

Brussels, 11 March 2026  
Case No: 91758  
Document No: 1546283  
Decision No: 057/26/COL

EEA Coordination Unit  
PO Box 684 Kirchstrasse 8  
9490 Vaduz  
Liechtenstein

Dear Sir or Madam,

**Subject: Letter of formal notice to Liechtenstein arising from a conformity assessment of the implementation of the Single-Use Plastics Directive in Liechtenstein**

## 1 Introduction

By a letter dated 4 March 2024,<sup>1</sup> the EFTA Surveillance Authority (“the Authority”) informed the Liechtenstein Government that it was in the process of assessing the EEA EFTA States’ compliance with the Single-Use Plastics Directive, Directive (EU) 2019/904 (also referred to in this letter as “the Directive”).<sup>2</sup>

The Single-Use Plastics Directive aims to prevent and reduce the impact of certain plastic products on the environment and on human health, as well as to promote the transition to a circular economy.<sup>3</sup> It does this through imposing a variety of different obligations on States, including requiring them to take measures targeting consumer behaviour, to prohibit certain single-use plastic products, and to impose product or marking requirements for other single-use plastic products.

The Directive focuses efforts where they are most needed, and therefore imposes different obligations in respect of different plastic products. It was estimated that the products covered by measures under the Directive represented around 86% of the single-use plastics found on beaches in the EU.<sup>4</sup> As such, the Authority considers that the Directive’s implementation requires specific focus on the relevant plastic products to which it applies. Information provided by the Liechtenstein Government to the Authority indicates that some of the implementing measures taken by Liechtenstein are not targeted in this manner.

This letter of formal notice addresses three areas in which the Authority considers that Liechtenstein has not correctly implemented and applied the provisions of the Directive. It can also be noted that in the course of its assessment, the Authority has identified other aspects of Liechtenstein’s implementation and application of the Directive which also may not be compliant. The Authority needs more information to conclude on whether Liechtenstein’s implementation of these points complies with the requirements of the Directive. These further aspects will therefore be communicated separately to the Liechtenstein Government for discussion at the upcoming package meeting, and the Authority may revert to these at a later date.

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<sup>1</sup> Document No 1438277.

<sup>2</sup> Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment, incorporated into the Agreement on the European Economic Area (“the EEA Agreement”) by Joint Committee Decision No 240/2021 of 24 September 2021 at point 9d of Chapter XVII of Annex II.

<sup>3</sup> Article 1 of the Directive.

<sup>4</sup> See Recital 7 of the Directive.

The Authority acknowledges that Liechtenstein is in a somewhat different position to other EEA States as regards its implementation of the Directive due to both the principle of parallel marketability, reflected in the sectoral adaptations to Annex II of the EEA Agreement, and Liechtenstein being integrated into the Swiss waste management system. Nevertheless, the Authority considers that this sectoral adaptation and the integration into the Swiss waste management system does not absolve Liechtenstein from all obligations of the Directive as invoked by Liechtenstein.

Accordingly, as its information presently stands, the Authority takes issue with the following:

- by not taking the necessary measures to achieve an ambitious and sustained reduction in the consumption of the products listed in Part A of the Annex of the Directive, Liechtenstein has failed to fulfil its obligations under Articles 4(1) first subparagraph and 17 of the Directive, and Article 7 EEA;
- by not adopting the necessary measures to ensure, with sufficient precision and clarity, that the relevant beverage bottles referred to in Article 6(5) of the Directive and further defined in Part F of the Annex contain at least 25% recycled plastic from 2025 and at least 30% by 2030, both calculated as an average for all PET bottles placed on the market on its territory, Liechtenstein has failed to fulfil its obligations under Articles 6(5) and 17 of the Directive, and Article 7 EEA;
- by not taking measures to inform consumers and to incentivise responsible consumer behaviour, in order to reduce litter from products covered by the Directive, Liechtenstein has failed to fulfil its obligations under Articles 10 and 17 of the Directive, and Article 7 EEA; and
- by not taking measures to inform consumers of the single-use plastic products listed in Part G of the Annex and users of fishing gear containing plastic about the information in points (a) through (c) of Article 10, Liechtenstein has failed to fulfil its obligations under Articles 10 and 17 of the Directive, and Article 7 EEA.

