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PPWR / EmpCo Update: Suspension of the authorised representative requirement?

Factsheet for small businesses / Labelling requirements / Entry into application of the UWG rules implementing the EmpCo Directive



Dear Sir or Madam,

The Packaging and Packaging Waste Regulation (PPWR), which has applied since 12 August 2026, continues to generate debate. While the European Parliament and the European Council are still negotiating whether, and for whom, the obligation to appoint an authorised representative should be suspended, the European Commission published a factsheet for small businesses on 19 October 2026. Although it provides clarification on certain points, the factsheet unfortunately also shows that Brussels itself is having "difficulties" with the Regulation.

Businesses will, however, have more time to comply with the harmonised labelling requirements under Article 12 PPWR. As the necessary implementing acts have not yet been adopted, the deadline for compliance with this obligation is being pushed back.

Please note that the following information does not constitute individual legal advice.

I. Suspension of the obligation to appoint an authorised representative – but not for everyone?

Shortly after the PPWR became applicable, concerns were raised that the obligation to appoint an authorised representative under Article 45(3) PPWR, in particular, places an excessive burden on small businesses. Article 45(3) PPWR requires every producer to appoint and remunerate such a representative in each country in which it sells its products.

The European Commission therefore proposed as early as the end of 2025 that this obligation be suspended until early 2035 for all producers established in the EU. In early October 2026, the European Parliament's Committee on the

Environment also supported suspending the requirement for small businesses with fewer than 50 employees and an annual turnover not exceeding EUR 10 million. By contrast, the European Council has proposed exempting only those producers that place less than one tonne of packaging on the market in a Member State per calendar year from the statutory obligation under Article 45(3) PPWR. It is also calling for suspension only until 2032.

The Parliament and the European Council therefore currently hold different positions. A compromise will have to be reached in the forthcoming "trilogue" procedure. This is expected to form part of the "Omnibus VIII" simplification package. The Commission aims for the suspension to enter into force before the end of November. However, no date has yet been set for the trilogue negotiations. It therefore remains to be seen whether this timetable can be met.

Until a legally binding agreement is reached, Article 45(3) PPWR remains equally applicable and binding on all producers. The European Commission has recommended that Member States refrain from imposing penalties. However, this recommendation does not change the current legal position. The obligation to appoint an authorised representative remains in place, and the competent authorities are not required to follow the Commission's recommendation. Producers therefore cannot safely assume that infringements will have no consequences. It should also be noted that, even if the requirement is suspended, the other obligations (registration, participation in a take-back system and EPR fees) will remain in place.

In our view, a complete suspension, as proposed by the Commission, would be welcome. The obligation under Article 45(3) PPWR entails substantial financial and administrative burdens for both small and large businesses. As originally proposed by the Commission, the suspension should therefore apply to all producers established in the EU. The burden depends less on the size of the business than on the number of countries in which it sells its products. We will, of course, keep you informed about the outcome of the trilogue negotiations.

II. Factsheet for micro-enterprises published

On 19 October 2026, the Commission published a factsheet for micro-enterprises. Like the FAQs published on 3 August 2026, the factsheet is not a legally binding document.

The document summarises the existing statutory obligations under the PPWR for small businesses and micro-enterprises. In particular, it identifies the obligation to issue an EU declaration of conformity and to provide packaging traceability information. In principle, the requirements set out in the factsheet (with the exception of Section 4) apply to every business. Nevertheless, the factsheet should, unfortunately, be treated with caution. For example, the Commission states that the declaration of conformity need only cover the requirements concerning substances of concern, including the heavy metal limits. However, the Guidance expressly states, for example, that Article 6(1) PPWR (recyclability) applies from 12 August 2026 (Guidance, p. 13). The Commission's continuing view that the manufacturer of "generic transport packaging", such as corrugated cardboard boxes, is the "physical manufacturer" also raises concerns. First, it is unclear what is meant by "generic" transport packaging; second, the Member States and national authorities (including the ZSVR) take a different view. Another surprising point is the threshold of 1,000 kg of packaging per year specified by the Commission in the factsheet for the application of simplified reporting obligations. Under Article 44(8) PPWR, this threshold is 10 tonnes per Member State per calendar year. By contrast, the figure of 1,000 kg appears in Article 29(13) PPWR in connection with the exemption from reuse targets for micro-enterprises. The information in the factsheet is inconsistent in this respect.

III. Postponement of labelling requirements

Under Article 12(1) PPWR, packaging will in future have to bear a harmonised label. This obligation was originally due to apply from 12 August 2028 or 24 months after the entry into force of the implementing acts, whichever is later. The Commission should have adopted these implementing acts by 12 August 2026. However, they are still being prepared. The labelling obligation is therefore being postponed: it will apply only 24 months after the implementing acts enter into force. The same applies to the labelling of reusable packaging, for

which a period of 30 months applies. In addition, under Article 12(12) PPWR, packaging manufactured or imported before the relevant deadlines may continue to be made available for up to three years after the labelling obligation becomes applicable. According to our information, publication of the act is expected in Q1 2027. Accordingly, the labelling obligation under Article 12 PPWR will not enter into force until 2029.

Until the implementing acts are available, neither the required design of the labels nor the date from which they will apply has been determined. It is therefore not yet possible to adapt packaging designs. It should be noted, however, that the postponement concerns only the harmonised labelling under Article 12 PPWR. The requirements concerning traceability information and the manufacturer's name and address under Article 15(5) and (6) PPWR have already applied since 12 August 2026.

EmpCo: New requirements for environmental and sustainability advertising

Since 27 September 2026, the new provisions of the German Act Against Unfair Competition (UWG) implementing the EU "Empowering Consumers for the Green Transition" Directive (EmpCo) have applied in Germany. These impose significantly stricter requirements on environmental and sustainability advertising. They concern, in particular, generic environmental claims such as "environmentally friendly", "green" or "sustainable", claims concerning climate neutrality and offsetting, advertising relating to future environmental performance, and sustainability labels.

The extension of the UWG's so-called "blacklist" is particularly important. Where the relevant consumer nexus exists, the commercial practices listed there are prohibited regardless of whether they are misleading in the individual case. Providing a more detailed explanation of a problematic claim will therefore not always remedy the issue. Businesses whose operations predominantly target B2B customers should also keep these requirements in mind: a relevant consumer nexus may arise, for example, where publicly accessible websites, social media accounts, product labels or corporate image advertising also reach consumers.

For existing stocks of goods, the legislature introduced a special provision at short notice in section 15b UWG. However, this provides neither blanket grandfathering protection nor a general sell-off period. Rather, for goods already placed on the market before 27 September 2026, the proportionality of claims for removal and injunctive relief must be assessed on a case-by-case basis. Relevant factors may include, in particular, the seriousness of the infringement, remedial measures already taken, and the costs and environmental consequences of further measures. Moreover, the provision does not automatically cover all goods produced before the cut-off date or advertising materials already created. Further details can be found in our blog post on this topic.

Businesses should therefore use EmpCo as an opportunity to systematically review their environmental and sustainability communications. In addition to individual prominent "green claims", this review should cover, in particular, websites, social media, product names and packaging, labels and seals, and other marketing materials. The aim should be to establish a robust compliance process that provides transparency as to which claims are used where, what they refer to and how they can be substantiated. EmpCo does not prohibit sustainability communications – but they will need to be more structured, specific and substantiated in future.

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