

Final Countdown for the Implementation of the Deposit Return System in Romania

Marta-Claudia Cliza¹, Laura-Cristiana Spataru-Negura²

¹Nicolae Titulescu University, Bucharest, Romania, claudia@cliza.ro

²Nicolae Titulescu University, Bucharest, Romania, negura_laura@yahoo.com

ABSTRACT: This study aims to present the current status of the Deposit Return System (DRS) implementation in Romania (called in Romanian ‘Sistem de Garantie Returnare’ and abbreviated as SGR). In 14 days from now, Romania must start operating the deposit return system according to the European Union legislation and the Romanian legislation put in place. Being an important component of the circular economy, everybody's asking if, through this implementation, Romania will be able to attain the recycling objectives of the European Union and be clean, especially now, on November 16, 2023, when the European Commission initiated infringement proceedings against Romania and five other EU member states over waste management issues. Numerous questions arise concerning the implementation and operation of DRS. Is Romania ready for this moment, especially since it is supposed to collect more than 7 billion recipients at the national level? What is the present status of the deposit return system implementation and how difficult will be to put in place a functioning operating system? Are all the stakeholders involved in DRS ready? This study will address the current issues in implementing the deposit return system in Romania, hoping that point by point will be addressed by the Romanian authorities in due time to have a functional system on November 30, 2023.

KEYWORDS: deposit return system, DRS, EPR, European Union, packaging waste, Romania, targets, SGR

Introduction

At the European Union level, waste management and recycling are key elements on the EU agenda. The EU waste policy, which represents a series of legislative packages addressing waste in general and packaging waste in particular, is very complex, setting objectives and targets to improve waste management, stimulate innovation in recycling and limit landfilling (European Commission 2023a). The EU waste policy is based on the *polluter pays principle* and on the *extended producer responsibility* (EPR), to attain the objective of *zero pollution*.

The principle regarding the polluter pays was first introduced in 1972 by the Organisation for Economic Co-operation and Development (OECD) “as an economic principle for allocating the costs of pollution control” (OECD 1992, 5). The European Commission (2023b) has consulted EU citizens and stakeholders on the polluter pays principle which “requires polluters to bear the cost of the pollution they cause.”

Aware of the consequences of not properly applying this principle, the Directorate-General for Environment of the European Union considers them as “the bill for environmental damage caused by polluters too often ends up being paid for by citizens and weighs heavily on public funds” (European Commission 2023b). Therefore, the polluter pays principle supposes that consumers or companies should bear the costs of the negative externality created by them. It is a basic principle applicable in environmental policy in order to prevent pollution and to repair damages.

The extended producer responsibility (EPR) is an environmental policy in which the producer has the extended responsibility for its product to the post-consumer stage of the cycle of the respective product life. According to the OECD definition, EPR is “an environmental policy approach in which a producer’s responsibility for a product is extended to the post-consumer stage of a product’s life cycle” (OECD 2023). This principle supposes that the responsibility is shifted upstream towards the producer from the municipalities.

Taking into consideration these two principles, in order to prevent pollution, the European Union has regulated the deposit return system (DRS) as a complex component of the circular economy, which supposes that things are made and consumed in such a way as to minimize the world resources use, to cut waste and to reduce carbon emissions. Through repairing, recycling and redesign, products are kept in use for as long as possible being used again and again. When the product's life is ended, the component materials are kept in the economy and are reused wherever possible.

As regards the deposit refund system (Walls 2011), this system is very complex from the legislative point of view due to its way in which the various stakeholders involved in the producer consumer recycling chain organize a system of voluntary return of packaging, single use or reusable, through the use of a financial incentive (guarantee). Its complexity is given by the fact that it must be implemented in compliance with the existing provisions on waste and packaging waste, and a number of legislative amendments are needed to ensure its functionality in line with the current legislation in order to avoid interpretations contrary to the intended purpose and operational bottlenecks. In this system, the consumer pays a monetary deposit called a guarantee when buying a product packaged in returnable packaging and it recovers the guarantee when returning the packaging to one of the specially set up collection centres.

At the end of November 2023, Romania must start operating the deposit return system according to the European Union legislation and the Romanian legislation. It is true that in the European Union, the deposit refund system has already been implemented with success in countries such as Germany, Denmark, Norway, Sweden, Finland and Croatia. In this respect Romania has the possibility to learn from other EU member states experience. As you will see further on how this system is expected to work and what are the current issues in operating the deposit return system in Romania

Romania, the waste management and the DRS

For years, it has been well known that, at the European Union level, Romania has a huge problem with waste management. The basic problems are related to illegal landfills and to minimal recycling. Even if the EU has provided Romania with large amounts of money to counter the waste management problems, and even if the Romanian authorities try to implement the waste management package, many infringement procedures (European Commission 2023c) regarding waste management are under scrutiny of the European Union.

