



REVIEW OF EPR FOR PACKAGING WASTE IN BELGIUM

**FAIR
RESOURCE
FOUNDATION**

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Paper 4 Governance

Proper governance of PROs is a prerequisite for achieving the most environmentally beneficial outcomes and delivering the full potential of EPR. In this paper, we investigate elements of governance including: strategy, governance structure, oversight, transparency, accountability, lobbying, and finances of PROs.

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Summary

This paper is the fourth of a series with the goal of elevating the discussion on producer responsibility for packaging, pushing it to a higher level, and stimulating better policy making. In this paper, we explore one specific element of Extended Producer Responsibility (EPR) for municipal packaging and packaging waste in Belgium, namely the governance of the Producer Responsibility Organisation (PRO) that collectively manages the individual producers' responsibilities in relation to EPR objectives.

PROs have the potential to reduce the environmental impact through different sustainability strategies, including prevention, reuse, and recycling. However, PROs generally focus on reaching minimum legislative requirements (and often do not reach them because authorities find it difficult to enforce the legislation in a significant way). This not a necessary state of producer responsibility – PROs could much more to strongly reduce environmental impact. For that, the governance of PROs needs to change.

When the subject of EPR governance is discussed, it includes various subjects that all together define the way decisions are made within a PRO, and each of these elements contributes to that:

- how **the strategy of PROs is set**;
- the **governance structure of PROs**, and the role of producers and other stakeholders;
- the **level of oversight of the PRO** and if/how they are held to account for their objectives;
- the level of public **transparency** of activities – accountability and enforceability only works with transparency;
- the **lobbying activities of PROs**, and whether these should be part of the role of a PRO;
- how **PROs are funded**, including how the costs of waste management are reimbursed.

Fair Resource Foundation has concluded in previous research that “a lot goes wrong within EPR systems, much of which can be traced back to poor governance. The role of the government is too limited, many stakeholders feel sidelined, and enforcement is inadequate.”¹

In this paper, we investigate the governance of Fost Plus, the Belgian PRO for municipal packaging, and the Interregional Packaging Commission (Interregionale Verpakkingscommissie, IVC), that oversees them. We test this against a framework for making EPR an effective environmental tool that helps to achieve reduction, prevention, separate collection, and closed-loop recycling targets that was set out in a 2023 Fair Resource Foundation and Minderoo position paper².

The table below shows the key elements of governance that are investigated in this paper. It summarizes our understanding of how PRO governance in Belgium works today, compared to how we believe it should work. **Fost Plus and the IVC should be leading the way in Europe on implementing better governance** and continuing to push towards even better environmental outcomes. Our recommendations to shifting more towards how PRO governance should work would result in better and stronger governance in the interest of achieving the most environmentally beneficial outcomes and delivering the full potential of the EPR system.

However, if Fost Plus and the IVC do not see themselves responsible for invoking great environmental protection through promoting higher strategies of the 9R-framework, the regional or federal governments should revise its regulations and strategy. This would give more concrete guidance as to the obligations of each stakeholder towards implementing the best possible EPR system for packaging waste in Belgium. We believe the recommendations in this paper form the framework that would push Belgium towards this end goal.

¹ <https://fairresourcefoundation.org/de-toekomst-van-producentenverantwoordelijkheid/>

² <https://fairresourcefoundation.org/wp-content/uploads/2024/04/EPR-Position-Paper-Final.pdf>

	How it works today	How it should work
Strategy	The Fost Plus strategy is set every five years when they renew their accreditation, but there is a lack of coherence with the waste strategies of the three regions.	The role of a PRO should fit into a wider national strategy framework.
Governance Structure	The board of Fost Plus is only for members from the packaging industry. These members typically serve their own interest and seem not to advocate for more ambitious environmental goals.	The ongoing governance of Fost Plus should include a diverse group of stakeholders like waste collectors, recycling companies, consumer groups, and environmental organisations. This could be achieved with a different board composition, or other levels of oversight to create the necessary levels of control and due diligence.
Accountability	The government has the IVC to oversee the legal obligations of Fost Plus. But it is not clear how the IVC is taking up this enforcement task.	PROs should be made accountable for all the environmental damage they cause. There should be fines for not achieving environmental objectives.
Transparency	The IVC and Fost Plus refuse to share important data.	Fost Plus should provide transparency in relation to their activities and any environmental information that they hold in context of their public service. The IVC should actively communicate about their activities and more generally make all information available upon request.
Lobbying	Fost Plus uses its power to lobby against ambitious environmental policies.	PROs should not be allowed to lobby for the interests of their corporate members.
Pro Funding	The current fees of Fost Plus do not sufficiently reward the use of materials that are better for the environment. The fees also do not fully cover the costs of collection. It is municipalities who pay the rest of the bill.	Fees should be eco-modulated according to the principles of the waste hierarchy and should cover all costs for collection and cleanup.

1. INTRODUCTION

This paper is the fourth of a series with the goal of elevating the discussion on producer responsibility for packaging, pushing it to a higher level, and stimulating better policy making. This series of papers is intended to inform policy makers in Belgium, and in Europe, to review EPR to make it more environmentally effective.

Legislative Context

The EU has a **comprehensive set of legislation** that governs how Member States manage packaging waste. Namely, the Waste Framework Directive (WFD³, 2008/98/EC), the Packaging and Packaging Waste Directive (PPWD⁴, Directive 94/62/EC), and the Single-Use Plastics Directive (SUPD⁵, directive 2019/904) form the backbone of waste legislation in the EU.

For packaging waste in particular, this legislation sets out requirements for economic operators that place packaging on the market to take responsibility for the end of life (EOL) of that packaging via **Extended Producer Responsibility** (EPR). EPR is an application of the producer-pays principle⁶, which was already included as an economic instrument in the 1994 PPWD to promote the implementation of its objectives. In this case, according to the EPR club, “the polluter is not necessary the person whose activities give rise to pollution, but rather the economic agent that plays a decisive role in the pollution, like the producer”⁷.

In addition, Article 7 of the 1994 PPWD on Return, Collection, and Recovery Systems introduced the idea of packaging producers participating to jointly deliver their producer responsibilities and the required systems. This gave rise to the concept of a Producer Responsibility Organizations (PROs), which is an entity created by producers to collectively manage their individual responsibilities in relationship to EPR objectives.

More specifically, the WFD defines an EPR scheme as “a set of measures taken by Member States to ensure that producers of products bear financial responsibility or financial and organisational responsibility for the management of the waste stage of a product’s life cycle,” and sets out the general requirements of EPR in Article 8. In addition to managing waste, these general requirements also include strengthening **packaging reuse and prevention**, and **redesigning products** to reduce their environmental impact and the generation of waste at **all stages in the life cycle**.

As discussed in Paper 1 of this series on packaging waste prevention and reuse⁸, it is clear that **the intention of the EPR legislation is for the EU to become more circular**, and that the spirit of the legislation is to reduce the environmental impact of packaging. All of this is consistent with the original academic definition of EPR, formulated in the 1990s⁹: EPR is fundamentally a policy principle to promote environmental improvements of products and product systems, not just the EOL management.

However, the **implementation of EPR has varied in its success** in achieving the most environmentally beneficial outcomes. In practice, the legislator sets objectives and obligations for PROs, such as more sustainable management of the EOL for packaging. Recycling objectives often form the core of these objectives set by legislators for PROs; but 10 Member States are at risk of missing both the municipal waste (55%) and the total packaging waste (65%) recycling targets in 2025, and only four Member States are on track to meet all targets¹⁰.

In Europe we see only limited legislation that helps to make packaging more sustainable when it comes to the use of raw materials, such as concrete waste prevention and reuse objectives. As a result, it is difficult to see if we are at all better off than before producer responsibility got introduced. Although recycling rates are increasing, we do not know if the overall ‘packaging system’ has a lower impact on the environment than before – we just know we process more waste. On 4 March 2024, detailed reuse targets were provisionally agreed by the EU Parliament and Council as part of the PPWD revision¹¹ – reuse is only now coming on the

3 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX-%3A02008L0098-20180705>

4 The most recent amendments to the 1994 PPWD were in 2018. The consolidated version can be found here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01994L0062-20180704>. The PPWD is currently under revision. It will become a regulation and be renamed the PPWR.

5 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX-%3A32019L0904>

6 https://www.era-comm.eu/Introduction_EU_Environmental_Law/EN/module_2/module_2_11.html

7 <https://www.eprclub.eu/about-epr-club/what-is-epr/>

8 <https://fairresourcefoundation.org/en/fost-plus-paper-prevention-reuse/>

9 <https://lup.lub.lu.se/search/files/4433708/1002025.pdf>

10 <https://www.eea.europa.eu/publications/many-eu-member-states>

11 The legislative train for the PPWR can be found here: <https://www.europarl.europa.eu/press-room/en/press-releases/2024/03/04>

radar of most PROs.

The **lack of ambition of PROs** to fully implement the spirit of EPR legislation to minimize environmental impacts is, at least in part, due to their governance. In 2021, an Adelphi report found that the “improved regulatory frameworks [for EPR] continue to be offset by a lack of enforcement” and elaborates that PROs “need to be well regulated”¹². In the same year, Fair Resource Foundation wrote an article on the governance of EPR¹³, and stated that “it has become apparent that EPR systems in their current form are not yet able to meet expectations regarding a positive environmental impact.” Three years later, not much has changed, and we can still make many of the same arguments.

EPR Governance in Theory

When the subject of EPR governance is discussed, it includes various subjects that all together define the governance of PROs. Topics such as:

- how **the strategy of PROs is set**;
- the **governance structure of PROs**, and the role of producers and other stakeholders;
- the **level of oversight of the PRO** and if/how they are held to account for their objectives;
- the level of public **transparency** of activities – accountability and enforceability only works with transparency;
- the **lobbying activities of PROs**, and whether these should be part of the role of a PRO;
- how **PROs are funded**, including how the costs of waste management are reimbursed.

Ultimately, governance is about the way decisions are made and accountability for the decisions, and each of these elements contributes to that.

A 2023 Fair Resource Foundation and Minderoo position paper¹⁴ set out a framework for making EPR an effective environmental tool that helps to achieve reduction, prevention, separate collection, and closed-loop recycling targets. The authors argue that “relying solely on EPR will not be adequate in minimizing the environmental impact of products throughout their entire life cycle. However, when complemented by an appropriate legislative framework, EPR can unlock its full potential,” and that “**The EPR-schemes of the future**

need better governance, more transparency, clear enforceability, and democratic inclusion of stakeholders. This collective effort is needed for the circular economy to thrive.” Below we will look at EPR governance in practice, and will use the recommendations of the 2023 Fair Resource Foundation and Minderoo position paper as a framework for testing how EPR in Belgium is governed.