## 2 Key correspondence

In the letter of 4 March 2024, the Liechtenstein Government was requested to submit a table of correspondence. This was provided under cover of a letter dated 8 May 2024.<sup>5</sup>

On 12 September 2024, the Authority invited the Liechtenstein Government to further clarify or comment on various matters.<sup>6</sup> The Liechtenstein Government responded on 17 June 2025.<sup>7</sup>

## 3 Relevant EEA law

Article 7 of the EEA Agreement provides that EEA States are to make acts incorporated into the EEA Agreement part of their internal legal order. With regard to directives, the choice of form and method of implementation shall be left to the authorities of the EEA States.

### 3.1 The Single-Use Plastics Directive (Directive (EU) 2019/904)

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<sup>5</sup> Documents No 1455631 and 1455629.

<sup>6</sup> Document No 1480683.

<sup>7</sup> Document No 1544033.

The Single-Use Plastics Directive is incorporated in Annex II of the EEA Agreement.

The second paragraph of the Sectoral Adaptations of that Annex provides:

*“For products covered by the acts referred to in this Annex, Liechtenstein may apply Swiss technical regulations and standards deriving from its regional union with Switzerland on the Liechtenstein market in parallel with the legislation implementing the acts referred to in this Annex. Provisions on free movement of goods contained in this Agreement or in acts referred to shall be applicable to exports from Liechtenstein to the other Contracting Parties only to products in conformity with the acts referred to in this Annex.”*

As noted above, the Single-Use Plastics Directive applies different obligations in respect of different products. Its structure is that the obligations are set out in the Articles, which generally cross refer to lists of specific plastic products set out in the Annex.

Recital 7 to the Directive provides:

*“To focus efforts where they are most needed, this Directive should cover only those single-use plastic products that are found the most on beaches in the Union as well as fishing gear containing plastic and products made from oxo-degradable plastic. The single-use plastic products covered by measures under this Directive are estimated to represent around 86 % of the single-use plastics found, in counts, on beaches in the Union. Glass and metal beverage containers should not be covered by this Directive as they are not among the single-use plastic products that are found the most on beaches in the Union.”*

Recital 10 to the Directive provides:

*“This Directive is a lex specialis in relation to Directives 94/62/EC and 2008/98/EC. In the event of a conflict between those Directives and this Directive, this Directive should prevail within the scope of its application. That is the case for restrictions on placing on the market. In particular with regard to consumption reduction measures, product requirements, marking requirements and extended producer responsibility, this Directive supplements Directives 94/62/EC and 2008/98/EC and Directive 2014/40/EU of the European Parliament and of the Council.”*

Article 1 of the Directive establishes its objectives. It provides:

*“The objectives of this Directive are to prevent and reduce the impact of certain plastic products on the environment, in particular the aquatic environment, and on human health, as well as to promote the transition to a circular economy with innovative and sustainable business models, products and materials, thus also contributing to the efficient functioning of the internal market.”*

Article 2(1) of the Directive refers to the relevance of the Annex. It provides:

*“This Directive applies to the single-use plastic products listed in the Annex, to products made from oxo-degradable plastic and to fishing gear containing plastic.”*

The Annex reads, insofar as relevant:

**PART A**

**Single-use plastic products covered by Article 4 on consumption reduction**

(1) Cups for beverages, including their covers and lids;

(2) *Food containers, i.e. receptacles such as boxes, with or without a cover, used to contain food which:*

- (a) is intended for immediate consumption, either on-the-spot or take-away,*
- (b) is typically consumed from the receptacle, and*
- (c) is ready to be consumed without any further preparation, such as cooking, boiling or heating,*  
*including food containers used for fast food or other meal ready for immediate consumption, except beverage containers, plates and packets and wrappers containing food.*

[...]

#### **PART F**

##### **Single-use plastic products covered by Article 9 on separate collection and by Article 6(5) on product requirements**

*Beverage bottles with a capacity of up to three litres, including their caps and lids, but not:*

- (a) glass or metal beverage bottles that have caps and lids made from plastic,*
- (b) beverage bottles intended and used for food for special medical purposes as defined in point (g) of Article 2 of Regulation (EU) No 609/2013 that is in liquid form.*

#### **PART G**

##### **Single-use plastic products covered by Article 10 on awareness raising**

(1) *Food containers, i.e. receptacles such as boxes, with or without a cover, used to contain food which:*

- (a) is intended for immediate consumption, either on-the-spot or take-away,*
- (b) is typically consumed from the receptacle, and*
- (c) is ready to be consumed without any further preparation, such as cooking, boiling or heating,*  
*including food containers used for fast food or other meal ready for immediate consumption, except beverage containers, plates and packets and wrappers containing food;*

(2) *Packets and wrappers made from flexible material containing food that is intended for immediate consumption from the packet or wrapper without any further preparation;*