Even on the day of our Conference, 16 November 2023, the European Commission initiated infringement proceedings against Romania and five other EU states over waste management issues. In this respect, the Commission has sent formal letters of formal notice to Austria, Bulgaria, Cyprus, the Czech Republic, Estonia and Romania, in order to remedy deficiencies in the transposition of Directive 2008/98/EC on waste, as amended by Directive (EU) 2018/851/EU (Dumitrescu 2023). In this regard, in the procedure for transposing the legislative amendments introduced by Directives no. 851 and 852 of 30 May 2018, Romania has undertaken through its environmental policy to adopt this return system for non-refillable and refillable primary packaging made of glass, plastic or metal.

At the European level, in 2020, we—the authors of this present study—have been involved in preparing a scientific opinion on the regulation and implementation at the national level of the deposit return system at the request and for the exclusive benefit of the Ministry of the Environment, Water and Forests in Romania. This scientific opinion was given regarding the implementation at the national level of the deposit return system applicable non-refillable primary packaging made of glass, plastic or metal, with volumes between 0,1 l and 3 l inclusive, used to make available on the national market beer, beer mixes, spirit mixes, cider, other fermented beverages, juices, nectars, soft drinks, mineral waters and drinking waters of all kinds, wines and spirits. In the Annex no. 1 of this scientific opinion there was attached a

model legislative act (a government decision) on the establishment of the deposit return system drawn up based on the vision of the Ministry of the Environment, Water and Forests, regarding the implementation and operation of the deposit return system. This proposal was drafted upon the national provisions of Law No. 249/2015 on how to manage packaging and packaging waste, which established the mandatory elements to be included in this act, as well as on the legislation developed in other EU Member States where the deposit return system has already been implemented.

Through its legislation, Romania has undertaken a commitment to regulate and transpose a deposit return system into national legislation by 1 January 2021, but because all the stakeholders were not ready at that time, the Romanian competent authorities decided to postpone this deadline to 30 November 2023. In this respect it is applicable the Government Decision no. 1074/2021 on the establishment of the deposit return system for primary non-refillable packaging, published in the Official Gazette No 955 (2021).

According to the Romanian legislator, the DRS has the sole purpose of implementing the EPR in order to collect and recycle the DRS packaging waste introduced by them on the national market. In this respect, please note that the DRS is the way for the economic operators referred to in art. 16 paragraph (1) of Law no. 249/2015 (i.e. producers), to carry out the responsibility for the collection, transport and recycling of DRS packaging. According to the Romanian law, the DRS applies to primary non-refillable packaging made of glass, plastic or metal with volumes between 0.1 L - 3 L inclusive. Non-reusable packaging can be related to the following products: beer, beer mixes, alcoholic beverage mixes, cider, other fermented beverages, juices, nectars, soft drinks, mineral waters and drinking waters of all kinds, wines and spirits. Consumers or end-users may return the DRS packaging at any return point organized by traders on the territory of Romania, regardless of where the packaged product was purchased and without being required to present the tax receipt in order to recover the guarantee. The guarantee applies to each unit of product in DRS packaging and is separately evidenced in the fiscal documents of producers, distributors and traders when marketing products, including to consumers or end users.

From 30 November 2023, producers with primary non-refillable packaging are obliged to charge the guarantee when placing products in DRS packaging on the national market. And from the same date, the value of this guarantee is of 0.5 lei for all SGR packaging (i.e. ten euro cents). The objectives of the DRS in Romania will be achieved by the DRS administrator: RetuRo Sistem Garanție Returnare S.A. (<https://returosgro.ro/>), a Romanian legal entity, unique at national level, established exclusively for the purpose of implementing, managing, operating and financing the system.

The DRS administrator has as shareholders the associative structures of the producers, which together hold a market share of at least 30%, based on the number of DRS packaging units placed on the market in the last fiscal year completed prior to the submission of the documentation for accreditation, and the Romanian State represented by the central public authority for environmental protection with a percentage of 20%.

