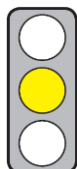


KEY ISSUES

Objective of the Directive: Measurable objectives for recycling and for preparing waste for re-use, as well as upper limits on landfill will result in sustainable waste management.

Affected parties: Entire economy, particularly the waste management sector.



Pro: (1) Uniform EU recycling targets and upper limits on landfilling will result in better compliance with the waste hierarchy prescribed under EU law.

(2) The new early-warning system will enable the Commission to react at an earlier stage to deficits in the implementation of the law governing waste.

Contra: (1) Uniform EU targets for re-use and recycling are in breach of the principle of subsidiarity.

(2) The ability to extend the time limit for compliance with the recycling and landfill targets does not take proper account of the long-term structural differences between the Member States.

CONTENT

Title

Proposal COM(2015) 595 of 2 December 2015 for a **Directive** amending Directive 2008/98/EC **on waste**,
Proposal COM(2015) 596 of 2 December 2015 for a **Directive** amending Directive 94/62/EC **on packaging and packaging waste** and
Proposal COM(2015) 594 of 2 December 2015 for a **Directive** amending Directive 1999/31/EC **on the landfill of waste**

Brief Summary

In the absence of any indication to the contrary, references relate to the proposal for a Directive COM(2015) 595.

► Context and objectives

- Waste management will be "improved" in order to (Recital 1)
 - protect the environment and human health and
 - reduce the consumption of natural resources by promoting "a more circular economy".
- According to the "waste hierarchy", Member States must, in principle, comply with the following order of priorities in relation to waste management (Art. 4 (1) Waste Framework Directive 2008/98/EC):
 1. waste prevention,
 2. preparing for re-use,
 3. reintroduction of waste materials into the economic cycle ("recycling"),
 4. other recovery, particularly incineration for the generation of energy ("energy recovery"),
 5. land-filling or incineration without generating energy ("disposal").
 Divergence from the waste hierarchy is possible in exceptional cases where this is justified for ecological or economic reasons (Art. 4 (2) Waste Framework Directive 2008/98/EC).
- Not all Member States are currently complying with the waste hierarchy. Thus significant amounts of "municipal waste" – i.e. household waste and similar waste produced by companies and public authorities – are going to landfill (p. 2), specifically
 - 31% in the EU and
 - over 50% in 18 Member States.
- The Commission wants to enforce stricter compliance with the waste hierarchy. Thus, by 2035, it wants to (p. 4)
 - create more than 170,000 additional jobs,
 - reduce the EU's dependency on imports of raw materials and
 - cut 600 million tonnes of greenhouse gas emissions.

► Waste prevention

- In order to prevent the generation of waste, Member States must (new Art. 9 (1) Waste Framework Directive 2008/98/EC)
 - encourage the use of products that are durable, repairable or recyclable,
 - encourage the re-use of electrical and electronic equipment, textiles and furniture,
 - work towards reducing food waste in production, retail and restaurants and in private households.

- Member States must monitor and assess the implementation of the waste prevention measures, based on their own targets, and measure their levels of food waste (new Art. 9 (2) and (3) Waste Framework Directive 2008/98/EC).
- The Commission may adopt implementing acts to establish a common EU methodology for measuring the (new Art. 9 (4) Waste Framework Directive 2008/98/EC)
 - progress of waste prevention and
 - levels of food waste.

► Re-use and recycling targets

- All Member States must attain the following levels of municipal waste which is prepared for re-use or recycled (amended Art. 11 (2) Waste Framework Directive 2008/98/EC):
 - 50% by weight by "1 January" 2020,
 - 60% by weight by 2025 and
 - 65% by weight by 2030.
- The level of construction and demolition waste which is prepared for re-use, recycled or backfilled must be 70% by weight in every Member State as from 2020 (amended Art. 11 (2) Waste Framework Directive 2008/98/EC).
- All Member States must attain the following levels of packaging waste which is prepared for re-use or recycled (amended Art. 6 (1) Packaging and Packaging Waste Directive 94/62/EC):
 - 65% by weight by "31 December" 2025 and
 - 75% by weight by the end of 2030.
- For calculating the recycled volumes of municipal waste, from 2025 Member States must choose (new Art. 11a (1) and (3) Waste Framework Directive 2008/98/EC)
 - either the total weight of the waste entering the final recycling process ("input"),
 - or the total weight of the waste leaving any sorting operation ("output") provided it is guaranteed that the weight of the residual waste contained therein, which is disposed of or subject to energy recovery, is less than 10%.