(3) *Beverage containers with a capacity of up to three litres, i.e. receptacles used to contain liquid such as beverage bottles including their caps and lids and composite beverage packaging including their caps and lids, but not glass or metal beverage containers that have caps and lids made from plastic;*

(4) *Cups for beverages, including their covers and lids;*

(5) *Tobacco products with filters and filters marketed for use in combination with tobacco products;*

(6) *Wet wipes, i.e. pre-wetted personal care and domestic wipes;*

(7) *Balloons, except balloons for industrial or other professional uses and applications that are not distributed to consumers;*

(8) *Lightweight plastic carrier bags as defined in point 1c of Article 3 of Directive 94/62/EC;*

(9) *Sanitary towels (pads), tampons and tampon applicators.*

Article 4 of the Directive deals with consumption reduction. Read taking into account the entry into force date of Joint Committee Decision No 240/2021 and as adapted by Protocol 1 EEA, it provides (footnote omitted):

*“1. Member States shall take the necessary measures to achieve an ambitious and sustained reduction in the consumption of the single-use plastic products listed in*

*Part A of the Annex, in line with the overall objectives of the Union's waste policy, in particular waste prevention, leading to a substantial reversal of increasing consumption trends. Those measures shall achieve a measurable quantitative reduction in the consumption of the single-use plastic products listed in Part A of the Annex on the territory of the Member State by 2026 compared to 2022.*

*By [25 September 2021], Member States shall prepare a description of the measures which they have adopted pursuant to the first subparagraph, notify the description to the [Authority] and make it publicly available. Member States shall integrate the measures set out in the description into the plans or programmes referred to in Article 11 upon the first subsequent update of those plans or programmes in accordance with the relevant legislative acts of the Union governing those plans or programmes, or into any other programmes drawn up specifically for that purpose.*

*The measures may include national consumption reduction targets, measures ensuring that re-usable alternatives to the single-use plastic products listed in Part A of the Annex are made available at the point of sale to the final consumer, economic instruments such as instruments ensuring that those single-use plastic products are not provided free of charge at the point of sale to the final consumer and agreements as referred to in Article 17(3). Member States may impose marketing restrictions in derogation from Article 18 of Directive 94/62/EC for the purposes of preventing such products from becoming litter in order to ensure that they are substituted with alternatives that are re-usable or do not contain plastic. The measures may vary depending on the environmental impact of those single-use plastic products over their life cycle, including when they become litter.*

*Measures adopted pursuant to this paragraph shall be proportionate and non-discriminatory. Member States shall notify the [Authority] of those measures in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council where so required by that Directive.*

*In order to comply with the first subparagraph of this paragraph, each Member State shall monitor the single-use plastic products listed in Part A of the Annex placed on the market and the reduction measures taken and shall report on progress made to the [Authority] in accordance with paragraph 2 of this Article and Article 13(1) with a view to the establishment of binding quantitative Union targets for consumption reduction.*

*2. By 3 January 2021, the Commission shall adopt an implementing act laying down the methodology for the calculation and verification of the ambitious and sustained reduction in the consumption of the single-use plastic products listed in Part A of the Annex. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 16(2)."*

Article 6 of the Single Use Plastics Directive deals with product requirements. It provides at paragraph 5:

*"With regard to beverage bottles listed in Part F of the Annex, each Member State shall ensure that:*

*(a) from 2025, beverage bottles listed in Part F of the Annex which are manufactured from polyethylene terephthalate as the major component ('PET bottles') contain at least 25 % recycled plastic, calculated as an average for all PET bottles placed on the market on the territory of that Member State; and*

*(b) from 2030, beverage bottles listed in Part F of the Annex contain at least 30 % recycled plastic, calculated as an average for all such beverage bottles placed on the market on the territory of that Member State.*

*By 1 January 2022, the Commission shall adopt implementing acts laying down the rules for the calculation and verification of the targets established in the first subparagraph of this paragraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2).<sup>8</sup>*

Article 10 of the Directive deals with awareness raising measures. It provides:

*“Member States shall take measures to inform consumers and to incentivise responsible consumer behaviour, in order to reduce litter from products covered by this Directive, and shall take measures to inform consumers of the single-use plastic products listed in Part G of the Annex and users of fishing gear containing plastic about the following:*

*(a) the availability of re-usable alternatives, re-use systems and waste management options for those single-use plastic products and for fishing gear containing plastic as well as best practices in sound waste management carried out in accordance with Article 13 of Directive 2008/98/EC;*