EPR Governance in Practice

PROs were originally set up by producers to collectively meet EPR requirements, and these organisations have historically focussed on managing the EOL of their products and packaging. For packaging PROs, this means collection, sorting, and recycling of packaging waste, and this has been the status quo for almost 30 years, since the concept was introduced in the 1994 PPWD.

From a governance perspective, **one clear advantage of PROs** is that there is only one point of contact (in the case of a monopoly PRO, discussed further below), and one responsible party; even in the case of competing PROs, the number of responsible parties is greatly reduced compared to each producer acting individually. If EPR required individual producers to be directly responsible, legislation would be impossible to enforce, and it would be inefficient for producers to each individually take back and recycle their own packaging. Instead, PROs do this for them.

However, **PROs tend to be set up to act in the (financial) interest of their members, not the environment.** According to Ecologic:

“The current cost coverage in an EPR system is based on the concept of “necessary costs” and seeks to minimize the costs. In the pursuit of achieving cost minimization, the fee potentially becomes too low to encourage producers to design products, which have high environmental performance regarding waste prevention and reusability. With the current focus of the most EPR schemes resting on increasing recycling rates, the “necessary costs” approach only takes into account costs incurred to improve recycling. This is aggravated by the absence of quantitative targets for waste prevention in EU and national waste legislation, which therefore prioritises recycling over reusability.”¹⁵

In other words, packaging PROs put great effort into keeping the cost for EOL waste management systems as low as possible; less effort is put into acting in the best interest of the environment,

[europea.eu/legislative-train/theme-a-european-green-deal/file-revision-of-packaging-and-packaging-waste-directive-\(refit\)](https://europea.eu/legislative-train/theme-a-european-green-deal/file-revision-of-packaging-and-packaging-waste-directive-(refit))

¹² <https://adelphi.de/en/publications/analysis-of-extended-producer-responsibility-schemes>

¹³ <https://fairresourcefoundation.org/recycling-netwerk-doet-onderzoek-naar-de-governance-van-upv-systemen/>

¹⁴ <https://fairresourcefoundation.org/wp-content/uploads/2024/04/EPR-Position-Paper-Final.pdf>

¹⁵ <https://www.ecologic.eu/18066>

or even in implementing the full scope of the legislation.

As discussed in Paper 1 of this series, packaging waste prevention and reuse conflicts with the economic model of PRO and its members, so PROs are understandably reluctant to change their ways of working. The agreement on the PPWD revision in March 2024 (mentioned above) sets clear reuse targets to be achieved by Member States. This further anchors the EU's direction towards higher circularity of packaging – going beyond recycling – and should drive higher environmental ambitions for PROs across Europe.

How Should PROs be Governed?

According to Fair Resource Foundation, the EU legislation is clear: **PROs are established to reach environmental goals**. Further, **PROs should actively look for ways to do more** to minimise the environmental impact of the products that fall under their scope by prioritising the seven upper strategies of the 9R-framework¹⁶ – namely, refuse, rethink, reduce, reuse, repair, refurbish, remanufacture, repurpose. The lowest two strategies of the 9R-framework, recycle and recover, should be utilized only as a last resort. This view is underpinned by EU legislation, where Article 8a of the WFD stipulates that Member States aim at the top levels of the waste hierarchy.

In order to achieve this, citizens, the government, and NGOs must push producers and PROs towards those environmental goals. **We must make sure PROs meet these goals**, and don't just minimize the costs to and protect the interest of their members. This does not mean that everything is within the responsibility or activities of the PRO; for example, product legislation, taxation, and/or subsidies, which are the remit of the public authorities, have an important role to play. But that does not change the fact that PROs should explore opportunities and actively look for what role they can play in pushing towards the higher R-strategies.

Starting with how the strategy for a PRO is set, this should be part of a harmonized strategy or legislative framework for all waste materials, including objectives and targets for various PROs, and all EOL fates including litter. In other words, the strategy for the PRO should be set by the PRO, together with stakeholders, but be based on an overall strategy for the whole country in order to meet the broader requirements set by the government. This allows the government to

maximize the impact by **combining the potential of EPR with other economic policy measures**, and the policy mix put in place is a question of what the Member State wants to achieve.

In terms of implementing the waste strategy for a country, to make EPR a more effective instrument for the circular economy, the 2023 Fair Resource Foundation and Minderoo position paper proposes several concrete measures:

- **Strengthen governance:** To address the concentration of market power among PROs, a broad group of stakeholders both within the value chain (waste collectors, recyclers) and other stakeholders outside the value chain (such as consumer and environmental organizations) must be part of the governance structure. In this way, strategic responsibility can be separate from operational responsibility.
- **Greater transparency:** The intentions of the Article 8 of the WFD are to include greater transparency and better governance (see recital 21 and 22 of WFD), so greater transparency must be provided by PROs. In addition, by having a broader range of stakeholders involved in the governance of a PRO, and a stronger role for governments, PROs will no longer be as difficult to monitor.
- **Improve accountability:** Producers are insufficiently held accountable for environmental damages they cause. Checks need to be done on data provided by PROs, and enforcement action taken if objectives are not met.
- **Limit lobbying:** To address PROs abusing their concentration of power and privileged position, PROs should not use their strategic position to lobby against ambitious environmental policies to protect the entrenched/established interests of their corporate members. This applies both at the national and European levels.
- **Full externality inclusion:** Eco-modulation (difference in waste management contribution based on, for example, the materials used or the degree of recyclability) must be implemented according to the principles of the waste hierarchy, prioritizing prevention, reusability, and recyclability. But this must be done in a way that ensures that PROs cover the *full* costs of everything in their remit to all stakeholders (e.g., municipalities) and thus properly implement the 'polluter pays' principle.

Some other aspects of EPR discussed in the 2023 Fair Resource Foundation and Minderoo position paper are not directly related to governance¹⁷, so are out of scope of this paper.

¹⁶ https://www.researchgate.net/figure/The-9R-Framework-Source-Adapted-from-Potting-et-al-2017-p5_fig1_320074659

¹⁷ For example, addressing free-riding, mandatory DRS as part of EPR policy

Monopoly vs. Competitive EPR

Unsurprisingly, there are a variety of ways in which EPR has been implemented across Member States. One key difference to point out is that some countries have implemented single-PROs for certain waste streams, for example there is only one PRO in Belgium for municipal packaging waste; and there are many other examples. This puts the PRO in a monopoly position (see Figure 1), which has important consequences for the functioning of the system.

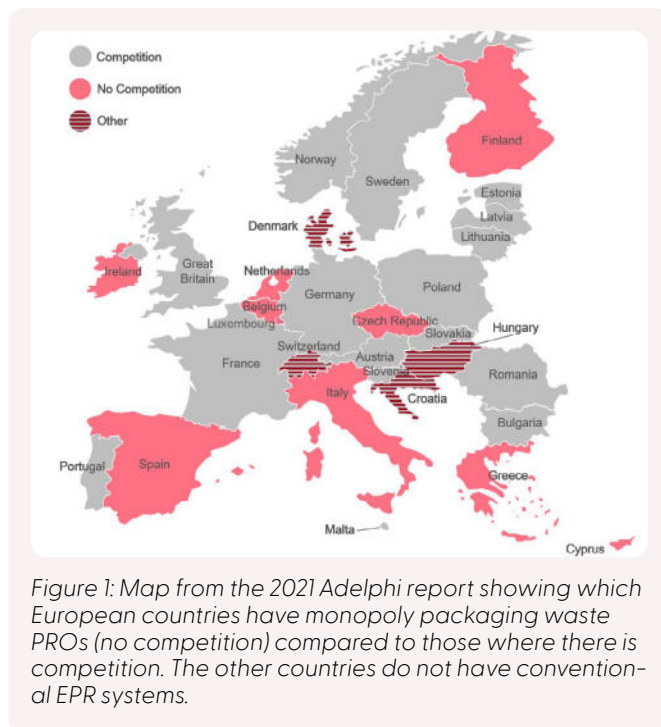


Figure 1: Map from the 2021 Adelphi report showing which European countries have monopoly packaging waste PROs (no competition) compared to those where there is competition. The other countries do not have conventional EPR systems.

In some countries, there are multiple PROs for municipal packaging waste. For example, in Germany there have been 10 packaging PROs operational at some point, seven of which were still active in 2020¹⁸. These operate on a for-profit basis and compete for obliged companies to join their organisation and pay their fees.

Although the structure is quite different, the concrete measures in the 2023 Fair Resource Foundation and Minderoo position paper still apply to both.

Packaging EPR in Belgium

In Belgium, packaging EPR is organised in a relatively straightforward way (Figure 2):

- Waste management is a regional competence in Belgium, and thus the responsibility of the

three regions: Brussels Capital Region, Flanders, and Wallonia. The three regions have decided to work together using a **Cooperation Agreement on the prevention and management of packaging waste**¹⁹ (the packaging CA) to transpose the EU packaging waste legislation into Belgian law, and the **new Cooperation Agreement on EPR for certain waste streams and litter**²⁰ (the EPR and litter CA) to transpose the requirements of the SUPD.

- The packaging CA sets out the creation and responsibilities of the **Interregional Packaging Commission**²¹ (Interregionale Verpakingscommissie, IVC), the government body responsible for overseeing and implementing packaging waste regulations. The IVC is made up of a permanent secretariat, as well as a decision-making body with members from the three regions. The EPR and litter CA adds EPR for other products (tobacco products, chewing gum, wet wipes, and balloons) and litter to the responsibility of the IVC, and the IVC will become the Interregional Commission for EPR.
- The IVC is responsible for accrediting EPR compliance organisations, i.e. PROs, in Belgium. For municipal packaging this is currently **Fost Plus**²², and for commercial and industrial packaging this is **Valipac**²³. These two organisations are responsible for the majority of Belgian packaging waste, although some producers are not members of a PRO – these companies put less than 300 kg of packaging on the market, or fulfil their takeback obligations themselves and report directly to the IVC.

