



REPLIES OF THE EUROPEAN COMMISSION

TO THE EUROPEAN COURT OF AUDITORS' SPECIAL REPORT

EU revenue based on non-recycled plastic packaging waste:

A challenging start hindered by data that is not sufficiently
comparable or reliable

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This document presents the replies of the European Commission to observations of a Special Report of the European Court of Auditors, in line with Article 259 of the [Financial Regulation](#) and to be published together with the Special Report.

I. THE COMMISSION REPLIES IN BRIEF

The Commission welcomes the ECA special report on the EU revenue based on non-recycled plastic packaging waste, focusing on the calculation and collection methodology of the recently introduced plastic-based own resource, and on the available data and its comparability and reliability aspects, as well as the support offered by the Commission to the Member States.

Between 1988 and 2021, the categories of own resources remained the same but relied more and more on the GNI based own resource. Throughout the decades, various attempts have been undertaken to reform this system and to introduce new own resources¹. The reform of 2020 and the introduction of the own resource based on non-recycled plastic packaging waste paved the way for the significant modernisation of the own resources system.

The new own resource based on non-recycled plastic packaging waste is an example of an effort made by the Commission to diversify the EU's revenue sources and contribute to the environmental objectives by providing an incentive for Member States to reduce pollution from non-recycled plastic packaging waste. In particular, this new resource expected to encourage Member States to reduce the consumption of single-use plastic, foster recycling of plastic packaging waste and stimulate Europe's transition towards a circular economy by implementing the European Plastics Strategy. At the same time, it leaves Member States the possibility to define the most suitable policies to reduce plastic packaging waste pollution in line with the principle of subsidiarity.

Legal obligations on the management of packaging waste are laid down in the Packaging and Packaging Waste Directive. These include a recycling target of 65% for all packaging waste to be achieved by 2025 and material-specific targets, including for plastic. According to the Commission's Early Warning Report², 19 Member States³ have been identified as at risk of missing the plastics packaging waste recycling target of 50%. This shows the importance of proper implementation of tools such as the plastic own resource to promote the implementation of the right measures to achieve the targets across the EU.

The Commission has a system of reservations in place for the plastics-based own resource, which is the same system of reservations as for the other own resources. Decades of experience with reservations have proved to be successful to improve the quality of the data and protect the EU budget. With the procedures established by the Commission the data quality will improve substantially in the next years.

The Commission is ready to take actions on the recommendations presented in the report as long as these actions remain within Commission's competence and insofar they do not lead to additional unnecessary bureaucracy. The implementation of some of the actions, in particular as regards increased checks on whether the waste is actually recycled at the level of individual recycling plants, would necessitate discussions with the Member States. The Commission has also put in place the controls to mitigate potential risks existing at the level of the Member States and to ensure that they

¹ Proposal for a Council Decision on the system of own resources of the European Union (COM(2011) 510 final) suggests the introduction of a Financial Transaction Tax and a new Value Added Tax based Own Resource. As a result, a High-Level Group chaired by Mario Monti was mandated to identify possible new own resources.

² [Waste Early Warning Report - European Commission \(europa.eu\)](#)

³ Austria, Bulgaria, Croatia, Cyprus, Denmark, Finland, France, Greece, Hungary, Ireland, Italy, Latvia, Luxembourg, Malta, Poland, Portugal, Romania, Slovakia and Spain

will not impact the EU budget or the level of the Member States contributions. This process has started in September 2023 and will contribute to enhancing the quality of data used.

The Commission reiterates that the practice of forecast and balances is well established and applied to all the other own resources, with similar results. The Commission collected the amounts forecasted in accordance with the procedures in place. The difference of EUR 1.1 billion is only temporarily compensated by the GNI based own resource. The revised amounts for the plastic based own resource were paid by the Member States in 2024 and will be presented for all own resources in the annual accounts.

Finally, in 2024, the Commission concluded two important legislative revisions: the revision of the Waste Shipment Regulation⁴ and the adoption of a new Packaging and Packaging Waste Regulation⁵. These legislative actions will address several issues raised in the report.

II. COMMISSION REPLIES TO MAIN OBSERVATIONS OF THE ECA

1. Introduction of the new own resource

Commission actions

As regards the ECA's observation that the Commission support was not timely (sub-header above paragraphs 25 and 26), the Commission notes that it would not have been possible nor necessary to have most measures and actions in place before January 2021. The relevant Council Regulation⁶ establishing the plastic own resource was adopted on 30 April 2021 but applied retroactively from 1 January 2021. The new Council Decision⁷ on the system of Own Resources containing the Plastic Own Resources was adopted in December 2020 and approved by Member States in accordance with their constitutional requirements by June 2021 but also applied retroactively as from January 2021.

