported products. ?

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Parliament approved the joint draft directive.

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**OBJECTIVE:** European Parliament and Council Directive 94/62/EC seeks to harmonize national measures in order to reduce the levels of packaging waste produced and promote the recovery of such waste. **SUBSTANCE:** - The Directive applies to all types of packaging placed on the market in the Community and to all types of packaging waste; - As regards prevention, Member States should see to it that measures are implemented in the form of national programmes or similar actions adopted in consultation with economic operators; - As far as reuse is concerned, Member States could encourage reuse systems for packaging which was suitable for recycling in an environmentally sound manner; - As regards recovery and recycling, Member States should take the necessary measures to attain the following targets, which were to apply in a first five-year phase from the entry into force of the Directive: . recovery: 50% as a minimum and 65% as a maximum by weight of the packaging waste; . recycling: 25% as a minimum and 45% as a maximum by weight of the totality of packaging materials contained in packaging waste, with a minimum of 15% for each packaging material; - No later than 10 years from the implementation of the Directive, a substantial increase in these percentages must be determined by the Council following a proposal from the Commission. Transitional derogations were granted to Greece, Ireland and Portugal, because of their geographical situation and their low level of packaging consumption; - Member States putting in place programmes whose recovery and recycling targets exceeded those laid down in the Directive were permitted to pursue these objectives provided that the measures being applied in this area did not produce distortions of competition. To this effect a verification procedure would be set up by the Commission, in collaboration with the Member States, to ensure that the said measures complied with the principles of the single market; - The Directive defined the essential requirements which would have to be met by the packaging in respect of its composition and suitability for reuse and recovery. Member States were to ensure that three years from the adoption of this Directive, packaging could be placed on the market only if it complied with these essential requirements; - A series of practical measures was proposed in order to achieve these results: . Member States would introduce systems for the return, collection and recovery of used packaging; . Member States were to draw up suitable management plans; . packaging would bear the appropriate marking to indicate its suitability for reuse or recovery; . users of packaging would be provided with the necessary information. - Member States were to comply with the Directive on or before 30.06.1996. ?

## Packaging and packaging waste

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The European Commission's report intended to inform the other Community Institutions, Member States and the interested public of the implementation of Community legislation for the period 1998 to 2000, in particular the implementation of Directive 75/442/EEC on waste; Directive 91/689/EEC on hazardous waste; Directive 75/439/EEC on the disposal of waste oils; Directive 86/278/EEC on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture, and Directive 94/62/EC on packaging and packaging waste. The results shown in this paper made it clear that Directive 94/62/EC had encouraged increases in the recovery and recycling of packaging waste. In addition, although total tonnages of packaging waste continued to increase in most Member States, a decoupling between economic growth and growth of packaging waste had occurred for the EU as a whole and for many individual Member States in particular in the period 1997 to 1999. The directive had to be implemented by Member States by 1996. It was therefore reasonable to assume that most of the increases in the recycling and recovery of packaging waste from 1997 to 1999 were the direct result of the directive. It was possible to make a rough estimate of about EUR 200 million for the environmental savings that had resulted from these higher rates of recycling and recovery, though it was not possible to say exactly how much of this was due to the implementation of Directive 94/62/EC on packaging and packaging waste. It was not possible at present to evaluate more fully the effects of the directive, since such an exercise would require additional analytical work. Additionally, the results of a cost-benefit study on possible targets supported the feasibility and usefulness of a considerable increase in recycling and recovery targets in the proposed revision of the Packaging Directive. Despite positive results achieved the progress made with the implementation of Community waste legislation could not yet be considered satisfactory. The number of infringement procedures reflected well the current state of play. Significant efforts were therefore needed to achieve full implementation of Directives 75/442/EEC, 91/689/EEC, 75/439/EEC, 86/278/EEC and 94/62/EC, focusing in particular on the hierarchy of principles of waste management.?

## Packaging and packaging waste

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The Commission has presented its report on the implementation of Directive 94/62/EC on packaging and packaging waste and its impact on the environment, as well as on the functioning of the internal market.