► Landfill targets

- As from 2030, every Member State must ensure that only 10% of municipal waste is landfilled (new Art. 5 (5) Landfill Directive 1999/31/EC).
- By the end of 2024, the Commission will decide whether the 10% landfill target for municipal waste should be reduced further and whether the landfilling of other non-hazardous waste should also be restricted (new Art. 5 (7) Landfill Directive 1999/31/EC).

► Extension of time limit and early-warning system

- The Member States who recycled less than 20% of their municipal waste in 2013 – Estonia, Greece, Croatia, Latvia, Malta, Romania and Slovakia – can request an additional 5 years to achieve the re-use and recycling targets set for 2025 and 2030, as well as the upper limit on landfill set for 2030 (p. 11, Recital 16; amended Art. 11 (3) Waste Framework Directive 2008/98/EC; new Art. 5 (6) Landfill Directive 1999/31/EC).
- Three years before expiry of the respective time limits, the Commission will publish an "Early Warning Report" on the implementation of the waste prevention and recycling targets and the upper limit on landfill (new Art. 11b Waste Framework Directive 2008/98/EC, new Art. 6b Packaging and Packaging Waste Directive 94/62/EC, new Art. 5a Landfill Directive 1999/31/EC).
These reports contain
 - a list of Member States who are likely to miss the targets, and
 - recommendations to Member States on how to reach the targets within the time limits.

Main Changes to the Status Quo

- New is the fact that Member States must take concrete measures to prevent waste.
- Until now, there have been targets for the re-use and recycling of municipal and packaging waste to be reached by 2020 at the latest. Now there will also be targets for 2025 and 2030.
- New is the fact that, as from 2025, there will only be two ways to measure the weight of recycled waste.
- Until now, Member States have not been subject to a limit on landfilling of municipal waste. From 2030 only 10% of municipal waste will be allowed to go to landfill.
- New is the fact that the realisation of targets by Member States will be examined by the Commission prior to expiry of the time limits ("early warning system") and some Member States will be able to apply for additional time.

Statement on Subsidiarity by the Commission

The Commission does not believe that its proposals constitute a breach of the principle of subsidiarity because the establishment of shared objectives simply provides a framework for a better policy on waste and leaves it up to the Member States to decide for themselves on the necessary measures.

Policy Context

The proposed amendment directives are part of a "Circular Economy Package" which also proposes the amendment of other Directives under EU waste law: Directive 2000/53/EC on end-of-life vehicles, Directive 2006/66/EC on (waste) batteries and accumulators as well as Directive 2012/19/EU on waste electrical and electronic equipment [all COM(2015) 593]. The package is accompanied by the Communication "Closing the loop – An EU action plan for the Circular Economy" [COM(2015) 614]. It is based – with modifications – on a proposal for a Directive from 2014 [COM(2014) 397, see [cepPolicyBrief](#)], which the Commission withdrew in 2015.

In its Communication "Roadmap to a Resource Efficient Europe" [COM(2011) 571], the Commission designated recycling "milestones" to be reached by 2020 and called on Member States to increase the incentives for using recycled resources. The "7th Environment Action Programme" (Decision 1386/2013/EU, see [cepPolicyBrief](#)) obliges the Member States to make waste management more efficient by way of more effective use of the law and the deployment of market-based instruments.

