

## Short considerations regarding the Romanian deposit return system – “How imperfect but perfectible” the system really is now?!

### Abstract

On 30 November 2023, a historic moment in Romania was marked, being officially launched the Deposit Return System (DRS – called in Romanian `sistemul de garantie returnare` and abbreviated `SGR`). This represents a huge step towards a greener and a more sustainable future of Romania. The deposit return system is an important component of the circular economy, and through this implementation, Romania must attain the recycling objectives of the European Union and to be clean.

On short, through this deposit return system, consumers and end-users will pay a guarantee of 0.50 RON (i.e. ten euro cents) when they purchase from a retailer any product from certain categories of beverages (i.e. water, soft drinks, beer, cider, wine or spirits), in primary non-refillable glass, plastic or metal packaging, with volumes between 0.1l and 3 l inclusive. For the ease of identification, the products included in the DRS are marked with the packaging with guarantee symbol, as shown below.

In this study we want to present the main legal provisions applicable to DRS, what is the current status of the DRS implementation in Romania, after less than two months of application, and the visible challenges of this system.

But several questions appear in our mind? How is intended the DRS to work? Was Romania ready, on 30 November 2023, for the operation of the DRS, especially that it is supposed to collect more than 7 billion recipients at the national level? Did Romania manage to put in place a functioning operating system? Were all stakeholders involved in the DRS ready to take their positions in the system? All of these questions will be answered in this present study.

**Keywords:** deposit return system, DRS, European Union, packaging waste, Romania, targets, SGR, `sistem de garantie returnare`.

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## 1. Introduction

The demand for disposable beverage packaging continues to grow each year; most of this packaging is used once before it becomes waste, and a considerable amount ends up in nature, in the oceans, in the rivers, on the streets and in landfills.

Based on the key principles recognised in the international law and in the European Union<sup>2</sup> in order to prevent pollution (e.g. the polluter pays principle<sup>3</sup> and the extended producer responsibility), the European Union, in its supranational governance,<sup>4</sup> has regulated the deposit return system as a complex component of the circular economy, supposing that things are made and consumed in such a way to minimize the world resources use, to cut waste and to reduce carbon emissions.

This means that through repairing, recycling and redesign, products are kept in use for as long as possible being used again and again, and when a product's life is ended, the component materials are kept in the economy and are reused wherever possible.

Deposit return systems (hereinafter referred as 'DRS') play a vital role in preventing pollution by providing a financial incentive for consumers to return post-consumer packaging for recycling. These schemes are usually established by legislation adopted at national level.<sup>5</sup> The effectiveness of this type of policy is recognised, with successful returnable packaging take-back schemes typically recovering over 90% of packaging placed on the market.

Please note that the deposit return system is very complex from the legislative point of view, because, while complying to the waste and packaging waste legal provisions, all the 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).

Nowadays, with the start of the operation of the DRS system, Romania joins the 13 European countries (e.g. Germany, Denmark, Norway, Sweden, Finland and Croatia) that have already implemented a DRS system nationally, being considered the second largest in Europe and the largest centralised national DRS in the world in terms of packaging volume. Romania has its specificities.<sup>6</sup>

2 | Regarding the relationship between the international law and the European Union law, please see Popescu 2023, 31 and following; Oanta in Ovidiu Predescu, Augustin Fuerea, Andrei Dutu-Buzura 2022, 50; and Conea 2019.

3 | This principle applies not only on waste management and on nature conservation, but also in the agriculture. For more information on the application of this principle in agriculture, please see Bobvos et al. 2006, 29–54.

4 | As considered in the legal doctrine – see e.g. Valcu 2023, 1.

5 | For example, for the analysis of the Polish legal frame, see Ledwoń 2023, 100–114, and of the Slovenian legal frame, see Maslen 2023, 73–90.

6 | For a complex view of the history of the Romanian state and law, please see Ene-Dinu 2023.

Therefore, in the deposit return system in Romania, now, when buying<sup>7</sup> a product packaged in returnable packaging, each consumer or end-user<sup>8</sup> has to pay the guarantee together with the product's price, and when returning the packaging of the respective product to a collection centre organised by traders on the Romanian territory, this guarantee will be recovered by the respective person.

The guarantee shall be recovered regardless of where the packaged product was purchased and without being required to present the tax receipt.<sup>9</sup>

Therefore, as you can imagine, December was a very intense month from the point of view of the deposit return system in Romania, because on the last day of November 2023, the system was started operating according to the legislation put in place.

But what are the current issues in operating the deposit return system in Romania?

## 2. Romania, the Waste Management and the DRS

It is well known that Romania struggles with the waste management, from illegal landfills to minimal recycling, many infringement<sup>10</sup> procedures being under scrutiny of the European Union authorities.<sup>11</sup>

Regarding the deposit return system, through its legislation, Romania has committed to regulate and to transpose the deposit return system into national legislation by 1 January 2021, but because not all the stakeholders were ready at that time, the Romanian authorities postponed this deadline to 30 November 2023<sup>12</sup>, according to the Government Decision No. 1074/2021 on the establishment of the deposit return system for primary non-refillable packaging, published in the Romanian Official Journal No 955 of 6 October 2021.<sup>13</sup>

7 | The DRS applies to both products manufactured on the Romanian territory and to products imported or purchased intra-Community. Additionally, please note that the law does not differentiate between sale, promotional or gift products, therefore DRS guarantee applies to packaging of products offered as gifts or advertising.

8 | Consumer or end-user means a natural or legal person purchasing for their own consumption products packaged in primary non-refillable packaging that are part of the deposit return system.

9 | Please be informed that 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.

10 | Dimitriu 2023

11 | Please see European Commission 2024

12 | Please note that, additionally to the first postponement, in September 2023, the Romanian DRS administrator RetuRO requested a three-month postponement of the project's start date, but this request was refused by the Romanian Environment Ministry.

13 | For the Romanian version of this legislative act, with all subsequent amendments and additions, please see the Romanian Legislative Portal 2022. This decision governs the obligations of the producers, traders and the DRS administrator (RetuRO), as well as matters relating to enforcement and recovery of the guarantee, payment or receipt of implementation fees, penalties attracted by non-compliance.

In order to determine whether a beverage bottled in disposable packaging (which is disadvantageous from the point of view) falls within the scope of the guarantee, we have to look at the definition given in the Government Decision No. 1074/2021 above mentioned.

Therefore, through the deposit return system, the producers [i.e. the economic operators referred to in art. 16 paragraph (1) of Law no. 249/2015] carry out the responsibility for the collection, transport and recycling of DRS packaging<sup>14</sup> – primary non-refillable packaging made of glass, plastic or metal with volumes between 0.1 L – 3 L inclusive, 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.