¹⁹ Cooperation agreement of 04-11-2008 on the prevention and management of packaging waste can be found here: <https://www.ivcie.be/en/category/downloads-en/>

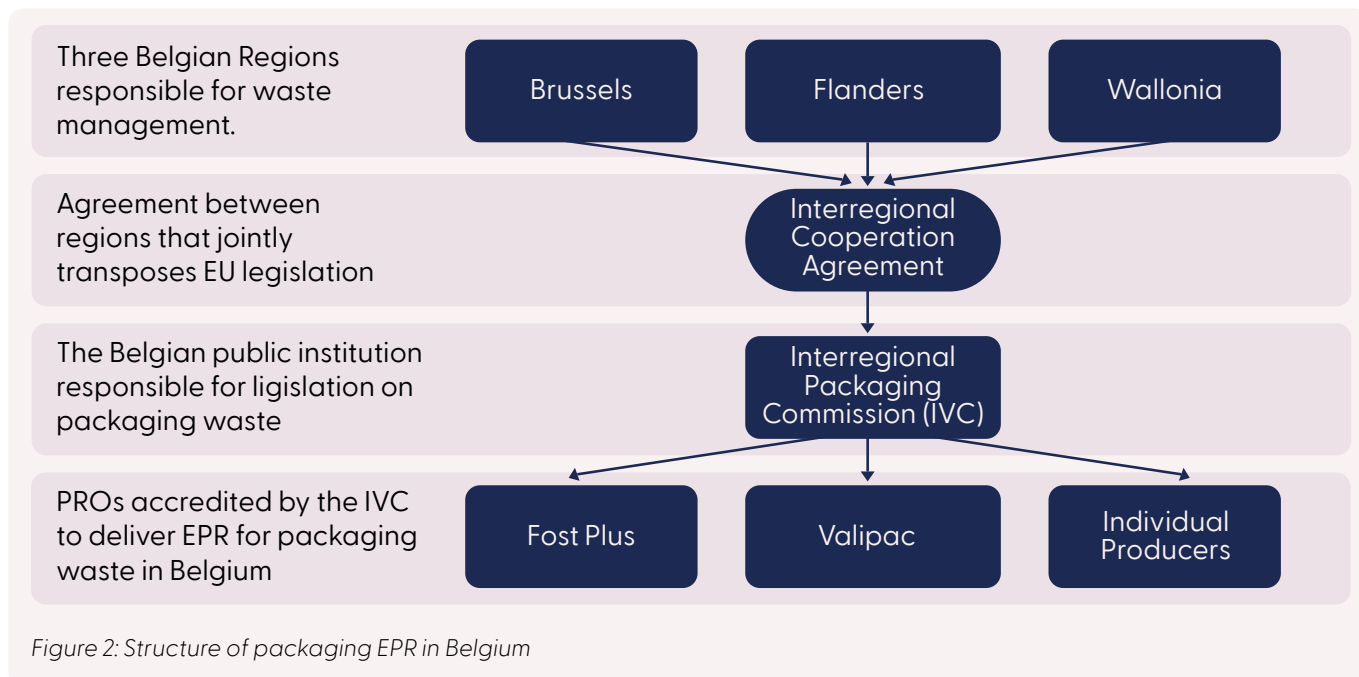
²⁰ The current version of the new Cooperation Agreement on EPR for certain waste streams and litter can be found here: <https://beslissingenvlaamse-gering.vlaanderen.be/document-view/63983D52C2B90D4571CF8802>. Note that this has not yet been implemented – it is awaiting the third round of discussions in the three regional governments.

²¹ <https://www.ivcie.be/en/>

²² <https://www.fostplus.be/en/>, and the Fost Plus accreditation of 20 December 2018 can be found here: <https://www.ivcie.be/en/category/downloads-en/>

²³ <https://www.valipac.be/en/>

¹⁸ <https://prevent-waste.net/wp-content/uploads/2023/06/Germany.pdf>



Fost Plus is commonly thought of as a leading example of a PRO, but as we have seen in the first three papers of this series, there is still room for improvement in terms of their ambition and ability to achieve the best environmental outcomes – these examples will be discussed throughout this paper where relevant.

In this paper, we explore one specific element of EPR for packaging and packaging waste in Belgium, namely the governance of municipal packaging EPR. In particular, we explore how Fost Plus works, including how it interacts with other organisations, and how it is governed. We test the Fair Resource Foundation and Minderoo framework on EPR governance in Belgium, to determine if Fost Plus is truly leading the way for PROs in Europe.

2. PRO GOVERNANCE IN BELGIUM

In this section, we investigate how the PRO for municipal packaging waste in Belgium is governed in comparison to the framework developed in the 2023 Fair Resource Foundation and Minderoo position paper. In particular, we look at:

- how the **Fost Plus strategy** is set;
- the Fost Plus **governance structure**;
- **accountability** and **transparency** of Fost Plus activities;
- Fost Plus's role in **lobbying** on environmental policy;
- how fees are **eco-modulated**; and
- the **reimbursement of costs** to other stakeholders delivering elements of what is in Fost Plus's remit under the polluter-pays principle.

As part of this investigation, we also consider the role of the government, and in particular the IVC as the interregional government body responsible for overseeing and implementing packaging waste regulations. In theory, the government should have a monitoring role, but: How is this role being delivered and is the current level of control optimal? How does the IVC weigh the role of Fost Plus compared to other stakeholders when drawing up strategy and accrediting the PROs? What is the IVC's role in governing Fost Plus? What would be desirable for the application of EPR from a transparent and democratic society? How much say does Fost Plus have in the policy process? These are some of the questions we want to investigate through this research.

Fost Plus Strategy

According to our understanding, **the Fost Plus strategy is set every five years when a new accreditation is approved by the IVC**; the accreditation is considered to be the strategy or the orientation that Fost Plus will take for the next five years. Article 7 of the packaging CA (defined in the introduction) states that it is the responsibility of the IVC to assess companies' (or PROs' on their behalf) way of complying with their take-back obligations and approve or reject as it deems fit. It should be noted here that, in the case of packaging waste in Belgium, there is no competition due to the monopoly position of the PROs. No other application is ever expected for municipal packaging, other than the one of Fost Plus.

The IVC approves accreditation applications which include the articles of association of the PRO, and a financial plan and budget for the duration of the accreditation (Article 10 of the Packaging CA). In other words, the IVC is responsible for approving the strategy of the PRO when it is accredited. If we assume that this is happening, since the decision-making body of the IVC is composed of nine members, i.e. three full members from each of the three regions (Figure 3), then the **three regions should be directly influencing the strategy of Fost Plus**.

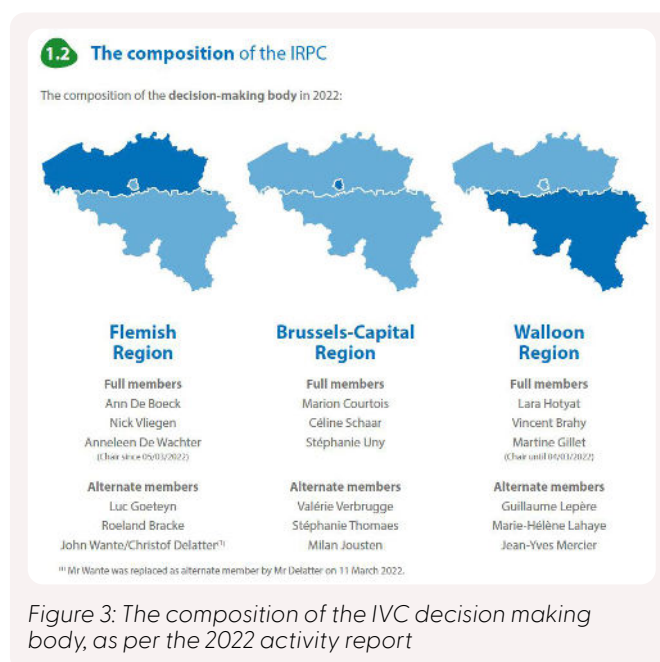


Figure 3: The composition of the IVC decision making body, as per the 2022 activity report

There is no fixed procedure for preparing the accreditation, beyond the requirements in Article 10 of the Packaging CA. However, it is our understanding that accreditations are approved on a case-by-case basis, with the required practical organisation and discussion of the application. As such, in practice, the IVC and its decision-making body influence the strategy via the accreditation, for example by requiring Fost Plus to allocate a budget to specific activities. **The decision-making body agrees on the topics that will be in the accreditation** (so-called 'thematic sheets'), and the content of each theme is discussed within the regions and then within the IVC. The decision-making body needs to find an agreement for each theme. Feedback from certain stakeholders such as federations representing municipalities, waste intermunicipalities, or recyclers are also taken into account; and then the themes go back to the decision-making body who make a final decision by consensus. Once the accreditation is approved,

the objectives are evaluated by the IVC decision-making body every year based on the targets set.

Going back to the previous accreditation as a specific example, in the 2017 Fost Plus activity report²⁴, which was published while the 2018 accreditation of Fost Plus for the 2019-2023 period was being approved, a new strategy was announced (Figure 4)²⁵. This suggests that **Fost Plus designed its own strategy without waiting for the accreditation to be approved**. The activity report claims that “this strategy is the result of a thorough environmental analysis and an extensive survey among stakeholders,” however no other information or reports on this are available. So, it is not clear which stakeholders were surveyed, nor what environmental analysis was undertaken.



Figure 4: Extract from the 2017 Fost Plus activity report announcing the new strategy

The new strategy was introduced in the 2017 annual report by the following summary:

“Fost Plus wants to actively contribute to the development of a circular economy in Belgium. We want to give citizens the opportunity to sort their packaging wherever the packaging is released. In the long term, we want a sustainable and cost-efficient recycling solution for all household packaging that comes onto the market.”

This strategy is in line with Fost Plus’s corporate purpose, which is “to organize the take-back obligation for the benefit of its Members, extended to the act of acting on where applicable as an authorized representative, responsible for proper compliance with the obligations of a packaging manager established outside Belgian territory, in accordance with the provisions of the Interregional Cooperation Agreement concerning the prevention and management of packaging waste.”²⁶

However, it only addresses a very narrow scope when compared to the packaging CA and EU packaging waste legislation. **Waste prevention**

and reuse, which were already clear objectives of the EU legislation at the time of the 2018 accreditation, are completely missing from the Fost Plus objectives. The strategy includes five focus points:

1. the expansion of PMD collection to include all plastic packaging,
2. increasing out-of-home sorting and recycling,
3. continue to fight against litter,
4. help companies improve the recyclability of their packaging, and
5. work proactively to encourage new recycling markets.

Fost Plus has indeed made progress on some of these in the last five years²⁷; however, little has been successfully done to improve the situation regarding packaging litter. As discussed in Paper 3 of this series on litter²⁸, part of the issue comes from the lack of clear distinction of roles and responsibilities of the different actors. We conclude in Paper 3 that “Belgium should have a **harmonized litter strategy with a clear division of roles between authorities and PROs**. Where we are right now with Mooimakers and Be Wapp is an unhealthy mix where producers exert too much control over litter policy in exchange for funding.” We argue that this is also true for packaging strategy in general.