Given the time constraints, the Commission provided all possible support to the Member States by allowing Member States experts to participate in information visits, starting in 2019 and until 2023. The preparation efforts were not helped by the COVID 19 pandemic situation, because the visits had to stop in 2020 and could be resumed only in June 2021. The Commission also organized three expert group meetings on statistics on plastic packaging waste (SPPW) per year in 2022 and 2023, as well as technical discussions on issues raised by the Member States.

⁴ Regulation (EU) 2024/1157 of the European Parliament and of the Council of 11 April 2024 on shipments of waste

⁵ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on packaging and packaging waste, amending Regulation (EU) 2019/1020 and Directive (EU) 2019/904, and repealing Directive 94/62/EC

⁶ COUNCIL REGULATION (EU, Euratom) 2021/770 of 30 April 2021 on the calculation of the own resource based on plastic packaging waste that is not recycled, on the methods and procedure for making available that own resource, on the measures to meet cash requirements, and on certain aspects of the own resource based on gross national income

⁷ COUNCIL DECISION (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom

Transposition of the Packaging and Packaging Waste Directive - Conformity checks

As regards the conformity checks of the legislation of the Member States (23 out of 27 Member States) (paragraphs 32 and 33) studies became available in batches in the second half of 2022 and 2023. This left little time for their analysis prior to the start of the inspection visits, which were carried out in the same year. Any transposition issues potentially affecting the own resource are discussed in the context of the plastics own resource inspections and any identified issue results in a reservation that will have to be resolved before the reservation is lifted. An alternative to this process could be to address the identified non-conformity issues once the Commission becomes aware of them. This could be done either via bilateral contacts with Member States, or through infringements. Bilateral contacts are informal in nature and as such do not formally oblige Member States to take action. The infringement procedure, by its very nature, is a contradictory procedure, which can last several years, especially if the case needs to be referred to the Court of Justice of the European Union. Contrary to this, setting reservations during inspection visits could be seen as faster means of addressing the issue of non-conformity related to the plastics own resource. The implementation of reservations will be checked again during the next round of inspection visits. Cases where Member States have not complied with a reservation will be reported in the context of the expert group on statistics on plastic packaging waste (SPPW). Failure to react by the required deadline or failure to address the reservation could lead to the calculation of interest for late payment. Finally, any differences that could impact the calculation of Member States' contributions are only temporary, and they are reversed once the reservation is lifted. Therefore, Member States contributions will be ultimately corrected.

The Commission would like to add that the relevant Council Regulation⁸ was adopted on 30 April 2021 but applied from 1 January 2021 (paragraph 35). Therefore, there was no legal basis on which the Commission could check Member States' implementation status any sooner without the agreement of the Member State concerned. The Commission cannot initiate controls before the entry into force of the relevant legislation. The Commission assisted Member States on a voluntary basis through informal visits.

Transmission of the Greek statement

Regarding the transmission of the Greek statement (paragraphs 40 and 41) it should be noted that the Commission does not have any legal means to influence the timely submission of the statements by the Member States before the 31 July 2023 deadline⁹. The Commission maintained regular dialogue with all Member States and Greece in particular on the requirements of the Council Regulation 2021/770 and used all the tools available at its disposal to ensure a high level of preparedness of the Member States.

The Commission reiterates that in 2021, the revenue was calculated and collected based on forecasts, and subsequently adjusted through the balances exercise. This is a standard exercise based on the rules provided for in the Making Available Regulations, applicable to GNI, VAT and plastic-based own resources. The late submission of the Greek statement did not have any impact on the revenues for 2023. Greek authorities autonomously paid the difference between the statement and the forecast on the first working day of June 2024 (the date of the payment of the balances exercise where the amount would have been included, if the Greek statement had been submitted on time). This amount, after the SPPW group has given its opinion, will therefore be taken into account in the next year balances exercise as an amount paid in order to avoid double counting.

⁸ COUNCIL REGULATION (EU, Euratom) 2021/768 of 30 April 2021 laying down implementing measures for the system of own resources of the European Union and repealing Regulation (EU, Euratom) No 608/2014

⁹ The legal framework is Council Regulation (EU, Euratom) 2021/768, in particular Chapter II.

2. Forecasts of non-recycled plastic packaging waste

The ECA mentions that the Implementing decision to calculate the plastic own resource was published in April 2019, leaving very little time for Member States to introduce the change (paragraph 48). The Commission stresses that this was fully acknowledged during the negotiations on the Plastic Own Resource. Article 15 of Making Available Regulation 2 provides Member States with a transition period where the forecast could be prepared using the old methodology.