The following description serves as indicative legal information for determining beverages packaged drinks to which the guarantee applies – beverages bottled in non-refillable primary packaging made of glass, plastic or metal with a volume of 0.1 litres to 3 litres inclusive, bearing the DRS mark: (1) Beer. Beverages containing beer, including mixed beverages with beer. These include non-alcoholic beers, mixes of beer with cola or lemonade, beer with syrup, beer in combination with another alcoholic beverage (e.g. beer with vodka) or flavoured beer (e.g. tequila-flavoured beer). (2) Water. All water-based beverages, i.e. mineral water with or without added carbon dioxide, spring water, medicinal water, table water and other waters, such as 'near-water products', regardless of additives (including flavoured water, caffeinated water or oxygenated water). (3) Carbonated and non-carbonated soft drinks. In addition to Coke or Lemonade this includes mixes of fruit juice with tea and mineral water (apple juice with mineral water), sports drinks so-called 'energy drinks', drinks with tea or coffee, which are drunk cold, bitter/bitter-flavoured drinks and other drinks with or without carbohydrates. (4) Mixed drinks with alcohol (especially so-called alcopop drinks) (i) which are produced using preparations that are subject to beverage tax spirits (fermentation alcohol from beer, wine or wine products, whether or not further processed, which has undergone a technical treatment which no longer corresponds to good with an alcoholic strength of less than 15% vol. %), or (ii) which are produced using preparations which are subject to beverage tax spirits.

Please note that the following products are not subject to this legal regime: beverage glasses, pouches – flexible pouch-type packaging in layers, bag-in-box – beverages in closed cartons and any other packaging which cannot retain its shape after emptying.

The objectives of the Romanian deposit return system will be achieved by the national administrator, a Romanian dually managed company, unique at the national level, created exclusively for the purpose of implementing, managing, operating and financing the DRS (based on the not-for-profit principle – it

14 | "DRS packaging" means a single unit of bottled product in a single DRS packaging.

has to undertake to reinvest any profits made exclusively in the development of the DRS).

### **3. About the Selection of the Deposit Return System Administrator**

In the Romanian Official Journal No. 191 of 25 February 2022, a special procedure for selecting the deposit return system administrator has been published.

According to this Procedure, the steps in selecting the national system administrator are the following: (a) the registration for the selection procedure of the DRS administrator; (b) the assessment of the fulfilment of the eligibility criteria; (c) the analysis of the documentation submitted and awarding of scores; (d) the publication of the announcement of the result of the selection.

The eligibility criteria for participants in the selection procedure are as follows: (a) they must be set up as joint stock companies; (b) all the shareholders of the applicant are constituted as an association; (c) have as shareholders the producers' association structures 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 completed fiscal year preceding the submission of the documentation for accreditation; (d) all the members of the associative structures that are part of the applicant's shareholding must be producers; (e) the members of the associative structures that are part of the applicant's shareholder structure do not have debts due to the Romanian Environmental Fund; (f) the share capital of the incorporated company may not be less than 5 million RON<sup>15</sup>; (g) to describe and assume the proposed mechanism for the acquisition of shareholder status by the Romanian State.

Where the company's shareholders include the associative structures of traders selling products packaged in DRS packaging on the national market, they must meet the following eligibility criteria: (a) they must be set up as an association; (b) they must have the status of trader; (c) they do not have debts due to the Romanian Environmental Fund.

The documentation for the application for the selection procedure of the DRS administrator must contain the following documents, together with an opis of the documents: (a) the standard application; (b) the articles of association of each of the company's shareholding associations, in a copy certified as being in conformity with the original; (c) a notarised sworn declaration by each producer association, shareholder of the company, that all members are economic operators within the meaning of Article 16 para. (1) of Law No. 249/2015 on the management of packaging and packaging waste, as amended and supplemented, and that they

15 | RON is the Romanian currency - 'leu' in Romanian, and the exchange rate is 1 EUR is approximately 5 RON.

have placed DRS packaging units on the market in the fiscal year preceding the selection procedure, accompanied by a list of members; (d) a notarised sworn declaration by each producer association shareholder of the company that all its members have paid all contributions due to the Environmental Fund up to date, accompanied by a list of members and their identification data, including their tax identification code; (e) a notarised declaration on their own responsibility from each producer association shareholder of the company, showing the number and total weight of DRS packaging placed on the market on a professional basis in the last fiscal year ending on the date of submission of the documentation by each of its members who are economic operators; [please note that this declaration shall detail the total quantity of DRS packaging both in number of pieces and in kilograms, broken down for each type of material and for each member of the association structure individually for both DRS and non-DRS packaging, and that this declaration shall be submitted electronically to the Administration of the Environment Fund, bearing a qualified electronic signature]; (f) a description of the proposed mechanism for the acquisition by the Romanian State of the status of shareholder and a written commitment on the application of this mechanism, signed in original by all the entities holding shareholder status in the applicant.

Where the company's shareholders also include associations of traders<sup>16</sup> selling products packaged in DRS packaging on the national market, the company must include the following documents in its application for the selection procedure, in addition to the documents set above: (a) the articles of association of each traders' association which is a shareholder of the company, in a copy certified as being in conformity with the original; (b) a notarially certified affidavit of each traders' association that is a shareholder of the company, stating that all the members of the association are traders within the meaning of point 1 letter (e) of the Annex to the Government Decision No. 1074/2021, together with a list of the names of their members; (c) a notarized affidavit of each traders' association, shareholder of the company, stating that all its members have paid up to date all the contributions due to the Romanian Environmental Fund, accompanied by the list of members and their identification data, including the tax identification code.

The selection documentation shall be submitted by the participant to the central public authority for environmental protection both in hard copy and by e-mail. The documents submitted electronically must bear a qualified electronic signature.

If the Romanian Commission finds that the documentation does not contain all the documents and information required or considers it necessary to supplement it, it shall request the participant in writing to provide additional documents or information. Failure to submit within five days the additional documents or

16 | Where a producer is a member of more than one association of producers participating in the selection procedure, the number of units of DRS packaging placed on the market by that producer in the last fiscal year preceding the submission of the documentation shall be taken into account only once, within the association with the largest market share.

information requested shall result in the participant being eliminated from the selection procedure. Reasons shall be given for the decision rejecting the application and the Commission shall notify the applicant in writing.

Please note that according to the provisions of Article 18 para. (3) of the Government Decision No. 1074/2021, the share capital of the DRS administrator cannot be less than 5 million Romanian lei (i.e. approximately 1 million euros).

Based on this procedure, the company RetuRO Sistem Garanție Returnare S.A.<sup>17</sup> was created and started operating in Romania. The shareholders of RetuRO are associative structures of the producers (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 is represented by the central public authority for environmental protection.

The revenues recorded in any capacity by the DRS administrator, including unclaimed guarantees, shall be used exclusively to support the operation and increase the efficiency of the guarantee-return system, according to the provisions of Article 18 para. (6) of the Government Decision No. 1074/2021.