Although we cannot evaluate the outcomes yet, Section 7 of the Fost Plus accreditation for 2024-2028²⁹ sets new targets for prevention and reuse on the Belgian packaging market. We therefore expect Fost Plus and its members to do much more on those aspects of packaging circularity than they have done until now, and call for better governance to ensure that the targets are achieved.

Taking a step back to our understanding of the accreditation process, we see some issues that are leading directly to this lack of achievement. Firstly, Fost Plus makes its own proposition for the accreditation instead of responding to a tender put out by the IVC. Further to this, Fost Plus generally has an obligation on delivering the results, and not on how they reach those results³⁰. So in that sense, Fost Plus makes its own strategy to reach the target and objectives set in the accreditation

24 The 2017 Fost Plus activity report is no longer available on their website

25 However, we note that a new strategy for the Fost Plus accreditation for 2024-2028 has not yet been announced.

26 Extracts from the notes of the general meeting published in the Belgian Gazette on 2022-03-03: https://www.ejustice.just.fgov.be/tsv_pdf/2022/03/03/22029231.pdf

27 <https://www.fostplus.be/en/blog/fost-plus-concludes-accreditation-period-2019-2023>

28 <https://fairresourcefoundation.org/en/study-tackling-litter-main-ly-helps-producers-of-disposable-products/>

29 <https://www.ivcie.be/wp-content/uploads/2018/10/AGREMENT-FOST-PLUS-2024-CIE.pdf>

30 The new 2024 accreditation, which was published during the drafting of this report, does have some obligations of means, for example, regarding the section on reuse.

without guidance, input, or supervision from external stakeholders. Finally, it is unclear how feedback is taken into account, and even who can give feedback. For example, there were no environmental NGOs involved in the new Fost Plus accreditation for 2024-2028; only the regions (i.e., the regional governments and administrations) and certain direct stakeholders from within the value chain (e.g., VVSG, Denuo, and the waste intermunicipalities) were involved.

It can be concluded that there is no proper process to steer the accreditation process, and too much freedom is left to the PRO to decide what to do and how to do it. This lack of transparency on the process of the government accrediting the PROs in Belgium and setting the PRO's strategy is limiting the ambition and reducing the environmental benefits that could be gained.

There are many ways in which this process could be improved. In order to foster a more balanced representation of stakeholders in the decision-making process, one option could be that a specific body or steering committee encompassing all stakeholders is engaged to consult and advise the decision-making body during the accreditation process. This should include not only federations representing municipalities, waste intermunicipalities, or recyclers already being consulted behind closed doors, but also broader public stakeholders such as consumer organisations and environmental NGOs. This would be similar to the monitoring committee that is set up in Article 46 of the Fost Plus accreditation for 2024-2028 to observe its implementation, but with more stakeholders involved. The IVC could even go one step further and undertake a full public consultation, where anyone could feed into the process and responses to feedback are published.

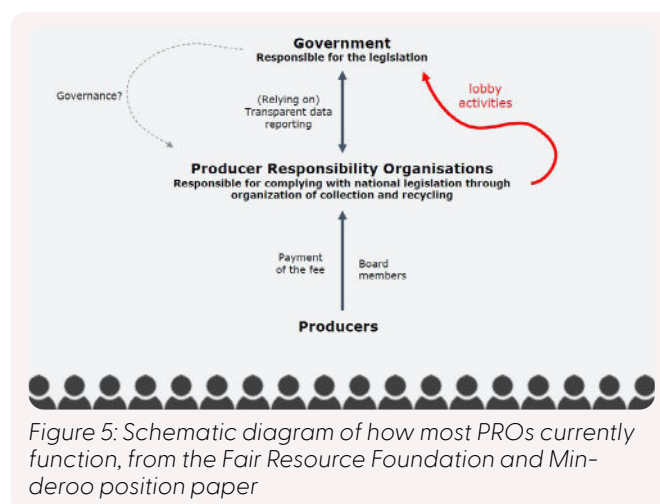
The Fair Resource Foundation and Minderoo framework also states that in order for EPR to function well, it also needs to be complemented by other legislative instruments. Analysing this is beyond the scope of this paper, but, briefly, each of the three regions in Belgium has their own waste strategy; in addition, the existing CA for packaging and the new CA for EPR and litter only address certain waste streams; and other potentially related legislation is a federal competency. So, part of the agreement that needs to be made by the IVC decision-making body on the Fost Plus accreditation will be to align of these fragmented pieces of legislation and strategy.

We would argue that the **role of PROs needs to fit into a single, coherent strategy or framework**

for all waste streams, that also include other legislative instruments. This requires a strong involvement of the governments. For example, tax instruments, such as lower VAT³¹ on products made from recycled materials, can reduce demand for raw materials and make virgin plastic not as cheap anymore. Another example of using other legislative instruments to fit the role of the PRO into a wider strategy would be to expand the scope of EPR to make PROs financially responsible for the EOL of products that are not separately collected³², which is not currently required by EU legislation, but could be implemented at the national level to incentivise better implementation of the waste hierarchy. By **making circularity more fiscally attractive**, a government can promote better environmental outcomes.

Governance Structure

Figure 5 shows the general way in which PROs function. The PRO makes sure that national legislation is met by taking organisational or financial responsibility (or a combination), e.g., by setting up collection and recycling schemes or financing existing waste management schemes, and providing data to the government. In most cases, **the boards of PROs consist solely of producers who fall under the EPR-scheme.**



Producers – and thereby PROs – are often viewed by governments as the main stakeholder in EPR-schemes; they are sometimes even viewed as the ‘sole owner’ of the EPR-scheme since there is no distinction made between the producers that pay the fees and those that set up and operate the system. As a result, **PROs use their position of power to influence government policies, strategies, and legislation.** Other stakeholders have a limited

31 VAT is a competency of the federal government in Belgium.

32 <https://www.pbl.nl/en/publications/extended-producer-responsibility>

say in the strategy more generally, nor in specific processes like waste prevention, reuse, collection, recycling, fee setting for producers, and fees paid to municipalities. This is a problem, because it skews the government policies, and PRO strategies and activities, in favour of the packaging producers, not achieving the most environmentally beneficial outcomes as per the spirit or letter of the legislation. As we will see below, in the case of Belgium, it goes even further and skews policies in specifically favour of large producers and retailers, not packaging producers in general.

This form of strategic responsibility and influence should not be the case when governance includes a large group of stakeholders reflecting the different interests at play. Even though article 8a of the WFD stipulates that Member States must ensure a regular dialogue between relevant stakeholders, this mostly happens as an afterthought, if at all. The Fair Resource Foundation and Minderoo framework suggests that “stakeholders such as governments, environmental organizations, and waste processors are included in a democratic and transparent way in policy processes, the set up of contracts and fees, and decisions on strategy (such as efforts to increase circularity).” One way to achieve this would be if **a wider range of stakeholders is included on the boards of PROs.**

In Belgium specifically, Fost Plus was founded as a non-profit organisation on 18 April 1992. According to the Fost Plus articles of association³³, the board must consist of 27 directors:

- nine directors representing the COMEOS³⁴ sector group;
- seven directors representing the FEVIA³⁵ sector group;
- six directors representing the materials industry³⁶;
- four directors representing the DETIC³⁷ sector group; and
- one paid administrator.

The legal functions listed on Crossroads Bank for Enterprises (CBE) entry for Fost Plus³⁸ currently (as

of 18 January 2024) consists of only 26 directors who make up the board; they are summarized in Figure 6 and Figure 7. This is less than the required 27, however, publications in the Belgian Official Gazette³⁹ show that directors are regularly added and removed, so this is likely only temporary. Of the 26, we were unable to identify the sector group for two of the directors, so they likely fill the spots missing in the COMEOS or material industry sector groups.

Sector Group	Number of Directors Required by Articles	Number of Directors Identified in CBE Entry
COMEOS	9	8
FEVIA	7	7
Materials industry	6	3
DETC	4	4
Paid Administrator	1	1
Unknown/Uncertain	-	3
Total	27	26

Figure 6: Composition of the Fost Plus board of directors as defined in the articles of association compared to the current board listed with the CBE

It is interesting to note that:

- the board members from two companies (in bold in the figure, Ecorys and L'Oréal) are not based on Belgium, but in the Netherlands; and
- retailer Delhaize and sector federation Comeos are represented twice each.

The fact that the Comeos sector group (coloured green in Figure 7) makes up one third (9 of the 27) of the places on the board, and Delhaize and Comeos are each represented twice, significantly biases the interests of the board in favour of the retail sector. This, in the case of packaging, can actually be in conflict with the interests of packaging producers more generally.

Further, most of the companies represented on the board are national and multi-national brands (some not even in Belgium), so the interests of small, local producers are not represented at all. It can be concluded that the representation on the Fost Plus board is very narrow, and isn't represented by the producer landscape in Belgium.

33 See for example the extracts from the notes of the general meeting published in the Belgian Gazette on 2023-12-29: https://www.ejustice.just.fgov.be/tsv_pdf/2023/12/29/23168301.pdf

34 Comeos is the industry federation for Belgian trade and service companies, like grocery and restaurant chains <https://www.comeos.be/home>

35 Fevia is the industry federation for the Belgian food industry, like food and drink producers <https://www.fevia.be/nl>

36 The producers or importers of packaging materials or packaging, including plastic materials, paper/cardboard materials, steel materials, glass materials, rolled materials, and non-ferrous metal materials.