*(b) the impact of littering and other inappropriate waste disposal of those single-use plastic products and of fishing gear containing plastic on the environment, in particular on the marine environment; and*

*(c) the impact of inappropriate means of waste disposal of those single-use plastic products on the sewer network.”*

The obligation to transpose the Directive is set out in Article 17. Read taking into account the entry into force date of Joint Committee Decision No 240/2021, and as adapted by Protocol 1 EEA, it provides:

*“1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [25 September 2021]. They shall immediately inform the [Authority] thereof. However, the Member States shall apply the measures necessary to comply with:*

*— Article 5 from [25 September 2021],*

*— Article 6(1) from 3 July 2024,*

*— Article 7(1) from [25 September 2021],*

*— Article 8 by 31 December 2024 but, in relation to extended producer responsibility schemes established before 4 July 2018 and in relation to single-use plastic products listed in Section III of Part E of the Annex, by 5 January 2023.*

*When Member States adopt the measures referred to in this paragraph, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.*

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<sup>8</sup> Commission Implementing Decision (EU) 2023/2683 of 30 November 2023 laying down rules for the application of Directive (EU) 2019/904 of the European Parliament and of the Council as regards the calculation, verification and reporting of data on recycled plastic content in single-use plastic beverage bottles is [as of the date of this letter, not incorporated into the EEA Agreement].

2. Member States shall communicate to the [Authority] the text of the main measures of national law which they adopt in the field covered by this Directive.

3. Provided that the waste management targets and objectives set out in Articles 4 and 8 are achieved, Member States may transpose the provisions set out in Articles 4(1) and 8(1) and (8), except as regards single-use plastic products listed in Section III of Part E of the Annex, by means of agreements between the competent authorities and the economic sectors concerned.

Such agreements shall meet the following requirements:

(a) agreements shall be enforceable;

(b) agreements need to specify objectives with the corresponding deadlines;

(c) agreements shall be published in the national official journal or an official document equally accessible to the public and transmitted to the Commission;

(d) the results achieved under an agreement shall be monitored regularly, reported to the competent authorities and to the Commission and made available to the public under the conditions set out in the agreement;

(e) the competent authorities shall make provisions to examine the progress reached under an agreement; and

(f) in case of non-compliance with an agreement Member States shall implement the relevant provisions of this Directive by legislative, regulatory or administrative measures. ”

### 3.2 Commission Implementing Decision (EU) 2022/162

Commission Implementing Decision (EU) 2022/162<sup>9</sup> was adopted pursuant to Article 4(2) of the Directive. It provides, insofar as relevant, as adapted by Protocol 1 EEA:

“Article 1

#### **Methodology for calculating the reduction in the consumption of single-use plastic products**

1. Member States shall calculate the reduction in the consumption of single-use plastic products based on either of the following parameters:

(a) the total weight of plastic in the single-use plastic products placed on the market in a Member State in a calendar year;

(b) the number of single-use plastic products placed on the market in a Member State in a calendar year.

2. Member States shall calculate the reduction in the consumption of single-use plastic products placed on the market in a Member State in a calendar year in accordance with the formulas set out in Annex I.

3. Where there are significant exports or imports or other movements within the Union of single-use plastic products before they are made available to the final

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<sup>9</sup> Commission Implementing Decision (EU) 2022/162 of 4 February 2022 laying down rules for the application of Directive (EU) 2019/904 of the European Parliament and of the Council as regards the calculation, verification and reporting on the reduction in the consumption of certain single-use plastic products and the measures taken by Member States to achieve such reduction, incorporated into the EEA Agreement by Joint Committee Decision No 13/2023 of 3 February 2023 at point 9dc of Chapter XVII of Annex II.

*consumer or user, Member States may adjust the weight or number of single-use plastic products placed on the market, as referred to in paragraph 1, in order to take account of such movements.*

#### *Article 2*

##### **Reporting of data**

*1. Member States shall report the data on single-use plastic products placed on the market referred to in Article 13(1), point (a), of Directive (EU) 2019/904, as calculated in accordance with Article 1 of this Decision, in the format laid down in Annex II to this Decision.*

*2. Member States shall report the information on consumption reduction measures referred to in Article 13(1), point (b), of Directive (EU) 2019/904 in the format laid down in Annex III to this Decision.*

[...]"