## 4. How the System Is Intended to Work in Romania?

Firstly, the producer/importer of a product in DRS packaging is required to register products with DRS packaging held in portfolio in DRS Packaging Register,<sup>18</sup> based on the new bar codes<sup>19</sup> obtained.

Afterwards, the producer/importer will put on the market the products in DRS packaging, marked with a specific symbol. The packaging must contain one of the following designs, depending on the colour of the packaging, expressly stating *packaging with guarantee*:



17 | Please see the official page of the DRS administrator – RetuRO 2024. RetuRO's mission is to implement DRS, Romania's largest circular economy project, through which Romania is supposed to have a cleaner environment and to achieve the collection and recycling targets set at European level by the new EU package for the environment.

18 | A database in which DRS packaging on the market is registered.

19 | Please note that the DRS packaging shall be identified by new barcodes (unique numerical structures), the DRS barcodes being the basis for the traceability of packaging in the system – they ensure their identification and traceability throughout the packaging flow within the DRS.

This representative symbol is easily recognisable and understood by consumers, and it is a registered trademark of the Romanian central public authority for environmental protection.

This symbol is indicating the product's membership of the deposit return system and shall be applied directly on the packaging, on the product label or on the additional label, as appropriate, while it is expected to be visible, legible, durable, without overlapping with any other graphic element of the packaging or label.

The bar code<sup>20</sup> affixed to the DRS packaging or product label shall provide the necessary, sufficient and verifiable information, through linkage to the data contained in the DRS Packaging Register, to enable the DRS administrator to at least establish the DRS membership of the packaging, the weight and volume of the packaging and the identity of the producer.

Please note that this symbol has been approved by Order No. 1802/2023 approving the symbol indicating membership of the guarantee-return system, issued by the Minister for the Environment, Water and Forests, on the basis of the proposal drawn up by the DRS administrator.

Additionally, please note that the DRS administrator has completed the formalities necessary for the acquisition of the related intellectual property rights, and their transfer, within a maximum of one year from its registration, to the central environmental authority, which will hold these rights – the trade mark no. is 190344.

The DRS administrator shall grant, free of charge, the right to apply the DRS mark to the DRS packaging that they place on the national market. We underline that from the date of the entry into operation of the deposit return system, in Romania it shall be prohibited to introduce or make available on the national market products packaged in DRS packaging that do not bear the marking indicating that they belong to the guarantee-return system in accordance with the provisions of the Government Decision No. 1074/2021.

Until the date of entry into operation of the guarantee-return system (i.e. 30 November 2023), according to Article 24 para. (7) of the Government Decision No. 1074/2021, it was prohibited to introduce or make available on the national market products packaged in DRS packaging bearing the marking indicating that they belong to the guarantee-return system in accordance with the provisions of the respective Government Decision.

Secondly, the consumer or the end-user pays the guarantee of 0.50 RON (i.e. 10 euro cents) when purchasing that product in DRS packaging from a trader. Of course that the DRS administrator has the right to request the central public authority for environmental protection to modify the value of the guarantee,

20 | A bar code (EAN) is a national bar code allowing the identification of products packaged in DRS packaging, made available on the Romanian and other markets, which by linking to the data contained in the DRS Packaging Register allows access at least to the weight and volume of the packaging, as well as to the identity of the producer.



including differentiated by type of packaging and type of material. The value of the guarantee modified in accordance with this request shall be approved by Government decision, at the initiative of the central public authority for environmental protection, in accordance with the provisions of Article 10 para. (6) letter e) of Law No. 249/2015, as amended.

Please note that the same economic operator may not be required to pay the guarantee for the same unit of product in DRS packaging more than once.'

The refund of the price of products in DRS packaging following the return of ordered products shall include the refund of the guarantee for the returned products.

*Thirdly*, after emptying<sup>21</sup> the product, the consumer or the end-user will have to bring it, whole, undamaged and undeformed (with the barcode visible or readable), to any<sup>22</sup> of the return points organised by the retailers, no receipt being necessary to be presented. In order to be accepted in the DRS, packages must be handed in within 24 months of publication on the DRS website of the notice of the producer's cessation of placing the product on the market.

Thus, DRS packaging on which a guarantee has been paid may be returned to any return point within traders or at the points set up by the territorial administrative units or by the associations of development associations. They are differentiated only by material, i.e. plastic, glass or metal. In other words, the trader selling plastic drinks containers and glass disposable beverage containers subject to a mandatory guarantee fee is obliged to receive plastic and glass containers, regardless of where they were purchased. Reverse vending machines (RVM) can be used with success by the retailers – a RVM is a device designed to identify and process in and to provide a means of refunding the guarantee for disposable beverage containers.

What are the advantages of taking back packaging with an automated system? We can think of the following: (a) staff cost efficiency, (b) optimise the allocation of space needed to manage returned packaging, (c) maximise volumes of packaging processed, (d) reduction of waiting time for the consumer, (e) preventing fraudulent activities (e.g. returning a pack to the system more than once), (f) avoiding human error, (g) collection of data for reporting and statistics at local and national level for producers, traders and authorities.

And what happens to recyclable packaging taken back from consumers? The retailer is obliged to keep the returned DRS packaging separate from waste or other non-DRS packaging for later collection by the national administrator RetuRo.

*Fourthly*, in exchange for the packaging, the consumer or the end-user will receive back, on the spot, the amount of the guarantee originally paid, in cash,

21 | But not necessarily clean in the sense of being washed the packaging. There is a margin of weight, but it is recommended that products be completely emptied to be sure of guarantee recovery.

22 | We underline that even if the product was not purchased from that location.

voucher<sup>23</sup> or bank transfer. No guarantee can be claimed for beverage packaging that was purchased before the application of the guarantee fee or from abroad.

But who covers the cost of handling packaging at return points? The trader's costs directly related to the fulfilment of the take-back and storage obligations for DRS returnable packaging will be covered by the system administrator through a management fee depending on the take-back method, manual or automatic, for each unit of validated packaging.

*Fifthly*, the DRS administrator will recover the package from the return points, the returned DRS packaging being kept separate from other packaging. Moreover, the DRS administrator will operate several counting and sorting centres that will manage the collected DRS packaging throughout Romania. These centres will be geographically distributed to ensure the best possible geographical coverage of the country.

So, on this chain, who is the first person in the supply chain to collect the guarantee? The guarantee must be collected at all stages of distribution, starting with the bottler or importer, as the first distributor, through wholesalers and intermediaries to the final distributor. If the same economic operator is a producer and a retailer at the same time, it shall be bound by the obligations imposed by the Government Decision No. 1074/2021 on both categories of economic operators.