37 Detic is the Belgian and Luxembourg association for producers and distributors of cosmetics, cleaning and maintenance products, adhesives, sealants, biocides, and aerosols <https://www.detic.be/en/enterprises>

38 [https://kbopub.economie.fgov.be/kbopub/toonondernemingps.html?on-](https://kbopub.economie.fgov.be/kbopub/toonondernemingps.html?ondernemingsnummer=0447550872)

[dernemingsnummer=0447550872](https://kbopub.economie.fgov.be/kbopub/toonondernemingps.html?ondernemingsnummer=0447550872)

39 https://www.ejustice.just.fgov.be/cgi_tsv/tsv_rech.pl?language=fr&btw=0447550872&liste=Liste

Role	Board Member	Company
Director	0406.478.993	essenscia
Director	0783.441.482	Fost Plus CEO
Director	Block, Antonia	Delhaize
Director	De Bremme, Hans	Aldi
Director	De Corte, Emmanuel	Ecorys
Director	De Greve, Nathalie	Comeos
Director	De Maesschaick, Koenraad	Colruyt
Director	De Volder, An	Mars
Director	Delincé, Perrine	Unilever
Director	du Bois, Marc	Spadel
Director	Eylenbosch, Jean	Coca Cola
Director	Guillaume, Nathalie	Danone
Director	Labberton, Martinus	
Director	Leglise, Pascal	Carrefour
Director	Lenoir, Jean-Paul	
Director	Nachtergaele, Ann	Fevia
Director	Stuyck, Laure	AB InBev
Director	Thoen, Vincent	Delhaize
Director	TROOST, ERIK	L'Oréal
Director	Van Breusegem, Marie	Comeos
Director	Van Edom, Nathalie	IKEA
Director	Van Tiggelen, Françoise	DETIC
Director	van Veen, Willem	inDufed
Director	Vandepitte, Vincent	P&G
Director	Vander Stichele, Jan	Lotus Bakeries
Director	Walter, Nathalie	Tetra Pak

Figure 7: Board members of Fost Plus, from the CBE public search, with companies allocated to each director (green = COMEOS group, purple = FEVIA group, blue = materials industry group, yellow = DETIC group, orange = unknown/uncertain)

Regarding the board structure of packaging PROs across Europe, it is very common for them to consist primarily of their members⁴⁰. One counterexample to this, where a broader group of stakeholders is being included so that the decisions are not just made by producers, is ongoing in the UK, where a packaging EPR is currently being set up. Defra, the central government department responsible for waste management, is setting up a steering group composed of diverse members (Figure 8) that will “support the design, establishment, and mobilisation of the packaging EPR scheme” and will also “advise on the shape and approach of the scheme administrator’s future governance arrangements, functions, and operations”⁴¹. The steering group will consist of producers, local authorities, the four regional UK governments, trade associations, a waste management body representative, an environmental non-government organisation, the head of the EPR scheme administrator, and an independent chair.

Another example of the inclusion of a broader group of stakeholders is Citeo, the municipal packaging waste PRO in France, who has also made steps to ensure that their board of directors come from a diverse group of stakeholders from

Defra begins EPR scheme administrator ‘steering group’ selection

Defra has opened applications for joining the “interim” scheme administrator steering group for the UK’s extended producer responsibility (EPR) for packaging scheme.



Figure 8: The UK government is setting up a diverse steering group to design, establish, mobilize, and shape packaging EPR

within the value chain⁴². This is a step in the right direction, including not only their members on the board, for example, but it is still missing stakeholders like municipalities and stakeholder organisations like NGOs. To this end, they do have a Mission Committee that “brings together stakeholders committed to supporting Citeo in the performance of its mission. It brings together representatives of clients, operators, environmental associations, local authorities, qualified individuals, and employees. It is made up of 10 members and its role is to assess the implementation of Citeo’s objectives, as well as to provide information and make recommendations to its Board of Directors.”

From these two examples, we can see that EPR takes diverse forms in different countries, and some are leading the way in implementing best practice to strengthen the governance of their PROs. Therefore, another approach that could be taken in Belgium is that of Citeo in France. Along these lines, researchers at Utrecht University propose separating strategic responsibility of PROs from financial and operational responsibility, and **setting up a separate organisation to safeguard the circular value chain**, in their pathways for improving EPR for the circular economy⁴³.

It is clear that the board of Fost Plus is only made up of its members and the packaging material

40 Some PROs, such as in Belgium, the Netherlands, and France, also include material organisations that may or may not be members of the PRO, but are stakeholders from within the value chain.

41 <https://www.letsrecycle.com/news/defra-begins-epr-scheme-administrator-steering-group-selection/>

42 <https://bo.citeo.com/sites/default/files/2021-06/CITEO%20ENGLISH%20FINAL%2019.05.pdf>

43 <https://www.uu.nl/sites/default/files/White-paper-over-Transitiepaden-voor-uitgebreide-producentenverantwoordelijkheid-op-weg-naar-een-circulaire-economie.pdf>

industry, plus it does not have another body (like a strategy committee) in the organisation providing valuable input. Thus, it **does not meet the best practice outlined** in the framework developed in the 2023 Fair Resource Foundation and Minderoo position paper, and is not implementing the pathways proposed by Utrecht University researchers towards a more circular economy.

Fost Plus could voluntarily change their articles of association to include a broader range of stakeholders on their board, or set up a strategy committee with a broader range of stakeholders; or the regional governments could mandate this by amending one of the CAs, or the Fost Plus accreditation.

We note that both the Fost Plus accreditation for 2019-2023 and for 2024-2028 requires that a **'monitoring committee'** be established (Section 11, Article 46 of the latter). This committee is composed of Fost Plus and representatives of the permanent secretary of the IVC, and its role is to observe the implementation of the accreditation. However, there is **very little insight as to whether this is actually happening**.

This is an attempt to formalize the monitoring of the accreditation, however the minutes from the meetings should be made publicly available. Further, this committee does not even include representatives of the IVC decision-making body from the three regions, and doesn't introduce any new party to the table. **There needs to be a wider group of stakeholders involved in this monitoring committee**. Ultimately, the objective of changing the board (or any governance) structure of Fost Plus should be to improve the environmental outcomes of the packaging placed on the market in Belgium.

In conclusion, **we call on the Belgian regions to include a requirement in the EPR and litter CA** (defined in the introduction) **to include a broader range of stakeholders in the ongoing governance of the PROs**, so that all EPR schemes in Belgium are adequately represented by diverse interests. The objective should be to ensure that more environmentally beneficial outcomes are achieved, that there is greater transparency, that the decisions of the PRO are less strongly defined by the commercial interests behind it, and that producers are held to account. Belgium could serve as an example for other EU Member States, inspiring the EU to include such stipulations in revisions of their legislation as well.

Accountability

As shown in Figure 5 above, governments rely on packaging PROs to provide data on their specific product streams in order to monitor performance against targets in their accreditations, as well as to report amalgamated data to the EU and monitor performance against national targets. In theory, EPR should pass responsibility on to producers through legislation for the management of their products, with the government having a supervisory role. In the current situation, the fact that the government is dependent on business-funded PROs for reliable data puts the government's governance of PROs at risk. Researchers from Utrecht University note in their white paper that in practice the supervision of PROs and the degree of transparency are very limited.

In Belgium, the packaging CA (defined in the introduction) is a legal document that applies to the whole country. The creation of the IVC is laid down in the packaging CA, and the IVC is responsible for ensuring proper compliance with the CA. The purpose of the packaging CA is to:

- prevent or reduce production of packaging waste (Article 3, paragraph 1, point 1);
- guarantee the proportion of reusable packaging for same goods placed on market does not fall (Article 3, paragraph 1, point 2); and
- set out recycling and recovery targets (Article 3, paragraphs 2 and 3).

Thus, **it is for IVC to oversee the fulfilment of these objectives**, including where they are delegated to PROs.

The 2018 Fost Plus accreditation further specifies the oversight role of the IVC, which includes the responsibility to: define the household packaging waste for which membership of Fost Plus is required (Article 1); determine the methods of calculating recycling rates that complies with the EU legislation (Article 4); determine the rate to be paid to municipalities responsible for waste collection (Article 5); supervise samplings (Article 8) and pilot projects (Article 9); and consult on prevention communication and information campaigns (Article 33).

The IVC publishes an annual report on its activities, but this does not include enough detail to understand what they are actually doing regarding controlling the PROs, nor the level of oversight they have, or try to have, over Fost Plus. For example, **what checks are done of the data provided by Fost Plus in relation to the tonnages placed on the market by members and the**

tonnages recycled? Are the values provided by Fost Plus taken for granted, or checked in detail? From our perspective, it seems that there is little supervision and control over the collection and recycling figures reported by Fost Plus.

Accountability and enforceability only work with transparency (which is discussed in more detail below). However, the issue is wider than just data. Things like **agendas and minutes of board meetings should be made publicly available as a matter of course, like they are for some other public authorities in Belgium**⁴⁴. This would allow some insight into the activities of the IVC, and what happens on a day-to-day basis to oversee Fost Plus.

For example, in the Netherlands, there seems to be a better system in place when it comes to oversight. The Human Environment and Transport Inspectorate (ILT)⁴⁵ is the body responsible for monitoring the functioning of EPR schemes and therefore the PROs. The ILT monitors and intervenes at a certain distance from the PROs; and compared to the IVC, the distance between the PRO and ILT is bigger. The ILT does not have the responsibility for drafting EPR policies, like those that the IVC drafts in the accreditations; nor is there confusion on their actual position compared to the PRO.

In addition, the ILT is relatively easy to reach for all parties involved – not just PROs. Fair Resource Foundation has a quarterly talk with the ILT in which issues can be raised. The ILT obviously needs to think about how to make effective use of the capacity that they have and they may not always feel motivated to pursue the topics we address, but they make an effort to listen to stakeholders from outside the value chain and outside the PRO, including environmental NGOs. **The IVC seems less willing to engage with stakeholders outside the value chain, and from an outside perspective is much too close to Fost Plus.**

Over time, the impression has been that the ILT generally shows willingness to enforce the legislation, but this is not an easy task. PROs often rely on collaboration with third-party entities to reach the set targets – as has become clear in the glass-recycling court case, started by Fair Resource Foundation.⁴⁶ Because of this reliance,

enforceability is hampered. Enforcement is often limited to reviewing additional measures taken by the PRO to attain the targets. The latter also results in the ILT being reliant on the PRO for providing the right data, without the possibility to always fully verify the authenticity of this data.

Moreover, **it is not clear if or how the IVC is taking up its enforcement task** and if the IVC is the sole party to, e.g., penalise Fost Plus if they act in violation of the legislation. For example, in Paper 1 of this series on packaging waste prevention and reuse we discuss the fact that the packaging CA states that the share of reusable packaging versus single use packaging is not supposed to go down. Nonetheless, it has been for the last 20 years – in particular the share of glass reusable packaging placed on the market by Fost Plus members – and no action has been taken by the IVC against Fost Plus to reduce or reverse this decline.

Transparency

According to Article 2(2) of Directive 2003/4/EC⁴⁷, in the context of public access to environmental information: “Public authorities’ shall mean:

- A. government or other public administration, including public advisory bodies, at federal, regional or local level;
- B. any natural or legal person performing public administrative functions under national law, including specific duties, activities or services in relation to the environment; and
- C. any natural or legal person having public responsibilities or functions, or providing public services, relating to the environment under the control of a body or person falling within (a) or (b).”