Beverage producers, through the DRS administrator, are obliged to achieve the following minimum annual DRS packaging return targets: return targets for recyclable glass, plastic or aluminium packaging within DRS Romania:

Fig. 1. Objectives for glass, plastic, and metal for the period 2024-2026



Source: TOMRA (2023)

So, how will this system work more concretely? The DRS will work in Romania as follows:

- i. the consumer will pay a deposit of 0.50 lei when purchasing a drink in DRS packaging from a retailer;
- ii. after emptying the package, the consumer will have to bring it to any of the return points organized by the retailers (automatic or manual, depending on their consumer flow), not being necessary to present the receipt;
 - in order to be accepted for return, the packaging must meet a number of acceptance criteria, as follows:
 1. the mark indicating DRS membership must be affixed;
 2. the marking and the barcode must be visible/readable;
 3. be whole, undamaged or undeformed so that DRS membership can be established;
 4. be completely emptied of contents;
 5. be returned no later than 24 months after the date of publication on the DRS administrator's website of the notice of the manufacturer's cessation of the placing on the market of the product concerned.
- iii. in exchange for the packaging, the consumer will receive back, on the spot, the amount of the guarantee originally paid, in the form of cash, voucher or bank transfer;
- iv. once the packaging has been received at the return points, it will be taken over by the DRS administrator.

The trader is obliged to keep the returned DRS packaging separate from other packaging that is not part of the DRS.

Romania and the current issues in implementing the deposit return system

According to the provisions of art. 10 paragraph (1) of the Government Decision no. 1074/2021, from 30 November 2023, the DRS, which is unique at national level, shall be binding on all producers and traders under the terms of this decision, applying to both products manufactured on national territory and products imported or purchased intra-Community, under non-discriminatory conditions, including the possibility for economic operators to participate effectively in the operation of the scheme and the tariffs imposed on them by the DRS administrator. Of course, that at this moment, all the stakeholders are under pressure to be ready for the date of entry into operation of this system, at the end of November 2023, when the system must be put in place. However, there are still current issues in implementing the deposit return system in Romania.

Firstly, the system functionality is not tested. We do not know when it will be tested, if all the stakeholders know what to do and how to operate. There are so many obligations established for the producers and for the traders...

For instance, the producers placing DRS products on the Romanian market have the following obligations:

- i. to register in the DRS database;
- ii. to conclude a contract with the DRS administrator in order to fulfil the legal obligations;
- iii. to mark the DRS packaging according to the legislation, with a distinctive sign/symbol easily recognizable and understandable by consumers, as well as a bar code and DRS logo (here link to the technical specifications file);
- iv. to use the software developed, managed and made available by the DRS administrator to report on the packaging placed on the national market and covered by the DRS;
- v. to keep records of the total number of products in DRS packaging by type of material, weight and volume, as well as records of the related guarantees charged;
- vi. to communicate to the DRS administrator the updated records referred to in the previous point by the 10th of the following month for DRS packaged products placed on the national market during the reference month, in the format and procedure established by the DRS administrator;

- vii. to pay the DRS administrator the amount of the guarantee for the DRS packaged products placed on the national market by the 25th of the month following the placing on the market of the products;
 - viii. to collect from their customers the guarantee for products in DRS packaging placed on the national market and purchased by them;
 - ix. to pay the DRS administrator the administration fee according to the contract concluded.
- Instead, traders have the following obligations:
- i. to register in the database managed by the DRS administrator;
 - ii. to conclude contracts with the DRS administrator within 90 days of the date of registration;
 - iii. to clearly indicate the amount of the guarantee on the shelf and on the fiscal documents relating to the product in the DRS packaging;
 - iv. to pay the amount of the guarantee to the economic operators from whom they purchase products packaged in DRS packaging;
 - v. not to market products packaged in DRS packaging purchased from producers not registered with the DRS administrator or from distributors of such producers;
 - vi. not to market products packaged in DRS packaging which are not marked in accordance;
 - vii. to collect the guarantee for products in DRS packaging from their customers;
 - viii. to display information to consumers or end-users in their sales structures regarding DRS;
 - ix. to organize return points;
 - x. to take back at the return points all DRS packaging returned by consumers or end-users and to return the value of the guarantee to them when they return the DRS packaging;
 - xi. to protect the DRS packaging taken back at the return points against damage, theft and other similar situations until it is taken back by the DRS administrator;
 - xii. to allow the DRS administrator alone to take back the DRS packaging from the return points, at the request of the DRS administrator or his designated representative;
 - xiii. to use the software made available online by the DRS administrator for reporting DRS packaging and the associated guarantees;
 - xiv. to keep records of the total number of DRS packaged products sold, broken down by product, for each sales structure and/or online shop they operate, records of the total number of DRS packages that have been returned to the retailer by consumers or end-users, broken down by type of material and volume, and records of guarantees paid, collected on the sale of products and returned to consumers at the point of return, respectively collected from the DRS administrator;
 - xv. to allow controls by the competent authorities and to provide them with documents, accurate and complete information on the trader's compliance with his obligations, as well as supporting documents received from consumers or end-users, the DRS administrator, and other economic operators within the DRS with whom the trader has concluded contracts;
 - xvi. to provide in writing, within a maximum of 10 working days, clarifications and information requested by the DRS administrator in relation to the fulfilment of the obligations.