## **5. Specific Obligations of the Main Actors Involved in the Process**

According to the Government Decision No. 1074/2021, each category of actors involved in the process has its own obligations, as set below:

### **5.1. Obligations of Producers**

#### *5.1.1. Obligations Concerning Registration*

Producers who place on the national market packaged products referred in the law, were obliged to register in the database managed by the DRS administrator until 28.02.2023. For these purposes, producers shall be required to submit to the DRS administrator the information referred to in Article 18 para. (2) of the Government Decision No. 1074/2021, in a notification in digital format with a simple or qualified electronic signature containing at least the following: (a) the identification data of the producer, accompanied by a copy of the tax registration certificate; (b) the name, telephone number and e-mail address of the designated

<sup>23</sup> | A 'voucher' can be a physical or electronic voucher issued to the consumer or end-user, which can be used either to pay for purchases or redeemed for cash.

contact person on behalf of the producer in relation to the DRS administrator; (c) 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.

The date of registration is deemed to be the date on which the producer has correctly and completely submitted the documentation required and that requested by the DRS administrator.

Producers are obliged to provide clarifications and information requested by the DRS administrator in relation to the notification of registration in the DRS within 5 working days of receipt of the notification.

### *5.1.2. Obligations Specific to the Operation of the DRS*

Producers are obliged: (a) to enter into contracts with the DRS administrator, no later than 60 days from the date of registration, in order to fulfil their legal obligations; (b) to mark the DRS packaging in accordance with the law and to use for reporting the packaging placed on the market, subject to DRS, the computer program developed, managed and provided by the DRS administrator; (c) to register in the DRS Packaging Register each type of DRS packaging placed on the market; (d) 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; (e) to communicate to the DRS administrator the updated records 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; (f) to pay to the DRS administrator, by bank transfer, the amount of the guarantee for the DRS packaged products placed on the national market, on a monthly basis, by the 25th of the month following the month in which the products were placed on the market; (g) to collect from their customers the guarantee for the DRS packaged products placed on the national market and purchased by them, unless the producer decides to bear the cost of the guarantee in the case of offering the DRS packaged products free of charge to the consumer and/or end-user, for example as prizes or free samples, in which case the guarantee will be borne directly by the producer and will not be collected from the producer's customers or traders or from the consumer and/or end-user; (h) to pay the DRS administrator the administration fee as agreed with the DRS administrator; (i) to inform consumers or end-users, by submitting detailed information by product, brand, type of material, weight and volume of packaging to be posted on the DRS administrator's website, of the commencement or cessation of the placing on the market of a particular type of product packaged in DRS packaging; (j) to enable controls by the competent authorities and to provide them with documents, correct and complete information on their own DRS packaging, data communicated to and settlements

with the DRS administrator, other packaged products subject to environmental obligations.

Please note that the Romanian beverage producers, through RetuRO, are obliged to achieve the following minimum annual DRS packaging return targets for recyclable glass, plastic or aluminium packaging within DRS set-up in Romania:

<b>Material / Year objectives</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>
Glass	65%	75%	85%
Plastic	65%	80%	90%
Metal	65%	80%	90%

The degree of achievement of the return targets shall be calculated by the ratio of the total number of DRS packaging placed on the national market to the total number of DRS packaging validated by barcode as being returned under the DRS in the reference calendar year and shall be verified by the Environmental Fund Administration.

The DRS packages validated as being returned under the DRS are those established at the return points by the electronic counting system of the automatic take-back equipment and, respectively, at the counting centre if the packages were taken back manually at the return points. Producers are obliged to use the computer software developed, managed and made available by the DRS administrator.

## **5.2. Obligations of Traders**

### *5.2.1. Obligations Relating to Registration*

Traders were also obliged to register in the database managed by the DRS administrator by 28 February 2023. They were also required to submit to the DRS administrator a notification in digital format with a simple or qualified electronic signature containing at least the following: (a) identification data, accompanied by a copy of the tax registration certificate; (b) the name, telephone number and e-mail address of the designated contact person on behalf of the trader in relation to the DRS administrator; (c) the address and surface area of each sales structure operated by the trader as a point of sale; (d) the address and access details of the take-back point for returned packaging and the opening hours of the take-back point; (e) the method of taking back returnable packaging from holders: manually or by means of take-back equipment; (f) the number of products in DRS packaging put on the national retail market in the previous calendar year; (g) the number of products in DRS packaging that the trader expects to market in the calendar year in which the registration notification is submitted; (h) information showing whether the trader falls within one of the exceptions provided by law.

The date of registration was deemed to be the date on which the trader has correctly and completely submitted the full documentation.

Traders were obliged to provide clarifications and information to the DRS administrator in relation to the notification of registration in the DRS within 5 working days of the request.

### *5.2.2. Obligations Specific to the Operation of the DRS*

As expected, traders have also many obligations arising from Article 6 of the Government Decision No. 1074/2021: (a) to enter into contracts with the DRS administrator for the fulfilment of the obligations arising from the Government Decision No. 1074/2021, no later than 90 days from the date of registration; (b) to indicate the amount of the guarantee separately from the price of the product, both on the shelf and in the fiscal documents relating to the product in the DRS packaging; (c) to pay the amount of the guarantee to the economic operators from whom they purchase products packaged in DRS packaging, unless the producer has decided to pay the guarantee directly; (d) to not market products packaged in DRS packaging, purchased from producers not registered with the DRS administrator or from distributors of such producers; (e) to not market products in DRS packaging which are not marked in accordance with the law; (f) to collect the guarantee for DRS packaged products from their customers, unless the trader decides to bear the cost of the guarantee in the case of offering DRS packaged products free of charge to the consumer and/or end-user, e.g. as prizes or free samples, in which case the guarantee shall be borne directly by the producer, if the free offer is made at the instruction of the producer, or by the trader if the free offer is made by the trader and will not be charged to the consumer and/or end-user.

Additionally, specific distinction has to be made for HoReCa<sup>24</sup> traders – according to the provisions of Article 17 para. (3) of the Government Decision No. 1074/2021, HoReCa traders are obliged to charge the guarantee to final consumers for DRS packaged products consumed outside the sales structure and not to charge the guarantee for DRS packaged products consumed at the sales structure<sup>25</sup>; (a) to display information to consumers or end-users in the sales facilities on: (1) the types of products covered by the deposit return system; (2) the amount of the guarantee; (3) the possibility for consumers or end-users to return the DRS packaging for the refund of the value of the guarantee at any return point in Romania; (4) the address and opening hours of the return point

24 | 'HoReCa trader' means the economic operator in the hospitality, food service industry, in particular establishments organising events, preparing and serving food and beverages.