From a legal standpoint, **we argue that both the IVC and Fost Plus are classified as public authorities**. This is important in the context of discussing governance, in particular accountability and transparency. Public authorities are subject to Freedom of Information (FOI) requirements, and are required to disclose any environmental information that they hold in context of their public service. Of course, there are exceptions, but any information regarding packaging waste data can be accessed.

The IVC was established on the basis of the packaging CA (defined in the introduction) with the goal of constituting a joint institution on the prevention and management of the packaging

⁴⁴ For example, agendas and minutes from the Council of Ministers in the Brussels Capital Region can be found here: <https://publi.irisnet.be/web/category?vipKey=Cde83186-2d0d-4315-b4a9-5037f8d91965>. Similar sites are available for Flanders and Wallonia, as well as at the municipal and federal level. Others are available on a FOI basis, but are nonetheless available to citizens interested in the political decision-making process.

⁴⁵ <https://english.ilent.nl/>

⁴⁶ <https://fairresourcefoundation.org/extra-glasbakken-laten-zetten-is-lap-werk/>

⁴⁷ Directive on public access to environmental information: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32003L0004>

waste (Article 92bis of law on institutional reform). It is indisputable that it is **a public authority under Article 2(2)a of the Directive 2003/4/EC** and is under an obligation to comply with the request for access to information. Not to mention that they refer to themselves as a ‘public institution’ (in English) or a ‘government agency’ (in Dutch) – see Figure 9. This will continue to hold true once the IVC becomes the Interregional Commission for EPR following the implementation of the EPR and litter CA.

In addition, its service of prevention and management of packaging waste constitutes as a public administrative function under national law, in line with the WFD and PPWD (and the SUPD once the EPR and litter CA is finalized). Therefore, it is clear that as a legal personality (Article 23 of the packaging CA), the IVC is entrusted with specific duties, activities or services in relation to the environment. Furthermore, IVC has special powers including but not limited to:

- approving packaging prevention plans;
- granting, monitoring, suspending, and withdrawing accreditations of PROs;
- monitoring budgets of and fees charged by accredited compliance organizations; and
- verifying how obliged producers or PROs meet minimum recovery targets.

All of these can be classified as ‘public administrative function’ and therefore, on the basis of the EU law, it is indisputable that the **IVC qualifies as a public authority** in the context of public access to environmental information.



Figure 9: Extracts from the IVC website where they refer to themselves as a ‘public institution’ (in English) or a ‘government agency’ (in Dutch)

Based on the definitions above, there seems **no reason why Fost Plus should not be also considered a public authority** on these similar grounds: Fost Plus is registered as a non-profit organisation under Belgian law, thus has a legal personality. Article 13 of the packaging CA explicitly states that Fost Plus serves a public service mission and that it is the only accredited compliance organization for collection, recycling, and processing household packaging waste⁴⁸. Therefore, it is clear that

Fost Plus is also entrusted with specific duties, activities or services in relation to environment; and it can be argued that within meaning of Article 2(2)b of Directive 2003/4/EC it performs a public administration function in line with the EU legislation.

Case law from the UK⁴⁹ supports this argument.

The 2013 case, when the UK was still part of the EU, discussed the interpretation of Directive 2003/4/EC concerning public access to environmental information. The EU Court of Justice examined the classification of entities, particularly water companies, providing environmental services under the directive’s purview. The court’s interpretation of the Directive found that mere commercial status or sector-specific regulation does not preclude an entity’s classification as a public authority. The Court established that entities offering public services related to the environment could be considered ‘public authorities’ under the Directive if they lack genuine autonomy in determining service provision methods. In addition, the opinion of the Advocate General highlights that the monopoly position of the water companies in question (similar to the monopoly position of Fost Plus) contributes to putting them in a position of acting as a public authority⁵⁰.

Thus, the Court’s interpretation clarifies the scope of Directive 2003/4/EC concerning the classification of entities providing environmental services. This interpretation is directly transferable to Fost Plus, because:

- its status as a non-profit organization does not automatically preclude Fost Plus from being classified as a public authority;
- Fost Plus performs a public service in the environmental field; and
- the services provided by Fost Plus must be approved every five years by the IVC, and thus are not autonomously determined by Fost Plus.

It can be concluded that **the IVC is a public authority and it can be argued that Fost Plus should also be considered a public authority, and are therefore both subject to FOI requirements** in the context of public access to environmental information – the case law emphasizes the obligation of classified entities to disclose environmental information unless exceptions outlined in the directive apply.

pliance organisation for household packaging waste; whereas a company responsible for household packaging waste that is unable to fulfil its take-back obligation itself can therefore only call on Fost Plus to fulfil that obligation.”

⁴⁹ <https://curia.europa.eu/juris/document/document.jsf?docid=145904&doclang=EN>

⁵⁰ Paragraph 23 and 103 of <https://curia.europa.eu/juris/document/document.jsf?text=&docid=140624&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=6417850>

⁴⁸ The recitals of the packaging CA state that “Whereas Fost Plus performs a public service mission; whereas Fost Plus is currently the only accredited com-

Not to mention that PROs have an obligation to provide reliable data according to Article 8a of the WFD. **The lack of transparency of Fost Plus is even more detrimental to the public since Fost Plus has a monopoly.** As discussed in the sections above, its board is primarily composed of members from the industry, which could also explain why they refrain from complying with their transparency obligations.

The 2021 Adelphi study of EPR identifies the establishment of a public central registry to create transparency regarding the companies participating in EPR schemes and the quantities of products POM/collected is essential in order to counteract fraudulent activities, falsified declarations, and free riders. Fost Plus talks in their 2021 activity report of a data system that allows them to interrogate waste data from what is placed on the market all the way to the final recycler, but this is not publicly available.

Fundamentally, “access to public information builds on the principle that in a democratic system people should be in the condition of accessing a wide range of information in order to effectively participate in public life as well as on matters affecting them.”⁵¹ In Paper 2 of this series on the recycling rates for PMD⁵², we explain that the official data are those from the IVC, not the one of Fost Plus. The way the Fost Plus data are currently published – based on only what is placed on the market by Fost Plus members – will always be underreporting compared to the whole Belgian market, and additional calculations are applied by the IVC to determine the official national data.

For transparency on this relationship between the two data sets, for example, **we have asked the IVC three times for the spreadsheet with data supporting the figures in the most recent activity report, and our request was ignored each time**⁵³. And this is a relatively simple data request of summary statistics that we know exists, not a request on details of calculations and evidence of tonnages.

We argue that spreadsheets with data supporting the both the Fost Plus and IVC activity report would be a straightforward way to provide more transparency and communicate the data to those that are interested, without overwhelming the more casual reader and the general public who is only interested in headline data. This is not

uncommon for data-heavy publications. The IVC’s lack of willingness to provide such data supports our argument that there is a lack of transparency leading to difficulties in oversight.

For waste data specifically, more transparency would provide evidence for the results being reported on the recycling rates; it would allow citizens, the government, Eurostat, and producers to understand what happens to the waste collection in Belgium; and it would allow all stakeholders to undertake checks of the data. If we want to check the impact and progress of the policy on packaging waste, monitoring and transparency is necessary.

Recital 22 of the WFD makes it clear that the minimum requirements for EPR in Article 8a “should improve the governance and transparency of extended producer responsibility schemes”. However, we have seen no evidence of this in Belgium from the IVC or from Fost Plus, and **the level of transparency on data and activities undertaken in Belgium is nowhere near what is required for best practice EPR governance.**

Lobbying

According to EU legislation, **PROs are there to implement environmental policies.** As such, it does not make sense for them to strongly influence those policies, especially when that influence is in the interest of serving a few stakeholders rather than the achieving the best environmental outcomes. By lobbying, PROs often try to avoid more responsibility and costs from being placed with producers. It is Fair Resource Foundation’s view that **PROs should not use their strategic position to lobby against ambitious environmental policies** at the federal and European levels in order to protect established and entrenched interests of their corporate members.

Adelphi warns in their 2021 report on EPR that monopoly systems like Fost Plus “accumulate significant market power and thus entail the risk of power abuse. Although the abuse of a monopolistic market position can be avoided by appropriate regulation and sufficient transparency, even relatively well-regulated monopolistic systems such as Belgium and Spain, still show gaps in this regard.” Similarly, an article in the EU Observer found that “although Green Dot organisations carry out a legal requirement, our study shows that few governments succeed in sufficiently controlling or directing Green Dot organisations.”⁵⁴

In Belgium, there are examples of Fost Plus

⁵¹ https://en.wikipedia.org/wiki/Access_to_public_information_in_Europe

⁵² <https://fairresourcefoundation.org/en/fost-plus-is-exaggerating-belgian-recycling-figures-are-incorrect/>

⁵³ A FOI request submitted by Fair Resource Foundation to the IVC in 2022 was also rejected.

⁵⁴ <https://euobserver.com/GREEN-ECONOMY/151010>

inappropriately lobbying against environmental policy in the interest of their corporate members:

- **Fost Plus has long been lobbying against implementing a Deposit Return System (DRS)** for beverage bottles and cans⁵⁵. Implementing a DRS is one way in which a growing number of countries are making producers responsible for their impact on litter – this incentivises consumers to return their empty packaging rather than littering it. However, it can involve a significant change to the way of working of the PRO, and go against investments made in recent years. It is sometimes forgotten that Fost Plus set up Mooimakers⁵⁶ – the Flemish initiative against litter and illegal dumping – as part of a deal to postpone the introduction of a deposit system for cans and bottles⁵⁷.
- Fost Plus was a signatory on a joint statement from 68 packaging associations that opposed the European intention to pass on the full clean-up cost to packaging producers in the SUPD⁵⁸. As discussed in Paper 3 of this series on litter, Fost Plus works closely with industry federations (Comeos, Fevia, DETIC)⁵⁹ who actively lobbied against the initial sum of €189M (Figure 10)⁶⁰ to cover the cost of litter prescribed in the SUPD. In fact, **Fost Plus itself also actively lobbied against the proposed approach**, stating that “The Fost Plus Board of Directors believes that this approach would not bring about any (real) improvement in public cleanliness. It generates a financial flow from industry to local authorities without providing any guarantee of change or progress”⁶¹.

These examples are just that – examples. In reality, lobbying is a continuous process, and there are many more examples of these activities that Fost Plus is part of in Belgium.

