

PRESS RELEASE

Court confirms ZSVR's strike off of expert from the register of auditors

Osnabrück, 21 November 2023

An expert was struck off the register of auditors by the ZSVR for repeated gross breaches of the ZSVR's audit guidelines. The strike off action has now been confirmed by the Osnabrück Administrative Court. The court decision confirms and supports the ZSVR's work to combat recycling fraudsters, while clarifying the legal framework against which auditors and experts are measured.

Auditors who undertake work under the Verpackungsgesetz (Packaging Act) safeguard two important aspects of the Act:

- a) they confirm that large producers have paid for their packaging to be recycled and
- b) they audit recycling plants to make sure that only packaging that has actually been recovered is counted towards recycling quotas.

Every audit is based on the ZSVR's audit guidelines which were developed by the Zentrale Stelle Verpackungsregister (Central Agency Packaging Register – ZSVR) in agreement with the German Federal Cartel Office. Auditors represent an important interface between law, competition and environmental protection. They are meant to prevent greenwashing and help implement environmental law; a good auditor ensures that packaging gets recycled.

Meaning of the court decision

The Administrative Court's decision has achieved a great deal in the interests of legal certainty by generally clarifying

- ◆ when the audit guidelines are considered to have been violated in gross breach of duty, and
- ◆ when a breach is considered to have been committed repeatedly.

A total of two incidents, even if they are different in nature, is sufficient to constitute a repeated breach. An auditor acts in gross breach of duty if they, according to objective standards, have deviated particularly far from the applicable law or violated a particularly important requirement. It was further clarified that the subjective guilt of the expert is not a determining factor.

Relevance to the ZSVR's future work

The ZSVR analyses the work that auditors do. There are already over 700,000 pages of auditor documentation. The ZSVR now has a clear legal framework to prevent untrustworthy auditors from concealing packaging law breaches.

Gunda Rachut, Chair of the ZSVR, commented: *'Unsatisfactory audit work causes considerable harm to market participants and endangers the objectives of the Verpackungsgesetz. The Osnabrück Administrative Court's decision has provided us with a clear framework against which experts will have to measure themselves. An important step towards fair competition, protecting the environment and fighting packaging law breaches.'*

About the ZSVR

Since the Verpackungsgesetz (Packaging Act) entered into force on 1 January 2019, the Stiftung Zentrale Stelle Verpackungsregister (Foundation Central Agency Packaging Register – ZSVR) has served as an entrusted body to foster greater transparency and control in the packaging recycling market. To this end, the ZSVR maintains a register of all industrial and commercial companies under legal obligation, reconciles volumes between producers and systems, and provides for more recycling-friendly design by setting standards. Lawyer Gunda Rachut is the Chair of the Foundation.

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