Commission Implementing Decision (EU) 2022/162 was incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 13/2023 of 3 February 2023. That decision provides that Article 1, setting out the methodology, and Article 2(1), setting out the reporting format for single-use plastic products placed on the market, of the Implementing Decision do not apply to Liechtenstein.<sup>10</sup>

## **4 Relevant national law and Liechtenstein's comments in the table of correspondence**

The Liechtenstein Government has notified the Authority<sup>11</sup> that the Directive was implemented into national law by the Act on the Protection of the Environment of 29 May 2008 (as amended)<sup>12</sup> and the Ordinance of 26 October 2021 concerning the prohibition of the placing on the market and the requirements as to the nature and marking of certain plastic products (as amended).<sup>13</sup>

As regards the implementation into the Liechtenstein legal order of the provisions which form the subject matter of this letter, the Liechtenstein Government referred to the following:

- As regards Article 4 of the Directive concerning consumption reduction measures, Liechtenstein referred in the table of correspondence to its Waste Prevention Programme.
- As regards Article 6(5) of the Directive concerning requirements for recycled plastic in bottles, Liechtenstein referred in the table of correspondence to the absence of producers/production in Liechtenstein.
- As regards Article 10 of the Directive concerning awareness raising measures, Liechtenstein referred in the table of correspondence to its municipalities being responsible for addressing littering, a point in the Waste Prevention Programme and an awareness-raising campaign for waste, among other things, being set up.

<sup>10</sup> See point 9dc of Chapter XVII of Annex II of the EEA Agreement and Article 1 of Joint Committee Decision No 13/2023 of 3 February 2023.

<sup>11</sup> Form 1 dated 28 October 2021, Document No 1241050.

<sup>12</sup> Umweltschutzgesetz vom 29. Mai 2008 (USG) (LR 814.01, idgF)

<sup>13</sup> Verordnung vom 26. Oktober 2021 über das Verbot des Inverkehrbringens sowie die Anforderungen an die Beschaffenheit und Kennzeichnung bestimmter Kunststoffprodukte (Kunststoffprodukteverordnung; KPV) (LR 814.601.3, idgF).

Liechtenstein subsequently provided further information on these three points in its letter of 17 June 2025. The Authority's assessment of the position after having considered the information provided is set out below.

## 5 The Authority's assessment

It follows from Article 7 EEA that an act corresponding to an EU directive is binding as to the result to be achieved, leaving each EEA State the choice of form and method of implementation. Accordingly, the implementation of a directive into domestic law does not necessarily require the provisions of the directive to be enacted in precisely the same words in a specific, express provision of national law and a general legal context may be sufficient, provided it actually ensures the full application of the directive.

However, EEA States must ensure full application of directives not only in fact but also in law. Provisions of directives must be implemented with unquestionable binding force and the specificity, precision and clarity necessary to satisfy the requirements of legal certainty.<sup>14</sup>

An obligation to implement the Directive also follows from Article 17 of the Directive. Article 17(1) first subparagraph and Article 17(2), respectively, establish the time limits by which the States are to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive, and an obligation to inform the Authority thereof. Article 17(1) second subparagraph clarifies that implementing measures must contain or be accompanied by a reference to the Directive on the occasion of their official publication. Article 17(3) permits States to transpose certain provisions of the Directive, including Article 4(1), by means of agreements between the competent authorities and the economic sectors, provided that such agreements comply with a number of requirements.

### 5.1 Article 4(1) of the Directive – Consumption reduction

Article 4(1) first subparagraph of the Directive requires States to take measures to reduce consumption of cups for beverages, including covers and lids, and certain food containers.<sup>15</sup>

Article 4(1) clearly foresees that measures must be adopted on implementation of the Directive. The second subparagraph of Article 4(1) of the Directive, as adapted to the EEA Agreement, requires a description of the measures adopted to be notified to the Authority and made publicly available by 25 September 2021.

Liechtenstein has not referred to any legislative provisions or other specific measures taken to implement Article 4(1) first subparagraph of the Directive, whether by 2026 or another date. The Authority has not located any reference to the deadline of 2026 for achieving the reduction in consumption required by Article 4(1) first subparagraph in the laws or measures referred to by Liechtenstein.

Liechtenstein referred in the table of correspondence to its Waste Prevention Programme in respect of its implementation of Article 4(1).<sup>16</sup> That programme is a general programme

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<sup>14</sup> Judgments of the EFTA Court of 22 July 2013, *Jan Anfinn Wahl v the Icelandic State*, E-15/12, [2013] EFTA Ct. Rep. 534, paragraphs 49 to 56; and 11 February 2014, *ESA v Iceland*, E-12/13, paragraphs 67 to 72

<sup>15</sup> Part A of the Annex to the Directive (Single-use plastic products covered by Article 4 on consumption reduction), see chapter 3 above.