The observations by the ECA are based on one single year of forecasting, which is the first year ever for the plastic own resource. The forecasts were made by the Commission and Member States, the Commission provided necessary support and tools to Member States.

The Commission would like to point out that the difference between the forecast and the statements (paragraph 60) is temporary and, consequently, it is only temporarily compensated by the GNI resource. The forecasting difference is subsequently corrected as a result of the balances exercise.

The Commission reiterates that the practice of forecast and balances is well established and applied to all the other own resources, with similar results. This practice ensures the well functioning of the budget and the budgetary and financial accounts of the Commission have always been correct and confirmed also by the ECA in their annual reports. The Commission collected the amounts forecasted in accordance with the procedures in place. The difference of EUR 1.1 billion is only temporarily compensated by the GNI based own resource. The revised amounts for the plastic based own resource were paid by the Member States in 2024 and will be presented for all own resources in the annual accounts.

3. Data comparability and reliability, and risk mitigation

Data comparability and reliability

The Commission is well aware of the needs to improve data comparability and reliability. That is why when potential weaknesses are identified during the inspections, the Commission places reservations so that those weaknesses are addressed by the Member States, taking into account the support provided by the Commission. In this way applying reservations allows to improve data comparability and reliability. Regarding the estimation of data for previous years (paragraph 66), the Commission always ensures comparability of data. In case it is considered that data is not comparable, it is corrected through the reservations mechanism. All data can be extrapolated to previous years by different statistical methodologies.

The Commission acknowledges that a timely adoption of the delegated act on average loss rate could have contributed to better quality of data (paragraph 67). However, it is important to recall that, even in the absence of that delegated act, the legislation in place contains provisions to ensure data reliability. The use of average loss rate is only allowed “where reliable data cannot be otherwise obtained”, so Member States are not obliged to use them. Where average loss rates are used, Member States are obliged to ensure the accuracy and traceability of data.

In addition, the Commission would like to point out that even with harmonised calculation rules in place, the loss rates will vary because the sorting processes have varying degrees of effectiveness.

Mitigation of the risks of waste sent to recyclers not subsequently being recycled

Regarding paragraph 75, the Commission cannot perform audits or checks on the operators whether the waste sent to recyclers was not subsequently recycled. This is because Council Regulation

2021/768¹⁰ establishes the limits of the Commission inspection powers, in particular around the operations to calculate the weight of plastic packaging waste. Only Member States can perform audits or checks that mitigate those risks. It should be noted that some Member States audit recycling facilities in their territory and even in third countries. In four of the eight Member States inspected so far, the Producer Responsibility Organisations (PROs) or external auditors audit recycled amounts as well as recycling facilities. The Commission places reservations as necessary on the recycling figures that cannot be verified during the inspections.

Regarding the compilation methods, the Commission verifies, during its inspection visits, whether one or two methods are used, and places reservations whenever only one method is used, or balancing between the two methods is not applied, or one of the two methods has inconsistencies.

The Commission notes that the 2019 study referred to by ECA (paragraph 68) precedes by two years the establishment of the plastic own resource and this is an area of fast development. Recently reported information by Member States (Italy, Spain, France, Lithuania and Romania) seem to be in a range between (15 and 25%).

The Commission notes the observation on the increased risk of fraud that can result from the fact that the weight of the waste recycled is calculated as the weight of waste which enters the recycling operation (at the EU-harmonized calculation point)¹¹ in the absence of regular checks on whether the waste is actually subsequently recycled in accordance with the definition of recycling contained in Article 3 of the Waste Framework Directive.

4. Plastic packaging waste recycling

Member States impose obligations and responsibilities on ensuring the recycling of waste on the producer responsibility organisations, as well as on other waste operators (paragraph 92). There are requirements about registering in an official register, existence of independent audits, inspections by national or regional authorities, regular reviews of licences subject to those inspections and audits, etc. Member States have adopted legislation and procedures that apply directly (inspection offices) and/or indirectly (private auditors). Member States are questioned about the existence of these procedures and rules and reservations are placed where they are not existing or are not sufficiently sound.

Regarding paragraph 75, the Commission cannot perform audits or checks on the operators because Council Regulation 2021/768¹¹ establishes the limits of the Commission's inspection powers, in particular around the operations to calculate the weight of plastic packaging waste.

Within those boundaries, the Commission checks in particular that the amounts reported in the calculations correspond to the actual amounts of waste recycled. The Commission is placing reservations as a follow up of the inspection visits for all the issues not addressed, including the lack of certainty on amounts recycled.