25 | Therefore, DRS packaging of products consumed at the HoReCa traders' sales structure location will be collected and managed by the DRS administrator under the return guarantee scheme in the same manner as that collected from the return points. Please note that HoReCa traders are not obliged to organise return points.

operated by the trader; (5) the method of picking up the packaging, manually or by automatic picking up equipment; (6) the means available for returning the guarantee; (7) the right of the person returning the DRS packaging to request the return of the value of the security in cash, by voucher or by bank transfer; (8) the situations in which the return of the guarantee is refused; (b) to organise return points [by way of exception, the following two categories of traders do not have to organise return points (i) traders who make products packaged in DRS packaging available on the Romanian market exclusively via online platforms, according to the provisions of Article 17 para. (2) of the Government Decision No. 1074/2021, and (ii) traders who make products packaged in DRS packaging available on the Romanian market to final consumers exclusively through vending machines, according to the provisions of Article 17 para. (6) of the Government Decision No. 1074/2021]; (c) to take back all DRS packaging returned by consumers or end-users at the return points and to return the value of the guarantee to them when the DRS packaging is returned; (d) 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; (e) to allow the DRS administrator to take back the DRS packaging from the return points only at the request of the DRS administrator or his designated representative; (f) to use the software provided online by the DRS administrator for reporting on DRS packaging and the associated guarantees; (g) to use the software provided online by the DRS administrator for reporting on the packaging subject to the DRS and the related guarantees; (h) to keep records of the total number of DRS packaged products sold, broken down by product, for each sales structure and/or online shop it operates, records of the total number of DRS packages returned to the trader by consumers or end-users, broken down by type of material and volume, as well as records of the guarantees paid, collected on the sale of products and returned to consumers at the point of return, respectively collected from the DRS administrator; (i) to allow controls by the competent authorities and to provide them with documents, accurate and complete information on the trader's compliance and supporting documents received from consumers or end-users, the DRS administrator, and other economic operators within the DRS with whom the trader has contracts; (j) 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 arising from the law.

Traders with sales structures of less than 200 sqm who do not organise their own return points shall fulfil their obligations to organise return points by association with other traders with sales structures of less than 200 sqm or by partnership agreement with the administrative-territorial units or inter-community development associations according to the provisions of Article 8 of the Government Decision No. 1074/2021. In this situation, the distance to the point of return realised may not be more than 500 m from each sales structure of the trader in

the partnership agreement, for sales structures in rural areas, and 150 m for sales structures in urban areas.

These traders who are not entitled to opt for the organisation of return points in partnership with the administrative-territorial units or inter-community development associations, in accordance with the provisions of art. 8 of the Government Decision No. 1074/2021, shall display in the sales structures, visible and easily legible for customers, the following text: 'This shop does not operate as a packaging return point', as well as information on the location of the return points provided.

### **5.3. Obligations of the Administrative-Territorial Units and Inter-Community Development Associations**

In Chapter IV of the Government Decision No. 1074/2021 it is regulated the role of administrative-territorial units and inter-community development associations. The deliberative authorities at the level of administrative-territorial units may approve the conclusion of partnership agreements with traders with sales structures with a surface area of less than 200 sqm, at their request, in order to organise and operate the return points in accordance with this Decision, provided that the obligations set out in Article 8 para. (1) of the Government Decision No. 1074/2021 are met.

The deliberative authorities at the level of the administrative-territorial units, as well as inter-community development associations, shall be responsible for organising return points for DRS packaging within the administrative-territorial radius of the respective administrative-territorial unit/inter-community development association, in collaboration and under the coordination of the DRS administrator.

Moreover, according to Article 8 of the Government Decision No. 1074/2021, the deliberative authorities at the level of the administrative-territorial units may approve the conclusion of partnership agreements exclusively with traders having sales structures with a surface area of less than 200 sq.m. located within the administrative-territorial radius.

For these return points, their operators must: (a) ensure a take-back capacity at least equal to the amount of the DRS packaging sold by the associated traders; (b) comply with the obligations laid down by the DRS administrator under the terms of the Government Decision No. 1074/2021; (c) appoint a person responsible for relations with the DRS administrator.

These return points shall be organised by the executive authorities at the level of administrative-territorial units or by inter-community development associations, respectively by the association between them and traders with sales areas of less than 200 sqm, through the person in charge designated for the relationship with the DRS administrator.

The operator of these return points shall be obliged to offer to the end consumers the possibility of reimbursement of the guarantee in cash, by bank transfer or

by voucher that can be used or exchanged for cash in the sales structures of the associated traders or within the sales structures of the administrative-territorial area, as appropriate.

The operator of the return points shall be obliged to keep a record of the total number of DRS packaging returned to it, broken down by type of material and volume, as well as a record of the guarantees paid to consumers at the point of return and collected from the DRS manager.

The operator shall be liable to the same contravention as traders operating return points under the terms of the Government Decision No. 1074/2021.

According to Article 9 of the Government Decision No. 1074/2021, as for the compensation of costs, in the event that the deliberative authorities at the level of administrative-territorial units or inter-community development associations ensure the organisation and operation of the return points in accordance with the provisions of Articles 7 and 8, they shall benefit from the DRS administrator's compensation of costs through the management fee, set by the DRS administrator in accordance with the law, depending on the method of taking back the returned DRS packaging, i.e. manually or by means of automatic<sup>26</sup> take-back equipment.

Please also note that the return point shall be organised within the trader's sales structure or in its immediate vicinity, not exceeding a distance of 150 metres from the sales structure and having at least the same opening hours as the trader's sales structure. The return points shall be located in areas accessible to consumers. For all return points, including those organised outside the sales area, the operators of the return points shall ensure their monitoring and security, based on their own regulations that ensure the preservation of the integrity of the return point, its equipment and the returned packaging.

#### **5.4. Obligations of the DRS Administrator**

The DRS administrator shall implement, manage, operate and finance the deposit return system. The DRS administrator shall be obliged to reimburse the costs of operating the sorting stations for DRS packaging from separate collection of municipal waste that meets the take-back conditions set for traders. For this situation, the DRS administrator shall pay a management fee to the sorting plants only if the latter meet the acceptance criteria for the return points, which may not exceed the management fee set by the DRS manager for manual take-back.

According to the provisions of Article 23 para. (4) of the Government Decision No. 1074/2021, the DRS administrator is obliged to display monthly on its website

26 | An 'automatic take-back equipment' is an automated device designed to take back the DRS packaging from the consumer or end-user, recognize and enable one-time validation of the return of the DRS packaging into the DRS by validating the eligibility of the DRS packaging and/or instantly compacting or crushing the packaging and issuing a voucher with the details of the return, i.e. the quantity returned and the value of the guarantee.



the quantity of DRS packaging placed on the market and, respectively, recovered, in number of units and in kg, for each type of material: plastic, metal, glass, by the 15th of the month following the reference month.

Additionally, the DRS administrator is obliged to provide reporting for each administrative-territorial unit in which it carries out the take-back of used packaging, the quantity of packaging taken back from its administrative territory, on a quarterly basis, within a maximum of 25 days after the reference quarter.

The DRS administrator shall report quarterly, no later than 25 days after the reference quarter, to the central public authority for environmental protection on the extent and manner of fulfilment of the obligations arising from this Decision, including with regard to the entrustment for recycling, and shall provide any other information requested in writing by the competent authorities in relation to the functioning of the take-back guarantee system.