<sup>16</sup> See Appendix 1 of Part IV of Liechtenstein Waste Planning 2070

[https://www.llv.li/serviceportal2/amtsstellen/amt-fuer-umwelt/umweltschutz/abfall/2020\\_150\\_8802\\_liechtabfallplanung\\_2070\\_genehmigt.pdf](https://www.llv.li/serviceportal2/amtsstellen/amt-fuer-umwelt/umweltschutz/abfall/2020_150_8802_liechtabfallplanung_2070_genehmigt.pdf)

adopted pursuant to Articles 9(1) and 29 of the Waste Framework Directive.<sup>17</sup> The measures described in the programme are not targeted at the specific products referred to in Article 4(1) first subparagraph (cross referring to Part A of the Annex), namely cups for beverages, including their covers and lids, and certain food containers.<sup>18</sup> Targeting these products is expressly required by Article 4(1) first subparagraph, as well as being evident from Articles 1, 2(1), and 17(1) and from recitals 7 and 10 of the Directive. The Authority has also not located any reference to the deadline of 2026 for achieving the reduction in consumption required by Article 4(1) first subparagraph. The provisions in the programme therefore do not comply with that provision.

In the Authority's letter of 12 September 2024, Liechtenstein was asked to elaborate on its implementation of Article 4(1), with reference to the products concerned, namely cups for beverages, including their covers and lids, and certain food containers, and the 2026 deadline.

In its response of 17 June 2025, the Liechtenstein Government referred to its Customs Affiliations Agreement with Switzerland, and Liechtenstein being fully integrated into the Swiss waste management system. It also set out in detail the different sources of single-use plastic in Liechtenstein and referred to the principle of parallel marketability. The Liechtenstein Government did not refer to any specific measures to reduce consumption of cups or food containers, whether by 2026 or another date.

The Authority does not consider that the factors referred to in Liechtenstein's letter of 17 June 2025 alter the assessment that Liechtenstein has not adopted the necessary measures, for the following reasons.

#### *Parallel marketability*

As regards parallel marketability, the adaptation text in Annex II of the EEA Agreement allows Liechtenstein to apply Swiss technical regulations and standards for products in parallel to those set out in EEA law. However, the Single-Use Plastics Directive contains more than just technical regulations and standards. Article 4(1) first subparagraph is one provision which is of a different nature: it imposes an obligation on the State to take measures directed at *consumption behaviours* relating to cups and food containers. Liechtenstein can adopt many measures which target consumption behaviours without affecting the technical regulations and standards of these products, examples of which are listed in the third subparagraph of Article 4(1), such as obligations to provide re-usable alternatives or the prohibition to provide the products free of charge.

#### *Quantitative reduction*

Article 4(1) first subparagraph requires that States adopt measures to achieve a "measurable quantitative reduction" in the consumption of the relevant products, and the fifth subparagraph places a specific obligation on States to monitor the relevant products placed on the market and report on progress. The Authority takes note of Liechtenstein's submission that particularly due to the customs union between Liechtenstein and Switzerland it may be difficult for Liechtenstein to accurately measure any reduction in consumption within its territory. The Authority notes in this respect that the provisions of

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<sup>17</sup> Directive 2008/98/EC on waste (OJ L 312, 22.11.2008, p. 3), as incorporated into the EEA Agreement at point 32ff of Annex XX by Joint Committee Decision No 85/2011 of 1 July 2011.

<sup>18</sup> See footnote 15 above, at page 157.

the Implementing Decision<sup>19</sup> setting out the methodology for the calculation and verification of the reduction<sup>20</sup> do not apply to Liechtenstein.<sup>21</sup>

In the Authority's view, such difficulties and the lack of applicability of parts of the Implementing Decision do not amount to an exemption from the obligations arising from Article 4(1) first subparagraph. The Authority notes in this regard that Article 13(1)(b) of the Directive on reporting information on the measures taken by the State for the purposes of Article 4(1), and Article 2(2) of the Implementing Decision regarding the format for reporting that information, are not covered by an adaptation and do apply to Liechtenstein.

In other words, the Authority considers that the obligation to adopt measures is severable from the obligation to monitor, report and achieve an ambitious and sustained reduction in the consumption of the products concerned. The Authority considers that Liechtenstein must adopt measures likely to reduce the consumption of the concerned products. This obligation applies irrespective of relevant adaptations relating to the methodology for the calculation and verification of the reduction.