Packaging is a relatively small but not insignificant product and waste stream. In 2002, around 66 million tonnes of packaging waste were generated in EU15. This is around 5% of total waste generation. Packaging waste accounts for around 17% of municipal waste by weight and between 20% and 30% by volume. However, weight is not the best indicator for the environmental impacts of packaging waste and the impacts of packaging throughout its life cycle. The overall environmental impacts of packaging are in the order of magnitude of one to a few percent of the overall economy. For example, the greenhouse gas emissions related to packaging consumption in the EU15 are estimated at around 80 million tonnes of CO<sub>2</sub> equivalent per annum. This is around 2% of total greenhouse gas emissions of EU15. The share of packaging for other environmental impacts, such as air acidification, fine particles and eutrophication is of a comparable magnitude.

The ex-post assessment of the impact of the Packaging Directive on the environment shows an increase of packaging recovery and incineration at waste incineration plants with energy recovery by 9% and an increase of packaging recycling by 8% between 1997 and 2002. At the same time, all the targets established in the directive were met in 2002. Recycling of packaging had positive environmental effects, including greenhouse gas savings and resource savings. Other environmental benefits include reduced emissions of particulates, decreased acidification, less traffic noise, odours, visual disturbance etc. These are noticeable and significant benefits of the industry's efforts to implement the requirements of the Packaging Directive. The data demonstrate that the additional costs related to the recycling obligations of

the Packaging Directive as compared to other waste management options (e.g. disposal) are not significantly higher and show a decreasing trend. The costs for packaging recycling are in the same order of magnitude as the most cost-efficient alternatives to reduce CO2 emissions and other environmental impacts.

The Commission considers that the recycling and recovery targets contained in the Packaging Directive are currently optimal and should remain stable to enable all the Member States to catch-up with these targets. A substantial progress on prevention can only be achieved through the application of measures tailored to specific conditions in which packaged goods are marketed such as, for instance, consumption and distribution patterns. Incorporating in waste framework legislation an obligation for Member States to develop waste prevention programmes as proposed by the Commission in the context of the Thematic Strategy on the prevention and recycling of waste constitutes an appropriate instrument to promote waste prevention in general as well as prevention of packaging waste in particular.

In the longer term, recycling of packaging waste must be seen in the general framework of EU waste recycling policy as defined in the Thematic Strategy on the prevention and recycling of waste. The Commission intends to include an assessment of the progress made by the Member States in preventing, recycling and recovering waste in the 2010 review of the Thematic Strategy on the prevention and recycling of waste. This assessment shall build, inter alia, on an update of the assessment of the impacts of the Packaging Directive and take into account the progress of the Member States towards the increased recycling rates set by the European Parliament and the Council in the 2004 review of the Directive.

There is evidence (particularly in the beverage sector) that the Directive has not yet fully achieved its internal market objective. This is partly due to incorrect implementation of the provisions of the Packaging Directive, but also due to the increasing number of unilateral measures leading to a partitioned market. Therefore, the Commission will further evaluate the need for action that could be taken on the EU level to avoid constraints as regards the internal market in the future. Progress towards the proper enforcement of the essential requirements and harmonized definitions and reporting procedures across Member States will further contribute to the creation of a level playing field for all economic operators.

## Packaging and packaging waste

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Article 3(1) of Directive 94/62/EC defines 'packaging' by setting out a number of criteria. The items listed in Annex I to that Directive are illustrative examples of the application of those criteria.

For reasons of legal certainty and harmonisation of the interpretation of the definition of 'packaging', it is necessary to review and amend the list of illustrative examples to clarify additional cases where the borderline between what is packaging and what is not, remains unclear. The review follows calls from Member States and economic operators to reinforce the implementation of the Directive and create a level playing field in the internal market.

Directive 94/62/EC should therefore be amended accordingly.

The Committee established by Article 21 of Directive 94/62/EC has not delivered an opinion on the measures provided for in this Directive. In the light of the position taken by the Committee, the item 'release paper of self-adhesive labels' has been deleted from the proposal.

Thus, in accordance with the procedure set out in Article 5a of Decision 1999/468/EC a proposal for a Directive 94/62/EC is submitted to Council and forwarded to the European Parliament.