In the Romanian Official Journal no. 995 of 2 November 2023 was published the Methodology of 2023 for the reporting of the DRS administrator, according to which the DRS administrator has the following obligations: (a) to establish, within 60 days from the establishment, the Supervisory Board; (b) to require the conclusion of service contracts (hereinafter referred to as 'DRS contracts', with all producers placing DRS packaging on the market, within 60 days from the date of registration of the producer; (c) to notify the central environmental protection authority of producers who refuse to conclude the DRS contract, providing information on their tax identification and the steps taken to conclude the contracts, no later than 30 days after the expiry of the period referred to in point b); (d) to provide the producers with the technical specifications of the DRS marking which they are obliged to affix to the DRS packaging, no later than 30 days after signing the contract referred to in point b); (e) to establish and manage the DRS Packaging Register; (f) to report to the Supervisory Committee producers who do not fulfil their contractual obligations towards the DRS administrator; (g) to require the conclusion of service agreements (hereinafter referred to as 'DRS agreements', with all traders of products covered by DRS, within 90 days of the date of registration of the trader; (h) to notify the central environmental protection authority regarding the traders who refuse to conclude the DRS agreement, providing information on their tax identification and the steps taken to conclude the agreements, no later than 30 days after the expiry of the period referred to in point g); (i) to entrust all quantities of DRS packaging returned under the deposit return scheme for recycling; (j) to take into account and make use of existing infrastructure, public or private, in carrying out its logistical operations related to the returned packaging, provided that it complies with the technical requirements of the DRS; (k) to reimburse traders, by bank transfer, the full amount of the guarantees returned to consumers or end users, under the conditions laid down in the Government Decision No. 1074/2021, on a monthly basis, by the 25th day of the month prior to payment; (l) to establish and pay monthly, by bank transfer, to

traders, at the same time as the reimbursement of the guarantee under point k), the management fee for DRS packaging taken back by them through the return points from consumers or end users; (m) to ensure and pay for the take-back of DRS packaging from the return points with a frequency and in a manner that does not disrupt the proper functioning of the traders, in accordance with the contract; (n) to set, charge and collect the management fee paid by producers to the DRS administrator; (o) to carry out all the measures set out in the documentation submitted for designation; (p) to establish and carry out the procedure for the registration of economic operators under the deposit return system who are obliged to register; (q) to ensure that the return objectives set out in the Government Decision No. 1074/2021 are met; (r) to provide information requested by economic operators and consumers or end-users on the functioning of the deposit return system, the obligations incumbent on economic operators under the system and any other information that serves to ensure that their conduct complies with the proper functioning of the system; (s) to carry out its activity in a non-discriminatory manner in its relations with economic operators; (t) to establish, operate and update an information system that centralises data relating to: (1) records of all DRS packaging placed on the national market; (2) records of guarantees paid, refunded and not refunded within the DRS; (3) producers and traders registered under the DRS; (4) return points and counting centres within DRS; (5) operators who collect and transport DRS packaging; (6) recyclers who have concluded a contract with the DRS administrator. (u) to prove the traceability of the DRS packaging from the return points from which the economic operators with which it has contracted the services have taken the packaging to the counting centre or the recycler, respectively, by means of financial-accounting documents and supporting documents; to identify and implement in a timely manner optimal solutions for the removal of any malfunctioning of any kind in the proper functioning of the system, with the participation of the economic operators involved, where appropriate; (v) to carry out educational and publicity campaigns to inform and raise awareness among the population and economic operators about the functioning of the guarantee-return system, allocating for this purpose an annual amount equivalent to 1.5-2% of its revenue consisting of unclaimed guarantees and sums obtained from the sale of material sent by the DRS administrator for recycling; (w) to allow controls to be carried out by the competent authorities and to provide them with documents, correct and complete information on the way in which the DRS administrator and the other economic operators in the system fulfil their obligations; (x) to keep confidential data, reported by economic operators under the Government Decision No. 1074/2021, secure, if such data are communicated to it; this obligation applies also to the members of the constitutive bodies and the staff employed by the DRS administrator; the data on which the DRS administrator is responsible shall be kept secure. (y) to publish on its website, with respect for the obligation of confidentiality towards the economic operators of the system: (1) the

quantity of DRS packaging placed on the market and returned, respectively, in kg and number of pieces, for each type of material: plastic, metal, glass, by the 25th of the following month; (2) the quantity of returned DRS packaging taken back from the administrative territory of each administrative-territorial unit, broken down by number of pieces, weight and type of material, at least quarterly; (3) the information for consumers and end-users on the functioning of the guarantee-return system and the possibility for them to return DRS packaging in order to recover the guarantee; (4) the information on the cessation of the placing on the market of a specific type of product in DRS packaging, at the request of the produce; (aa) to keep in electronic format, for a period of 10 years, all records and reports required under the Government Decision No. 1074/2021.

Please have in mind that in the event that the DRS administrator ceases to meet any of the criteria considered for designation as a DRS administrator, it shall: (a) immediately notify the central environmental protection authority in writing, indicating the criteria that are no longer met and the event that led to the criteria no longer being met; (b) take all necessary measures to ensure compliance with the criteria for designation as a DRS administrator within 90 days of the date of the event that led to non-compliance.

It is also relevant to underline that, if the Supervisory Committee finds significant deficiencies in the activity of the DRS administrator, which may lead to non-compliance with its obligations under the Government Decision No. 1074/2021, it shall propose remedial measures to the DRS administrator and notify the competent institutions and may recommend the repeal of the regulatory act by which it was appointed as DRS administrator.

However, the shareholders of the DRS administrator shall ensure continuous monitoring of the business plan and the designation documentation and shall propose to the Supervisory Committee to amend them whenever necessary to ensure the achievement of the objectives set out in this resolution.

The DRS administrator is obliged to comply with the measures set out in the Government Decision No. 1074/2021, the measures proposed in the DRS organisation plan, the annual financial plan and the method of financing the guarantee-return scheme, the annual plan for achieving the return targets, the plan for contracting with economic operators who are part of the guarantee-return scheme and the annual plan for educational and publicity campaigns to inform and raise public awareness of the DRS.

Moreover, the DRS administrator shall propose to the competent authority for environmental protection the plan for the continuation of the company's activity.

Please note that the DRS administrator is the sole owner of the DRS packaging returned at the return points.

## 6. Fees Established by the Government Decision No. 1074/2021 Related to DRS

Regarding the administration fee (in Romanian 'tariful de administrare'), please note that according to Article 15 of the Government Decision No. 1074/2021, in order to cover the financial costs of carrying out its obligations under the Decision, the DRS administrator shall set and collect from producers the DRS administration fee. For the period from 30 November 2023 to 31 December 2024 the amount of the administration fee shall be as set out in Annex No 2 to the Decision, and from 1 January 2025 the amount of the administration fee shall be set transparently by the DRS administrator.