### *Finding*

By failing to take the necessary measures to achieve an ambitious and sustained reduction in the consumption of the products listed in Part A of the Annex to the Directive, Liechtenstein has failed to fulfil its obligations under Articles 4(1) first subparagraph and 17 of the Directive, and Article 7 EEA.

### **5.2 Article 6(5) of the Directive – Recycled plastic content of bottles**

Article 6(5) of the Directive requires States to ensure that certain beverage bottles contain at least 25% recycled plastic from 2025 and at least 30% by 2030, calculated as an average for all relevant bottles placed on the market on the territory of the State.

Liechtenstein has not referred to any legislative provisions or other specific measures taken to implement Article 6(5) of the Directive. In the table of correspondence, Liechtenstein referred to the absence of production of beverage bottles in its territory.<sup>22</sup>

In its letter of 17 June 2025, the Liechtenstein Government referred to Swiss PET bottles already containing 60% recycled plastic. Whilst this is a positive statistic, it does not appear to address all the requirements of Article 6(5) which:

- (a) covers all PET bottles of the types listed in Part F of the Annex placed on the market in the territory of the State;
- (b) requires all single-use plastic bottles of the types listed in Part F of the Annex placed on the market in the territory of the State to contain at least 30% recycled plastic from 2030, calculated as an average for all relevant bottles placed on the market on the territory of that Member State.

Furthermore, the Authority recalls that Directives must be implemented not only in fact but also in law. The principle of legal certainty requires that the legal situation resulting from national implementing measures be sufficiently precise and clear and that individuals and

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<sup>19</sup> Commission Implementing Decision (EU) 2022/162, see chapter 3.3 above.

<sup>20</sup> Articles 1 and 2(1) of the Implementing Decision.

<sup>21</sup> See point 9dc of Chapter XVII of Annex II of the EEA Agreement and Joint Committee Decision No 13/2023 of 3 February 2023.

<sup>22</sup> Document No 1455627, page 5.

undertakings be made fully aware of their rights and obligations.<sup>23</sup> The implementation and application of Article 6(5) in Liechtenstein law may have implications for those who manufacture, fill, sell or import<sup>24</sup> the relevant plastic bottles, irrespective of whether they are located in Liechtenstein or elsewhere.<sup>25</sup>

Liechtenstein has pointed towards the requirement for bottles from other EEA States to comply with the requirements of the Single-Use Plastics Directive. However, the obligations under the Directive clearly apply to each State and failure to comply with an obligation imposed by a rule of EEA law is itself sufficient to constitute a breach, it being irrelevant whether there are adverse effects.<sup>26</sup>

### *Finding*

By not adopting the necessary measures to ensure that the relevant beverage bottles referred to in Article 6(5) of the Directive and further defined in Part F of the Annex contain at least 25% recycled plastic from 2025 and at least 30% by 2030, both calculated as an average for all PET bottles placed on the market on the territory of Liechtenstein,, Liechtenstein has failed to fulfil its obligations under Article 6(5) and 17 of the Directive, and Article 7 EEA.

### **5.3 Article 10 of the Directive – Awareness raising measures**

Article 10 requires States to take measures to inform consumers and incentivise behaviours to reduce litter from products covered by the Directive and to take measures informing users of fishing gear and consumers of food containers, packets and wrappers, beverage containers, cups, tobacco products, wet wipes, balloons, carrier bags and sanitary products (those products being specified by a cross reference to Part G of the Annex)<sup>27</sup> of certain points, including the availability of reusable alternatives and the impact of littering.

Liechtenstein referred in the table of correspondence to its municipalities being responsible for addressing littering, a point in the Waste Prevention Programme and an awareness-raising campaign for waste, among other things, being set up.<sup>28</sup> In its letter of 17 June 2025, it referred to an annual Clean Up day and co-financing of the Swiss project “Litter-Toolbox”.<sup>29</sup>

The Liechtenstein Waste Prevention Programme is a general programme adopted pursuant to Articles 9(1) and 29 of the Waste Framework Directive. The most relevant text located by the Authority reads “*The public is informed about possible measures in the area*

<sup>23</sup> See judgment of the EFTA Court of 22 July 2013, *Jan Anfinn Wahl v the Icelandic State*, E-15/12, [2013] EFTA Ct. Rep. 534, EU:C:2024:555, paragraph 52 and, for example, judgment of the CJEU of 27 June 2024, C-14/23, *Gestore dei Servizi Energetici*, paragraph 42.

<sup>24</sup> Such natural or legal persons being “producers” for the purposes of the Directive pursuant to Article 3(11).