We also underline that the Romanian legislator provided that the failure to register in the database managed by the DRS administrator is punishable by a fine of 20,000 to 40,000 lei.

Secondly, we do not have too much information about the IT platform and the supply chain. Nexus ERP announced that it implements the Romanian DRS system so that at the time of entry into force, all specifications to be functional (<https://www.nexuserp.ro/blog/sistemul-de-garantie-returnare-sgr-in-romania-ce-reprezinta-cui-se-adreseaza-si-care-sunt-responsabilitatile-partilor-implicate>). An additional setup of the Nexus ERP system is necessary to meet all the requirements specified in the Government Decision no. 1074/2021, in order to be able to proceed to keeping record of:

- i. the total number of products in DRS packaging marketed, broken down by product;
- ii. the total number of DRS packaging returned by consumers or end-users, broken down by type of material and volume;
- iii. guarantees paid, collected on the sale of products and returned to consumers at the point of return, i.e. collected from the DRS administrator.

We did not find any materials published regarding this setup so that Nexus ERP users to know how to set up their own system, reason for which we are a little bit concerned in this respect. From our experience, many problems may arise in this respect.

Thirdly, we are aware that not all the producers and traders had the ability to sign contracts in time and to take back packaging.

According to art. 3 of the Government Decision no. 1074/2021, the producers and traders placing on the national market packaged products were required to register in the database managed by the DRS administrator until 28 February 2023.

They were required in this respect to submit to the DRS administrator a notification in digital format with a simple or qualified electronic signature containing at least the following information:

- i. the identification data of the producer, accompanied by a copy of the tax registration certificate;
- ii. the name, telephone number and e-mail address of the designated contact person on behalf of the manufacturer in relation to the DRS administrator;
- iii. the number of packaging units covered by the DRS, and the related weight of packaging in kilograms placed on the national market in the previous calendar year, broken down by type of material, volume per packaging unit and product categories contained.

If the producers fail to provide such notification in time, then they will not be able to sign the contracts with the DRS administrator in time.

Fourthly, and the most important from our perspective, it is necessary that the Romanian legislator to adopt the necessary legislative package.

Changes in the primary legislation are required, for instance, to recognise the deposit return system figures within the producers' objectives according to the law. Producers are concerned in this respect in order not to be asked to pay a double penalty. Changes in the tertiary legislation are also required, for instance, to provide a functional calculation methodology which is not available at this moment.

We can only hope that the legislative package required to put in place such complex system will be finished in time in order to be applied – from our information, the remaining pieces of legislation of this legislative package are now under interministerial endorsement.

Of course, that many legal provisions must be put in place in order that the DRS to be functional in Romania and to be supervised. In this respect, please note that the supervision of the implementation of the DRS in Romania will be carried out by the Supervisory Committee, which will ensure the transparency and stability of the system and will refer the matter to the competent bodies whenever it becomes aware of a breach of any of the obligations laid down by the law and the DRS administrator. The Supervisory Committee is composed of representatives of producers, traders and public authorities with responsibilities in the field.

Concluding Remarks

We are all aware that waste management is one of the acute problems of contemporary European society, a reason for which we all need to identify optimal waste management solutions for this problem. Although Romania is nowadays concerned regarding several infringement proceedings on waste management in which very high fines are involved (fines of approx. 3,000 euros/landfill/day of non-closure), nowadays the Romanian authorities are very optimistic regarding the DRS start of the operation on 30 November 2023.

Through the deposit return system, Romanian authorities are hoping to increase the percentage of recycling targets achieved nowadays around 12% to 95% through DRS. Although thorough preparation for the implementation of the deposit return system can be observed at all stakeholders, we cannot ignore the complexity of this implementation based on the rural versus urban areas and the high number of retailers involved (i.e., around 80,000).