Regarding the management fee (in Romanian 'tariful de gestionare'), please note that according to Article 16 of the Government Decision No. 1074/2021, it shall be paid by bank transfer to the operators of the return points, HoReCa traders and sorting station operators, where applicable, for packaging taken back by the DRS administrator. For the period from 30 November 2023 to 31 December 2024, the amount of the management fee shall be as set out in Annex No 2 to the Decision, and from 1 January 2025 the amount of the management fee shall be set transparently by the DRS administrator.

In the addendum no. 2 to the Government Decision No. 1074/2021, the Romanian legislator establishes the amount of the administration fee and of the management fee, applicable in Romania by the DRS administrator for the period 30 November 2023-31 December 2024, as follows:

### (1) Administration fee:

Type of DRS packaging	Administration fee
Small bottle (<= 500 ml)	0,1472 RON
Big bottle (> 500ml)	0,2304 RON
Transparent plastic	0,0590 RON
Blue or green plastic	0,0773 RON
Mixt colour plastic	0,1029 RON
Plastic with barrier	0,1233 RON
Metal	0,0077 RON

(2) Management fee:

Type of DRS packaging	Management fee		
	Automatic takeover (RVM)	Manual takeover	HoReCa
Small bottle (< =500 ml)	0,1820 RON	0,1005 RON	0,0544 RON
Big bottle (> 500 ml)	0,1889 RON	0,1645 RON	0,1089 RON
Small plastic	0,1970 RON	0,0596 RON	0,0136 RON
Large plastic	0,2486 RON	0,0989 RON	0,0432 RON
Metal	0,1773 RON	0,0482 RON	0,0097 RON

## 7. Special Provisions Regarding the Reporting of the DRS Administrator

According to the Methodology of 2023 for the reporting of the DRS administrator, this entity shall report to the following actors:

### 7.1. Reporting to Public Authorities

In order to ensure the traceability of the DRS packaging taken from the administrative-territorial area of each town or municipality in which the DRS administrator has implemented the deposit return system, the DRS administrator shall draw up and send to each inter-community development association or, where applicable, to each local public authority, a quarterly report in unreadable electronic or letter format. This quarterly report shall be sent by electronic mail or, where applicable, by post and/or courier service to each city and municipality in which the DRS administrator has implemented the deposit return system, at the latest by the 25th day of the month following the reference quarter.

The quarterly report shall contain the quantity of DRS packaging taken back by the DRS administrator in each town or municipality, broken down by number of units, weight in kilograms and type of material.

### 7.2. Reporting to the Supervisory Committee

In order to supervise the implementation of the deposit return system and the exercise of the powers provided for in Government Decision No. 1074/2021, the DRS administrator shall draw up and submit quarterly reports to the Supervisory Committee. These reports are intended to provide information on the manner in which the DRS administrator has fulfilled its obligations under the law.

The monthly bulletins and quarterly reports shall be sent in electronic format within a maximum of 25 days at the end of the reference period. These quarterly reports shall be public.

The DRS administrator shall inform the Supervisory Committee of the confidential nature of certain data contained in the reports.

These quarterly reports shall mainly contain the following data: (a) the total quantities of DRS packaging taken back within the DRS and entrusted by the DRS administrator to recyclers, broken down by number of units, weight in kilograms and type of material; (b) the total quantities of DRS packaging placed on the national market by producers, broken down by number of units, weight in kilograms and type of material; (c) information on the achievement of the return target for DRS packaging expressed as a percentage, with detailed calculations; (d) information on how the DRS administrator fulfils the obligation to entrust for recycling all quantities of DRS packaging returned under the deposit return system, including the cases in which it has not fulfilled this obligation and the reasons for not fulfilling it; (e) how the operator of the DRS has fulfilled the obligation to prove the traceability of the DRS packaging; (f) the manner in which the DRS administrator has fulfilled the obligation to carry out educational and advertising campaigns, including the value of the related contracts; (g) the volume of receipts and payments of the DRS administrator by way of guarantee for DRS packaging for the quarter in question; (h) the volume of receipts of the DRS administrator from the administration fee and the volume of payments of the administration fee; (i) the evolution of the number of DRS contracts/agreements concluded with producers and traders; (j) the manner in which the DRS administrator fulfils the reporting obligations; (k) the manner in which the DRS administrator has fulfilled the obligation to make available reports for each administrative-territorial unit; (l) the manner in which the DRS administrator has fulfilled the public information obligation; (m) the complaints received from producers and traders in relation to non-compliance with the DRS contract/agreement by the DRS administrator; (n) the disputes pending before the courts and their status; (o) the producers refusing to conclude the DRS contract, including by providing the information necessary for their fiscal identification, as well as details of the steps taken by the DRS administrator to conclude DRS contracts with each of them, i.e. producers whose DRS contracts are suspended or terminated; (p) the producers who fail to fulfil their contractual obligations to the DRS administrator, including by submitting information, if applicable, on the amount of the guarantee and/or the administration fee not paid within the legal deadline by them, as well as information on the steps taken and the measures taken by the DRS administrator to recover them; (q) the traders who refuse to conclude the DRS agreement, including by providing the information necessary for their fiscal identification, as well as details of the steps taken by the DRS administrator to conclude DRS agreements with each of them, i.e. traders whose DRS agreements are suspended or terminated; (r) the information on the

fulfilment by the DRS administrator of the obligation to reimburse the full amount of the guarantees on a monthly basis, including by providing a detailed list of the cases in which it has not fulfilled this obligation and the reasons for the non-fulfilment; (r) the information on the fulfilment by the DRS administrator of the obligation to pay the monthly management fee, including by providing a detailed list of cases in which it has not fulfilled this obligation and the reasons for non-compliance; (s) the information on the fulfilment by the DRS administrator of the obligation to provide the technical specifications of the DRS marking, including by providing a detailed list of cases where it has not fulfilled this obligation and the reasons for non-compliance.

Moreover, please be informed that the fourth quarterly report shall also contain an annual summary of the activity of the DRS administrator.

## 8. Challenges of the Romanian DRS After the Launch of the System

Although the legislator apparently thought extensively on how the system will have to work and tried to prevent any shortcomings, the Romanian DRS lacked some important elements to be fully functional on 30 November 2023, reason for which it was even stated that there is 'a fake start'<sup>27</sup> of the DRS in Romania.

First of all<sup>28</sup>, *the producers* have not printed the packaging with the DRS logo, so the number of the packaging put on sale is very small at this moment (i.e. end of January 2024) – you can hardly see products with the DRS logo on the shelves of the stores. However, it is important to have in mind that, according to the Romanian legal provisions, it was allowed to place on the market packaging without the DRS logo until 31 December 2023. After this date it was prohibited to place products on the market in packaging without the DRS logo on the label, except for products already in stock. But these products which do not bear the DRS symbol on the label could be sold only until 30 June 2024, the date after which their placing on the Romanian market is fully prohibited.