<sup>25</sup> It can also be noted that the non-existence in a given State of a certain activity covered by a directive cannot release that State from its obligation to take legislative or regulatory measures in order to ensure adequate transposition of all the provisions of this directive. Such an obligation is incumbent on the States in order to prevent any modification of the situation existing at a given moment and in order to ensure that all subjects of law in the EEA, including those of the States in which a certain activity covered by a directive does not exist, know with clarity and precision what their rights and obligations are in all circumstances (judgment of 27 October 2011, *Commission v. Poland*, C-362/10, EU:C:2011:703, paragraph 64).

<sup>26</sup> Judgment of 13 July 2006, *Commission v Portugal*, C-61/05, EU:C:2006:467, paragraph 32.

<sup>27</sup> Part G of the Annex (Single-use plastic products covered by Article 10 on awareness raising), see chapter 3 above.

<sup>28</sup> Document No 1455629, page 9.

<sup>29</sup> Document No 1544033, p. 7

*of waste prevention and made aware of this issue on the Liechtenstein Office for the Environment's website".*<sup>30</sup> The measures described in the Programme are thus not targeted at the specific products or points on which States are required to inform consumers, as is expressly required by Article 10 of the Directive and as is evident from Articles 1, 2(1) and 17 and from recitals 7 and 10 of the Directive. The further actions referred to in the table of correspondence and the letter of 17 June 2025 appear to be similarly general, or, in the case of potentially relevant projects under the Litter-Toolbox, not carried out within Liechtenstein. The Liechtenstein Government has expressly acknowledged the general nature of the measures by stating “[t]he problem of littering is addressed on a regular basis in a broad sense, which also – but not only – includes the single-use plastic products referred to in Part G of the Annex.”

Thus, Liechtenstein has not taken measures specifically targeting the items within the scope of Article 10 of the Directive and specifically addressing the points regarding which EEA States are required to take measures to inform consumers pursuant to that Article. The measures therefore do not comply with Article 10 of the Directive.

### *Finding*

First, by not taking measures to inform consumers and to incentivise responsible consumer behaviour, in order to reduce litter from products covered by the Directive, Liechtenstein has failed to fulfil its obligations under Article 10 of the Directive. Second, by not taking measures to inform consumers of the single-use plastic products listed in Part G of the Annex and users of fishing gear containing plastic about the information in points (a) through (c) of Article 10, Liechtenstein has failed to fulfil its obligations under Articles 10 and 17 of the Directive, and Article 7 EEA.

## **6 Conclusion**

Accordingly, as its information presently stands, the Authority must conclude that:

- by not taking the necessary measures to achieve an ambitious and sustained reduction in the consumption of the products listed in Part A of the Annex of the Directive, Liechtenstein has failed to fulfil its obligations under Articles 4(1) first subparagraph and 17 of Directive 2019/904 on the reduction of the impact of certain plastic products on the environment, and Article 7 EEA;
- by not adopting the necessary measures to ensure, with sufficient precision and clarity, that the relevant beverage bottles referred to in Article 6(5) of the Directive and further defined in Part F of the Annex contain at least 25% recycled plastic from 2025 and at least 30% by 2030, both calculated as an average for all PET bottles placed on the market on its territory, Liechtenstein has failed to fulfil its obligations under Articles 6(5) and 17 of Directive 2019/904 on the reduction of the impact of certain plastic products on the environment, and Article 7 EEA;
- by not taking measures to inform consumers and to incentivise responsible consumer behaviour, in order to reduce litter from products covered by the Directive, Liechtenstein has failed to fulfil its obligations under Articles 10 and 17 of Directive 2019/904 on the reduction of the impact of certain plastic products on the environment, and Article 7 EEA; and
- by not taking measures to inform consumers of the single-use plastic products listed in Part G of the Annex and users of fishing gear containing plastic about the information in points (a) through (c) of Article 10, Liechtenstein has failed to fulfil its

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<sup>30</sup> The Authority's translation.

obligations under Articles 10 and 17 of Directive 2019/904 on the reduction of the impact of certain plastic products on the environment, and Article 7 EEA.

In these circumstances, and acting under Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, the Authority requests that the Liechtenstein Government submits its observations on the content of this letter *within two months* of its receipt.

After the time limit has expired, the Authority will consider, in the light of any observations received from the Liechtenstein Government, whether to deliver a reasoned opinion in accordance with Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.

For the EFTA Surveillance Authority

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*This document has been electronically authenticated by Arne Roeksund, Melpo-Menie Josephides.*