The DRS is an effective environmental tool to support separate collection for recycling of beverage packaging, by which different actors in the producer-consumer-recycler chain organize a return system for packaging with the help of an incentive called a guarantee. A change from one waste management system to another involves thorough preparations by all parties involved, but also the fact that this phase is critical especially for economic operators, the transition to the new system should be seamless and without jeopardizing the ability of the economic operators involved to really participate in the new system as soon as it becomes operational.

We are aware that 2024 will be for Romania a calibration year for the entire system. We hope that every stakeholder will be aware that this implementation is also a moral duty to have a cleaner Romania. Even the representatives of the Romanian Government, as for instance Mr. Mircea Fechet, the Minister for the Environment, Water and Forests, are aware of this huge step to be taken, declaring that “the DRS is the most important waste management policy in Romania in the last 30 years and will be the second largest in Europe after the German one” (Agerpres 2023). And, after all, the successful implementation of the deposit return system in Romania, will also serve the new level of ambition set by the European Commission, especially the Zero Pollution Action Plan (European Commission 2023b) which aims, until 2050, to reduce air, water and soil pollution to certain levels which are no longer considered harmful to human health and to natural ecosystems.

This EU action plan represents a key deliverable of the European Green Deal (European Council of EU 2023) which represents the EU’s strategy for reaching the climate neutrality by 2050. In this respect, we are hoping that through the correct implementation of DRS, Romania will be on the correct “pathway to a healthy planet for all”, as imagined by the EU representatives and presented in the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions in May 2021(European Commission 2021).

References

- Agerpres. 2023. “Mircea Fechet: The Guarantee-Return System in Romania will be the largest in Europe, after Germany.” Available at <https://www.agerpres.ro/mediu/2023/10/04/mircea-fechet-sistemul-garantie-returnare-din-romania-va-fi-cel-mai-mare-din-europa-dupa-germania--1180270>.
- Dumitrescu, R. 2023, November 17. “EC begins infringement procedure against Romania for failing to meet waste recycling targets.” *Romania-insider.com*. Available at <https://www.romania-insider.com/ec-begins-infringement-romania-waste-recycling-targets-2023>.
- European Commission. 2021. COM(2021) 400 final, *Pathway to a Healthy Planet for All – EU Action Plan: Towards Zero Pollution for Air, Water and Soil*. Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021DC0400>.
- European Commission 2023a. “Environment. Waste and recycling.” Available at https://environment.ec.europa.eu/topics/waste-and-recycling_en.
- European Commission 2023b. “Environment. Zero pollution: Commission consults citizens and stakeholders on the “polluter pays” principle.” Available at https://environment.ec.europa.eu/news/zero-pollution-commission-consults-citizens-and-stakeholders-polluter-pays-principle-2023-05-12_en.
- European Commission 2023c. “Infringement procedure.” Directorate-General for Communication. Available at https://commission.europa.eu/law/application-eu-law/implementing-eu-law/infringement-procedure_en
- European Commission. 2014. Directorate General Environment, *Development of Guidance on Extended Producer Responsibility (EPR). Final Report*, 2014, available at https://ec.europa.eu/environment/pdf/waste/target_review/Guidance%20on%20EPR%20-%20Final%20Report.pdf.
- European Council of EU. 2023. “European Green Deal.” Available at <https://www.consilium.europa.eu/en/policies/green-deal/>

- Government Decision no. 1074/2021 on the establishment of the deposit return system for primary non-refillable packaging, published in the Official Gazette No 955 of 06 October 2021. Available at <https://legislatie.just.ro/Public/DetaliuDocument/247209>.
- OECD. 1992. Environment Directorate, *The Polluter-Pays Principle. OECD Analyses and Recommendations*, Paris, 1992, available at [https://one.oecd.org/document/OCDE/GD\(92\)81/En/pdf](https://one.oecd.org/document/OCDE/GD(92)81/En/pdf)
- OECD. 2023. Environment Directorate, *Extended Producer Responsibility*. Available at <https://www.oecd.org/environment/extended-producer-responsibility.htm>
- TOMRA. 2023. “Return Guarantee System (SGR) in Romania.” Available at <https://collection-ro.tomra.com/blog/sgr-romania-sistem-garantie-returnare-ce-este-cum-functioneaza>.
- Walls, M. 2011. “Deposit-Refund Systems in Practice and Theory.” *Resources for the Future (RFF)*. Available at <https://www.rff.org/publications/working-papers/deposit-refund-systems-in-practice-and-theory/>.