As discussed in the strategy section above, these are examples of Fost Plus having undue influence over the interregional strategy and waste policy in Belgium, and Fost Plus has been accused of abuse of power in the past⁶². These same examples of

55 <https://www.brusselstimes.com/43658/fost-plus-doesn-t-want-a-deposit-on-cans-and-plastic-bottles>

56 <https://mooimakers.be/>

57 <https://corporateeurope.org/en/power-lobbies/2018/03/packaging-lobby-support-anti-litter-groups-deflects-tougher-solutions>

58 https://amchameu.eu/system/files/position_papers/joint_statement_from_68_packaging_value_chain_associations_on_the_sup_proposal_august_2018.pdf

59 <https://www.fostplus.be/en/blog/litter-cost-info-session-fost-plus-explains-allocation-key-and-cost-model>

60 <https://www.fevia.be/nl/nieuws/een-sup-plement-van-189-miljoen-trop-is-te-veel>

61 <https://www.fostplus.be/en/blog/sup-directive-no-clarity-yet-on-litter-bill>

62 <https://trends.knack.be/ondernemen/recyclagebedrijf-fost-plus-beschuldigd-van-belangenvermenging-en-machtsmisbruik/>

Fevia

Een SUP-plement van 189 miljoen? Trop is te veel!

06.02.2023

Figure 10: Fevia lobby against the cost of litter, citing work they are doing together with Fost Plus and Comeos

Fost Plus actively lobbying to oppose stricter environmental measures for packaging waste have previously been documented⁶³, and the authors conclude that “it is expected that Fost Plus will do its utmost to continue the existing system at the lowest possible cost... at least for the industry” with the environment and society carrying too much of the burden.

In addition to lobbying individually, **PROs also come together to jointly lobby at the EU level**. For example, the Extended Producer Responsibility Alliance (EXPRA)⁶⁴ is registered with the EU transparency register as a lobbyist (Figure 11)⁶⁵. Fost Plus and Valipac, the two Belgian PROs for municipal and non-municipal packaging respectively, are both members of EXPRA (Figure 12). EXPRA lobbies against things like mandatory separate collection targets in favour of communication and education campaigns⁶⁶ – in other words, they are lobbying against additional responsibilities for producers, and trying to push the responsibility onto citizens instead.

Extended Producer Responsibility Alliance (EXPRA)

Identification number: 382147211686-77	Registration date: 05/08/2013	Category of registration: Trade and business associations	Head office country: BELGIUM
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Alliance 382147211686-77 EXPRA Discussing with the European...in the Circular Plastics Alliance EXPRA (EXTENDED PRODUCER RESPONSIBILITY ALLIANCE...work on a not-for-profit basis. EXPRA acts as the common voice and...of municipal waste <http://www.exptra.eu/en/members>

Figure 11: Search result from the EU transparency register showing EXPRA as a lobbyist since 2013

Exptra

Home

Packaging organisation/s in Belgium:



Figure 12: Fost Plus and Valipac, the two packaging PROs in Belgium, are both members of EXPRA.

In another example, Fost Plus signed an EXPRA

63 <https://www.apache.be/2021/02/24/hoefost-plus-zijn-monopoliepositie-inzet-tegen-milieumaatregelen>

64 <https://exptra.eu/>

65 https://transparency-register.europa.eu/searchregister-or-update/organisation-detail_en?id=382147211686-77

66 <https://exptra.eu/wp-content/uploads/2024/01/Mandatory-separate-collection-targets-are-not-the-way-forward-to-drive-a-circular-economy.pdf>

paper opposing certain measures proposed as part of the PPWD revision⁶⁷. They argue that, based on the single-market principle, European Packaging PROs oppose the idea that Member States could set national prevention (art. 38) and reuse (art. 26) targets that could be more ambitious than the ones set at the European level. Fair Resource Foundation believes that **PROs all around Europe should encourage more reuse, not limit it to the bare minimum.**

Fost Plus is also registered with the EU transparency register, but only since February 2023 (Figure 13). It is interesting that Fost Plus was founded in 1992, but only registered over 30 years later.



Figure 13: Search result from the EU transparency register showing Fost Plus as a lobbyist since 2023

So, what we end up with is packaging producers lobbying individually, packaging producers lobbying jointly via business federations, packaging producers and business federations lobbying jointly via PROs, and PROs lobbying jointly via EXPRA.

Lobbying and advocacy activities are obviously an important part of the political process – all voices need to be heard by the decision makers in order to make the best decisions. And PROs hold important information, experience, and data that is needed to make these decisions. However, too many voices coming from the same direction leads to ineffective political decision making. In particular for the environment, this skews the lobbying in favour of packaging producers, and the money being spent on all these activities is biasing the views of policy makers in favour of the commercial interests of producers over the environment.

It can be concluded that **Fost Plus is indeed using its position to lobby against environmental policies**, so is not exhibiting best practice. Companies can lobby, or even join together to lobby, but **PROs should curb lobbying against the environmental policies that they are there to implement.** Further, the issue is also about the dominant position that (monopoly) PROs like Fost Plus have within debates about policies. Because they are seen (by policy makers) as speaking on behalf of all producers, they get preferential treatment.

As such, **the IVC, in their oversight role, must take**

67 <https://expira.eu/2024/01/23/press-release-eu-packaging-rules-that-work-making-the-single-market-and-sustainability-go-hand-in-hand/>

more responsibility for regulating the activities of the PROs in Belgium. As part of the accreditation process, it should be made clearer that the role of the PROs is to deliver the public service mission set out in EU and Belgian legislation, which does not include lobbying on behalf of producers for more lenient legislation or reduced responsibility. In addition to appropriate regulation, Fost Plus should provide more transparency on their data and activities, in order to support better environmental outcomes.

Eco-Modulation

Packaging **PROs charge producer fees** based on what they place on the market in order to cover the PRO's costs, and this includes reimbursing the municipalities that collect the waste. The fact that producers pay fees for part of the externalities of their packaging, like waste management, does not create sufficient stimulus to redesign packaging, because the fee differentiation is often so small that it does not encourage producers to take those steps.

In Paper 2 of this series on the recycling rates of PMD we argue that **the modulated fees implemented by Fost Plus are not intended to reward the use of materials that are better for the environment, thus are not eco-modulated at all.** Figure 14 shows an explanation from the Fost Plus website that states that their producer fees (referred to as Green Dot rates) are calculated based on the costs Fost Plus incurs for the collection, sorting, and recycling of packaging, including the revenues generated by the sale of materials. Looking at historical trends in producer fees, they seem to reflect fluctuations in material markets, but not the ease of recycling and circularity. Correct eco-modulation of fees would not pass the costs directly to producers.

The Green Dot rates

How are the Green Dot rates calculated?

The Green Dot rates are adapted each year based on the costs Fost Plus incurs for the collection, sorting and recycling of the packaging. Revenues that Fost Plus generates from the sale of the materials are also taken into account.

Figure 14: An explanation of how green dot rates are calculated, from the Fost Plus website

We note that **the Fost Plus accreditation for 2024-2028 includes further requirements on eco-modulation of the green dot fees.** Article 28 states that "The Green Point calculation principles must lead to reducing the impact of packaging on the environment and must respect the hierarchy of waste treatment methods in Directive 2008/98/EC

relating to waste.” It goes on to say that a materials working group should determine certain elements of the eco-modulation. This working group is composed of at least Fost Plus, the IVC, the Regions, territorially competent legal entities, federations representing waste management companies, materials organizations, sorting centres and recycling companies, and federations representing packaging producers. This working group was already mandated in the 2018 accreditation, with similar objectives, such as studying the possibility of additional eco-modulation based on recyclability and recycled content. We understand that the study was done (but is not publicly available), but no eco-modulation was implemented beyond the modulation of fees mentioned above.

The WDF also requires that costs be established in a transparent way between the actors concerned.

However, there is no further information on the calculation of the green dot fees available, and so it is not possible to verify if the eco-modulation requirement in the WDF is being met, beyond simply passing through the costs to producers. We understand that the IVC decision-making body, which is made up of three representatives from each of the three regions, validates the fees (based on grids of data that are provided) each year. However, we argue that citizens who purchase the products and are responsible for correctly disposing of them in the collection system provided by Fost Plus (including purchasing blue bags) are thus concerned actors.

We have asked the IVC for a copy of the most recent proposal, and were told that this does not actually happen if the ‘normal calculation method’ is followed, and they did not share any more information about this ‘normal’ method. Since the IVC is a public authority, this information should be made available on request as per FOI requirements⁶⁸. We have also asked Fost Plus for more information on the normal calculation method, and they responded that they are in the process of preparing a public document on the calculation of the green dot fees.

It can be concluded that **Fost Plus is not implementing, and the IVC is not enforcing, the requirements of the accreditation**, and is a failing of the governance of the system. Again, involving more stakeholders from outside the value chain in the monitoring of Fost Plus would help to hold Fost Plus to account on delivering the objectives of EPR, and better environmental outcomes.

Reimbursement of Costs

Regarding cost coverage (Article 8a, paragraph 4, point (a) of the WFD), in Belgium, waste collection is generally done by intermunicipal waste organisations (referred to as intermunicipalities). Only three municipalities in Belgium collect their own waste; the rest have partnered together to collect waste. These intermunicipalities are composed of an average of 18 municipalities, but range in size from two municipalities (IVAGO, consisting of Ghent and Destelbergen) to 84 municipalities (the whole province of Liège). **The municipalities and intermunicipalities that collect the waste on behalf of Fost Plus provide an invaluable service**, and actually have a legal duty of care with regard to waste collection, separation, and enforcement.

In recognition of this important role, Article 8a of the WFD, mentioned above, requires that the cost of collection is covered by PROs. A study by environmental law researchers at Utrecht University⁶⁹ investigated how the legal provisions on the financial and organizational responsibilities of PROs relate to the responsibilities of municipalities, and on what basis PROs can determine what they will and will not pay municipalities for. They summarize that according to the EU legislation, PROs can determine what service they want to have provided, and can effectively ‘hire’ the municipalities and their collection companies to perform certain tasks in order to meet their responsibilities as PROs. If municipalities go beyond what PROs need to meet their obligations and what is being asked of them, then the costs for these “extras” are not ‘necessary’ within the meaning of Article 8a of the WFD, and therefore do not have to be compensated by the producers.

To this end, **Article 5 of the Fost Plus accreditation states that Fost Plus shall repay the costs of collecting material** to the municipality or intermunicipality according to one of the following rules:

- A. full cost, in the event of contract award;
- B. negotiated cost, where own staff and equipment are used;
- C. reference cost, for other, more expensive scenarios than those described in article 6.

And Article 6 of the Fost Plus accreditation outlines the basic collection scenarios for which the full cost will be covered.

⁶⁸ Note we did not submit a formal FOI request for this information.