Legislative Procedure

| | |
|-----------------|--|
| 2 December 2015 | Adoption by the Commission |
| Open | Adoption by the European Parliament and the Council, publication in the Official Journal of the European Union, entry into force |

Options for Influencing the Political Process

| | |
|--|--|
| Directorates General: | DG Environment (leading) |
| Committees of the European Parliament: | Environment, Public Health and Food Safety (leading), Rapporteur: Simona Bonafé (S&D Group, I) |
| Federal Ministries: | Environment (leading) |
| Committees of the German Bundestag: | European Union Affairs (leading); Environment, Conservation, Construction and Reactor Safety; Economic Affairs. |
| Decision-making mode in the Council: | Qualified majority (adoption by a 55% majority of the Member States representing at least 65% of the population) |

Formalities

| | |
|---------------------------------|--|
| Legislative competence: | Art. 192 TFEU (Environment) |
| Form of legislative competence: | Shared competence (Art. 4 (2) TFEU) |
| Legislative procedure: | Art. 294 TFEU (ordinary legislative procedure) |

ASSESSMENT

Economic Impact Assessment

Ordoliberal Assessment

The concept of the waste hierarchy can only be realised if it is complied with by all the Member States and the flexibility being offered does not amount to arbitrariness. It is, however, important that the waste hierarchy continues to be a flexible concept which, without prejudice to the basic order of priorities in waste management, expressly permits divergence from it where this is justified or advisable for ecological or economic reasons.

Uniform EU re-use and recycling targets for municipal waste **and upper limits on landfill** for municipal waste **will result in better compliance with the waste hierarchy required under EU law.** Focussing on the weight of waste which is actually recycled is necessary in order to be able to measure the volume of recycled waste in the EU in a way which is uniform and comprehensible.

The fact that waste policies in the Member States have, up to now, diverged significantly from one another is due both to different levels of commitment to implementing the existing EU waste law and to varying structural conditions such as population density, topography and economic strength as well as the existing structures and preferences for recycling. **The possibility of extending the time limits for complying with recycling and landfill targets**, which is being granted to seven selected Member States where levels of recycling are still very low, takes account of their implementation deficits which currently still exist but can be remedied. It **does not**, however, **take account of the long-term structural differences which will continue to exist between the Member States** and which justify different approaches to waste management.

The Commission must monitor compliance with the targets more strictly than previously. **The new early warning system may allow the Commission to react** or at least to react **earlier to emerging deficits in the implementation of waste law** by Member States and to counteract them where necessary.

Impact on Efficiency and Individual Freedom of Choice

A higher demand for durable or repairable goods may, in principle, contribute to the prevention of waste and thus reduce the consumption of resources in the EU. Durability and reparability are, however, product features which consumers are already able to demand in various forms. Their decision on whether to buy goods should continue to be made without the influence of government measures. New trends or technical progress in any case result in certain goods such as clothes, furniture and electronic products becoming waste even though they are still serviceable. The decision as to whether second-hand goods are re-used or not should continue to be made not by the government but by the owners and consumers of the goods.

Impact on Growth and Employment

The Commission's expectation that the proposed measures could create 170,000 new jobs by 2035, ignores the cost increases for companies who have to finance waste management and the loss of turnover for companies who take raw materials from nature. This may result in jobs being lost.

Impact on Europe as a Business Location

Negligible.

Legal Assessment

Legislative Competency

The EU is empowered to adopt environment policy measures on waste management (Art. 192 TFEU).

Subsidiarity

Uniform EU re-use and recycling targets for municipal waste and packaging waste **are in breach of the principle of subsidiarity** (Art. 5 (3) TFEU) because the differing structural conditions for waste management in the Member States require varying approaches by the Member States. On the other hand, the EU-wide upper limit on landfill, which aims to reduce the emission of air pollutants and harmful greenhouse gases from landfill sites, serves to prevent cross-border pollution and help climate protection. To this extent, EU action is compatible with the principle of subsidiarity.

Proportionality with respect to Member States

Unproblematic. Member States can decide for themselves on the actual measures they want to use in order to achieve the uniform EU targets.

Conclusion

Uniform EU re-use and recycling targets and upper limits on landfill will result in better compliance with the waste hierarchy prescribed under EU law. The new early-warning system will enable the Commission to react at an earlier stage to deficits in the implementation of the law governing waste. The ability to extend the time limit for compliance with the recycling and landfill targets does not take proper account of the long-term structural differences between the Member States. Uniform EU targets for re-use and recycling are in breach of the principle of subsidiarity.