As regards the observations that Member States cannot ensure that conditions for the recycling of plastic packaging waste exported outside the EU are broadly equivalent to EU recycling processes, the most recent legislative developments, including the adoption of the new Waste Shipment Regulation, will further improve the controls over the waste management conditions outside the EU. The new Waste Shipment Regulation bans such exports to non-OECD countries and increases the monitorability of waste shipments in general, and of exports of plastic waste to OECD countries in particular.

¹⁰ See Article 2(5)

¹¹ See Article 2(5)

As regards the ECA observations on the lack of demand for recycling plastics, the new Packaging and Packaging Waste Regulation has as one of its key objectives improving the circularity of plastic packaging by addressing this issue from the life-cycle perspective. The Regulation introduces a new requirement that plastic packaging should contain a certain minimum recycled content, i.e., minimum percentage of recycled plastics. Furthermore, it requires that all packaging be recyclable in order to be allowed to be placed on the EU market, whereby the conditions of recyclability will be harmonised and will, by 2035, have to include an assessment of the actual recycling capacity based on existing and operational infrastructure. These new rules will boost the demand for high quality recycled plastics in the EU and support the recycling market. The implementation of the related measures is expected to substantially reduce the risk highlighted by the ECA by addressing the source of the problem, i.e. the low quality of recyclates, rather than the consequences of the problem.

III. COMMISSION REPLIES TO THE RECOMMENDATIONS OF THE ECA

1. Recommendation 1 – Apply the lessons learnt from the introduction of the plastic based own resource

When preparing future own resources, the Commission should:

- (a) identify the legislative changes needed with an estimated timetable for proposal;**
- (b) where new own resources are based on data reported by Member States, identify the key risks affecting the quality of data and share the information with the Member States before the introduction of the new own resources;**
- (c) establish an efficient procedure for following up any significant non-compliance detected in transposition into national legislation or issues affecting data quality.**

(Target implementation date: for new own resources proposed after 2024)

The Commission **partially accepts recommendation 1a** The Commission will carefully analyse the feasibility of introducing and implementing new own resources as it is already the case but cannot commit to any proposal of legislative changes – including timetables.

The Commission **does not accept recommendation 1b**. The Commission has no legal basis on which it could further assess Member States' preparedness or data quality before the introduction of the own resource, nor can it initiate any controls before the entry into force of the relevant legislation. However, the Commission recognises that any possible new own resources should be based on robust data and evidence, and where it identifies issues or risks in any data that may be provided by Member States on a voluntary basis, such feedback would be shared with Member States.

Indeed, the Commission does conduct a general assessment of the quality of data before deciding to propose the own resource. For example, in the Staff Working Document accompanying the 2023 package, the Commission analysed several potential candidates and discarded some of them as the quality of data was insufficient (cf. e-waste, food waste).

The Commission **does not accept recommendation 1c**. In general, simplification and reducing administrative burden will be key considerations when setting up procedures, any procedures related to future own resources will have to be designed as part of an upcoming legislative proposal, which the Commission cannot prejudge.

2. Recommendation 2 – Improve data comparability and reliability

The Commission should:

- (a) establish a timetable, together with the Member States, to address the difficulties preventing each country from estimating waste generated using the two methods and balancing the results;**
- (b) identify, together with the Member States, the difficulties preventing them from using the calculation point on entry to the recycling process to establish the amounts declared as recycled, and take action to address those difficulties;**
- (c) present a revised proposal of a delegated act to establish average loss rates;**
- (d) propose the alignment of the definition of plastics in all texts used for the plastic-based own resource.**

(Target implementation date: 2026)

The Commission **accepts recommendation 2a**.

The Commission **accepts recommendation 2b**.

The Commission **accepts recommendation 2c**. The works on the revised proposal are ongoing.

The Commission **partially accepts recommendation 2d**. The Commission acknowledges the need to align the definition on plastics. In the new Packaging and Packaging Waste Regulation, the Commission has already proposed the alignment of the definitions of plastics in the packaging legislation with the definition in the Single-use plastics directive. However, the Commission cannot prejudge on future legislative proposals.

3. Recommendation 3 – Mitigate the risk of waste sent to recyclers not subsequently being recycled

The Commission should assess the risk of plastic packaging waste sent to recyclers within and outside the EU not subsequently being recycled, identify appropriate actions to mitigate this risk, and discuss them with the Member State with a view to their implementation

(Target implementation date: 2027)

The Commission **accepts recommendation 3**.

The Commission is aware of the risk as highlighted by the ECA and is taking several measures to address it, notably with the new Packaging and Packaging Waste Regulation and of the revised Waste Shipment Regulation.