⁶⁹ <https://www.uu.nl/sites/default/files/rebo-Eindrapport%20UPV%20onderzoek%20NVRD%20met%20ISBN.pdf>

Our understanding of how this works in practice is that Fost Plus directly pays the invoices of the waste collectors for these basic scenarios when the collection contract is tendered out within the rules of public procurement.

However, in cases where intermunicipalities provide the collection service in house with their own vehicles and staff, or where the collection service deviates from the basic scenarios, **a negotiation between the intermunicipality and Fost Plus is required to determine what costs are covered.** According to EU legislation, it is up to municipalities to work cost-efficiently and be transparent about the costs they incur, so that the compensation determined by producers is not higher than necessary. We understand that, in practice, Fost Plus looks at these costs in great detail during the negotiations.

In addition to this, we understand that Fost Plus often compares costs between municipalities to negotiate down the price they have to pay, and also compares the costs to the 'reference costs' published by the IVC⁷⁰. These reference costs show the average cost of the winning tenders for the collection contracts, and also the dispersion, which is the difference between the winning tenders and the average of all the bids. The reference cost sheet published by the IVC states clearly that "the reference costs were not developed by the IVC to be used as a price reference for contract negotiations." **The fact that Fost Plus uses these reference costs in their negotiations goes directly against the intention of the IVC in publishing the reference costs.** Instead, the reference costs are published to show the actual, total costs reimbursed by Fost Plus in accordance with their accreditation over the last five years; which highlights another issue, that five-year historical averages are being used in current negotiations.

The EU legislation does not yet say who, in practice, determines exactly what the cost-efficient performance of a particular waste management task should or may cost. So, these negotiations are unavoidable with the way that the legislation is currently implemented in Belgium. And it is important to note here that the EU legislation only sets minimum requirements, which means that more stringent requirements could be imposed on EPR at the interregional level. Many of the stakeholders, both at the local and regional level, think that the system would benefit from more clarity on cost coverage.

Firstly, it could be argued that the basic collection

scenario in the accreditation is not sufficient. **Belgium is only achieving the recycling rates that it is achieving because municipalities go above the basic collection scenario** by collecting material to be recycled more often than required in the basic scenario⁷¹, which is not covered by Fost Plus. This is especially true for PMD – the materials collected (and thus the volume and tonnage) have increased since the roll out of the new blue bag (see Paper 2 of this series on the recycling rates for PMD), but the collection frequency for the basic scenario has not been adapted by Fost Plus to take this expansion into account.

If everyone were to reduce their collection frequency to that of the basic collection scenario, the recycling rate would also drop, because, for example, residual waste collections would become more convenient than recycling collections. Extensive studies of the relationship between collection frequency and recycling performance that support this have been undertaken in the UK, where data is publicly available for each municipality⁷².

The population and population density of the municipality should not be the only factors involved in determining the collection frequency; other factors, like coastal towns, tourism and second homes, and levels of litter are also important to consider. We note that the Fost Plus accreditation for 2024-2028 includes some additional factors, such as tourist areas, but the population or tonnage of waste collected has to increase by more than 50% during at least two months per year. Although this is a step in the right direction, it is a very high threshold to meet in order to receive additional compensation from Fost Plus.

As a summary, **Fost Plus must take full financial responsibility for collecting all packaging waste.** The basic collection scenario was approved for Fost Plus more than 20 years ago, when recycling rates and targets were much lower. These are no longer appropriate and no longer meet the needs of citizens. As discussed in Paper 3 of this series, Fost Plus should fully cover the cost of on-the-go recycling to reduce litter, instead of lobbying against their legal responsibilities in this regard.

71 The 2018 accreditation states that the basic scenario for paper and cardboard is every four weeks, with exceptions for municipalities with high populations who can collect weekly or every two weeks. For PMD, the basic collection frequency is every two weeks, again with exceptions for some municipalities who are allowed to collect weekly.

72 See, for example, this report undertaken in Northern Ireland <https://wrap.org.uk/sites/default/files/2021-03/WRAP-Municipal-Recycling-Potential-NI-2020.PDF>. Recycling performance levels for future scenarios are derived from the UK benchmarking and analysis of waste collection scheme, and are aligned to factors known to affect recycling performance such as scheme design variables.

70 https://www.ivcie.be/wp-content/uploads/2018/10/referentie-kosten_2023_IVC-digitaal.pdf

We call on the three regions represented in the IVC decision-making body to push for more variation to the basic collection scenario for specific cases, and to demand more transparency on cost coverage. A matrix of costs could be established for different scenarios, taking into account variations in labour and other costs across the country. This would lead to more clarity for all stakeholders, and reduce the amount of negotiations required between each individual intermunicipality and Fost Plus.

We must ensure that PROs cover the full costs to all stakeholders (e.g., municipalities and intermunicipalities) and thus **properly implement the ‘polluter pays’ principle**. The municipalities are currently not fully compensated for the collection and processing of packaging that fall under EPR, which means that the municipalities – and therefore the taxpayer – pay for the costs.

3. THE WAY FORWARD

Many PROs, including Fost Plus, were established at a time in the late-20th century when legislation was shifting back towards market-oriented policies and ideas associated with free-market capitalism (i.e., the neoliberal idea of economy). As such, they have been reaping the benefit of the idea that in order to improve the environmental outcome, we give producers the responsibility since they know best how to do things related to the packaging they place on the market – the objective of packaging EPR.

Now that these policies have been around for nearly 30 years, we are seeing that in some ways, this is not the best environmental solution and is not leading to the best environmental outcomes. For mere end-of-life packaging waste management, PROs might be very capable of arranging collection and recycling in a very cost-effective way, but that does not mean that they are best suited to think about making the whole supply chain more sustainable. However, PROs tend to have the interest of a few big companies behind them, and not enough checks and balances. As a result, **“companies take too little initiative to prevent waste and make more sustainable products. They simply pay the waste contribution,”** says Janine Rölöf of Fair Resource Foundation⁷³.

In this paper we tested the governance of Fost Plus, and to some extent the IVC, against a framework set out in the 2023 Fair Resource Foundation and Minderoo position paper on EPR. In particular, we looked at how the Fost Plus strategy is set, the governance structure, accountability and transparency, lobbying activities, and how costs are reimbursed to other stakeholders involved in delivering packaging EPR. We acknowledge that there is no one-size-fits-all solution, but it is clear that the current governance and level of oversight is insufficient to achieve the best environmental outcomes. As such, regarding municipal packaging PRO in Belgium, we propose some improvements that could be made in relation to governance:

- **The Fost Plus strategy should be set in collaboration with a wide range of stakeholders** like local governments, citizens, stakeholder organisations like environmental NGOs, and producers. Producers should be involved, but not have undue influence or the sole control over the strategy.

- The boards of Fost Plus currently consist solely of producers who fall under the EPR-scheme. This type of governance structure, which is common all over Europe, leads to PROs using their position of power to influence government policies, strategies, and legislation, and protect their financial interests. **Fost Plus should include a wider range of stakeholders in their ongoing governance and monitoring.** One option could be a board composed of members with various interests, so that the position of power would not be so problematic.
- Further to this, Belgium is falling behind other countries, like France and the UK, in this regard. Thus, **we call on the Belgian regions to include such requirements in the EPR and litter CA** for all Belgian PROs.
- **Fost Plus and the IVC should be leading the way on transparency** and evidence the achievements they are making in the transition to a more circular economy. This point goes hand in hand with the previous one on monitoring, because having other stakeholders involved in the ongoing governance would mean larger accessibility of data. There needs to be more transparency so that civil society can **hold Fost Plus to account**, if IVC is unwilling or unable to do so.
- **Fost Plus should not use their strategic position to lobby against more ambitious environmental policies.** According to EU legislation, PROs are there to implement environmental policies. As such, it does not make sense for them to also undermine those policies. The IVC, in their oversight role, must take more responsibility for supervising the activities of the PROs in Belgium.
- The way Fost Plus currently eco-modulates fees is not sufficient to stimulate producers to redesign their packaging, and is not enough to fully cover the costs of the municipalities that collect waste on their behalf. The EU should ensure harmonised principles on the fee structure and eco-modulation. However, **Fost Plus should be leading by example to set fees based on the principles of the waste hierarchy, and fully cover the costs of municipalities, including externalities such as litter.**

As outlined in the 2023 Fair Resource Foundation and Minderoo position paper, the requirements for EPR need to be refined at the EU level in order

⁷³ <https://fairresourcefoundation.org/upv-de-vervuiler-betaalt-en-bepaalt-het-milieu-verliest/>

to maximize the environmental effectiveness, address current deficiencies, and establish a more ambitious policy framework for EPR across Europe. However, this can also be done at the Member-State level. **Fost Plus has a reputation for being a leading PRO in Europe, so should lead by example, and implement a more ambitious EPR framework.**

We noted earlier that the Fost Plus accreditation already includes a requirement for monitoring committee composed of Fost Plus and the permanent secretariat of the IVC to monitor the implementation of the accreditation; and a materials working group that includes a much wider group of stakeholders from within the value chain to implement eco-modulation. Both have been required since at least the 2018 accreditation, but are not delivering more transparency or better governance. Since the structure already exists, it can be concluded that **the implementation must be improved in order to begin to progress the above recommendations regarding better governance and more accountability.** However, if they continue to be implemented at face value, then they will not go far enough to deliver the full potential of EPR, as has already been shown following the 2019-2023 accreditation period. The IVC and Fost Plus have the opportunity here to implement these requirements in the best interest of environmental outcomes, and to lead the way for other PROs.

In addition, the IVC, in their expanding role in the EPR and litter CA⁷⁴, needs to ensure that the PRO accreditations in Belgium are more concrete in terms of what PROs should deliver. This is particularly important when PROs are in a monopoly position, and their accreditation being renewed is taken as given. There need to be clear and ambitious targets that encompass the whole waste hierarchy, and that align with the objectives of the EU legislation, not just recycling; and penalties if targets are not met. And most importantly, the IVC needs to hold Fost Plus, and other PROs, to account.

Better governance including a wider range of stakeholders being involved in setting the strategy and sitting on the board of PROs, improved transparency and accountability, not lobbying the policies they are required to implement, and fully reimbursing the costs of all stakeholders involved in delivering packaging EPR are the requirements for PROs successfully making product systems more sustainable and thus achieving maximum environmental benefits. **As a leading PRO, Fost Plus should also be leading the way on implementing better governance and continuing to push towards even better environmental outcomes.**

74 The new EPR and litter CA adds packaging litter as well as the oversight of EPR for other products (such as electronics, oil, and mattresses) to the responsibilities of the IVC. The IVC will become the Interregional Commission for EPR.