Second of all, *the traders* did not have the special machines for recycling packaging, reason for which only the manual collection could be put in place, raising problems regarding the space of the collection centres. Additionally, the best practices guide drafted by RetuRO was not available at the launch of the system in Romania<sup>29</sup>, the bags or seals to put the packages in were not provided on time, the

27 | Please see Funcționează sistemul garanție-returnare? La raft domină în continuare produsele nemarcate 2023

28 | The media presented largely these problems – e.g. Care sunt problemele Sistemului de Garanție Returnare (SGR) și cum poate deveni complet funcțional – declarațiile CEO ReturRo, Gemma Webb 2024, Sistemul Garanție-Returnare le face probleme micilor comercianți 2023.

29 | Now this guide is available, in Romanian, DRS Manual for Traders 2024

application to scan the barcodes on packaging was not launched, things that made unhappy the majority of the traders.

Third of all, *RetuRO* did not made available the application allowing the traders to scan barcodes of products and determine whether they are part of the DRS or not (and therefore carry the guarantee or not). This verification could be possible by linking to the DRS Packaging Register. Additionally, one day prior to the launching of the deposit return system, a single packaging numbering<sup>30</sup> and sorting hub (the centre in Bontida, Cluj) was insufficient for the whole country, taking into account the distances involved.

Fourth of all, *the consumers and the end-users* were insufficiently informed and familiar with what they had to do. This is why even before the launch of the deposit return system, people were collecting packaging that did not have the DRS logo in order to get their guarantee amounting to 0.50 RON once the system comes into force.

However, we are optimistic that all these problems will be solved very quickly, with the involvement of the main stakeholders – it is just a question of time to arrange all things and to have a functional deposit return system.

For these reasons, we agree with what the CEO of *RetuRO*, Mrs Gemma Webb, stated recently: *“The system we are starting is not perfect, but it is perfectible. It is a living mechanism and, working together, we will make it work. The reason we asked for a delay of a few months was because we wanted to test the system. As with any IT system, there are bugs that could have occurred during the testing period. Now, with the DRS in place, errors will occur as the program runs. We will fine-tune things as they occur. Otherwise, all the basics are in place.”*<sup>31</sup>

Even the representatives of the Romanian authorities<sup>32</sup>, for example the Minister for the Environment, Mr Mircea Fechet<sup>33</sup>, underlined at the middle of December 2023 that he did not have any expectations from the deposit return system for December 2023, but that the target is that by 30 June 2024, 100% of packaging on shop shelves will be marked with the DRS logo<sup>34</sup>. It is expected that in January 2024, 10% of the beverage products put on the market to be in DRS packaging (not seen at this moment, unfortunately).

30 | A 'numbering centre' is a space organised and managed by the DRS administrator for bar-coded verification of the packaging's membership of the deposit return system and for determining the number of units of DRS packaging taken back from return points organised by retailers.

31 | Care sunt problemele Sistemului de Garanție Returnare (SGR) și cum poate deveni complet funcțional – declarațiile CEO ReturRo, Gemma Webb 2024.

32 | For a detailed presentation of the Romanian administrative system, please see Cliza & Ulariu 2023, and for a detailed presentation of the legal responsibility in Romanian administrative law, please see Stefan 2013.

33 | Mircea Fechet, ministrul mediului, despre Sistemul de Garanție-Returnare: Pentru luna decembrie nu am nicio așteptare. Targetul este însă ca la 30 iunie anul viitor 100% din ambalajele de pe rafturile magazinelor să fie marcate cu sigla SGR 2023.

34 | Ibid.



## 9. Concluding Remarks

Therefore, as from 30 November 2023, the deposit return system, which is unique at the Romanian level, started to operate, being compulsory for all producers and traders under the terms of the Government Decision No. 1074/2021, and applying both to products manufactured on the Romanian territory and to products imported or purchased intra-Community, under non-discriminatory conditions, including as regards the possibility of effective participation of economic operators in the operation of the scheme and the tariffs imposed on them by the DRS administrator. By way of exception, the DRS does not apply to exported products traded in duty-free shops and to those traded in international means of transport.

The role of the Romanian deposit return system is to ensure in Romania that the annual collection and recycling targets for packaging set by national and EU legislation are attained. Additionally, considered to be the second largest in Europe, after the German one, the deposit return system is supposed to boost the recycling market in Romania, providing significant quantities and quality of raw material.

So, after all, what will be the environmental benefits after the implementation of the deposit return system in Romania or everywhere in the world? *Firstly*, the reduction of environmental pollution from disposable packaging used for bottling beverages. *Secondly*, avoidance of high energy consumption during production and disposal of this packaging, and reducing the greenhouse effect. *Thirdly*, reintegrate packaging into the economy and stimulate the circular economy. *Fourthly*, stimulating selective collection and better use of valuable raw materials.

All Romanian stakeholders are under pressure to be ready for the implementation of this system, especially that the change from one management system to deposit return system involve thorough preparations by all of them.

The year 2024 will be for Romanian deposit return system a calibration year, and there shall be, however, challenges to be addressed in implementing the system in Romania. It is worth mentioning that through the deposit return system the Romanian authorities are hoping to increase the percentage of recycling targets achieved nowadays around 12% to 95%. In order that this target to be attained, the consumers, retailers, distributors and producers have to work together, although there is a crucial need for further research.

What consumers should know when buying drinks under the deposit return system in Romania? That they should choose beverages packaged in eco-friendly packaging, i.e. in bottles in disposable eco-friendly packaging advantageous. When buying drinks, they should also remember that the material from which they are made packaging can be reused by returning and recycling it.

Only time will teach us how to improve the deposit return system, a huge step towards a more sustainable<sup>35</sup> development in Romania, what lessons Romania will have to learn regarding the functioning of the system and how targets could be achieved in the shortest time possible, in applying and enforcing, after all, the polluter pays principle.<sup>36</sup> Of course, the work of the EU institutions, including of the Court of Justice<sup>37</sup> (including in cases when the EU institutions, bodies and agencies exceed their powers, and their actions are declared to be carried out in excess of their powers, or *ultra vires*<sup>38</sup>), will have to be pursued, in order to improve the system. And, of course, that the practice of other international administrative and judicial<sup>39</sup> institutions must be researched at the European level, in order to make the deposit return system coherent in the EU.

Until then... we just have to start working with the other stakeholders in order to make the deposit return system work in Romania and to mitigate the problem of pollution which is one of the greatest challenges of our time. Let's do it together, Romania!!!

35 | For an interesting study on sustainable development in Hungary, please see Csák & Jakab 2012, 50–78.

36 | Csák 2011, 27–40.

37 | In this respect, please see Boghirnea & Valcu 2009, 253–264.

38 | For an interesting study on this topic, please see Stanciulescu 2023.

39 | Please see in this respect how the legal doctrine anticipates the further development of the international judiciary, Veljanovska & Tuntevski 2022, 172–178.

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