



BUSINESSEUROPE comments on the legislative proposals on waste and landfill of waste

KEY MESSAGES

This paper outlines BUSINESSEUROPE initial views on the proposals of the European Commission amending Directive 2008/98/EC on waste and Directive 1999/31/EC on the landfill of waste.

BUSINESSEUROPE welcomes the overall objective of the revision of the waste legislation, aiming at a more efficient waste management system in Europe and at recovering waste as a valuable resource for both the economy and the environment.

We believe the European Commission’s proposal has to be amended with a view to reaching this overall objective. In particular:

1. Some of the proposed definitions must be adjusted in order to ensure consistent reporting and monitoring of waste streams within the EU. The objective of neutrality between public and private operators for municipal waste management should also be strengthened, and interferences with existing Extended Producers Responsibility schemes established by waste stream specific legislation should be avoided;
2. Targets can be ambitious, but must be economically, environmentally and socially viable and achievable. Harmonised rules for calculating progress are key. Therefore, a provision for revision of the targets should be included after thorough assessment of the impact of such a new calculation method;
3. The categorisation of by-products and end-of-waste should be harmonised to overcome problems when materials are shipped within the European single market;

KEY FACTS AND FIGURES

<p>In 2014, each person in the EU generated 475 kg of municipal waste. Of this, 28% was recycled, 16% composted, 27% incinerated but still 28% landfilled.</p>	<p>In the German chemical industry, waste generation declined from 11.6t/100t raw material in 1995 to 2.2t/100t in 2012.</p>	<p>Disparity of calculation method used by Member States determines poor quality of waste statistics and lack of comparable data.</p>	<p>Cost-efficiency and transparency of financial management of certain EPR schemes still present margins of improvement.</p>
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4. Extended producer responsibility (EPR) schemes can be an effective tool to contribute to the sound and sustainable management of waste. A European approach ensuring transparency of their financial management and of their cost-efficiency is desirable. EPR policies however need to be complemented by shared responsibility of all actors involved in waste management to realise the aimed environmental objectives: producers cannot be liable for events and costs arising outside their sphere of influence;
5. Landfilling of untreated waste from households must be prevented. However, landfilling of non-recoverable industrial waste, which has undergone a pre-treatment process, should still be allowed.

BUSINESSEUROPE comments on the legislative proposals on waste and landfill of waste

BUSINESSEUROPE supports the objective of the revision of the waste legislation to promote the environmentally sound and cost-efficient waste management. This is an important concrete action within the circular economy package. It is essential that keeping good-quality material flows in the life cycle is strengthened at EU level. It also means that the perception of waste must further develop so it is seen as a base for new resources and energy. Enabling proper and successful implementation of these opportunities is required as well.

In recent decades, the European industry has significantly improved the management of its waste. BUSINESSEUROPE generally considers the legislative proposals on waste and landfill of waste as a positive step in the right direction. However, some parts need to be improved to avoid unintended consequences and to develop smarter regulation helping to move the agenda up.

1. Proposal for amending the waste directive (2008/98/EC)

a) Definitions

Thoroughly thought definitions are essential to provide legal clarity and investment security for European industries. That is also key to ensure consistent reporting and monitoring of waste streams within the EU.

BUSINESSEUROPE positively evaluates the objective of harmonising the existing framework through an alignment of definitions among Member States and with other directives under revision.



However, some of the proposed definitions must be reconsidered as follows:

“Municipal waste” (Art. 3, par.1a)

A clearer definition of municipal waste is desirable. This is pivotal for calculating and reporting on the EU recycling targets.

Nevertheless, a distinction between municipal waste (as household and similar fractions), commercial waste and industrial waste from production is required. It will ensure that Member States report in a harmonised way and achieve comparable statistics. More precisely, commercial and industrial waste, which are not similar in nature, composition and quantity to household waste, should be excluded from the definition of municipal waste.

In addition, the average amount of waste generated by a household during a year should be taken into account when determining the criterion of “quantity” of municipal waste.

Lastly, BUSINESSEUROPE welcomes the clarification on the neutrality of the definition contained in recital 6: *“The definition of municipal waste in this Directive is neutral with regard to the public or private status of the operator managing waste”*. This provision should even be strengthened by incorporating it into an article of the directive, with a view to achieving a uniform application across the EU. In particular, where specific waste management legislation exists, the existing EPR responsibilities of producers to organise management of municipal waste should prevail.

“Preparation for re-use” (Art. 3, par.16)

The definition of “preparation for re-use” is important in order to ensure a proper calculation of recycling/preparation for re-use level. Yet, BUSINESSEUROPE believes the new definition should be clarified to avoid any confusion between “re-use”, which occurs before a product becomes waste, and “preparation for re-use”, which takes place when the product has become waste.

“Final recycling process” (Art. 3, par.17a)

BUSINESSEUROPE welcomes the adoption of the new definition as it serves as a basis for calculating the recycling targets. Yet, clarifications are required on mechanical sorting operation and production process. The term “mechanical sorting” is too narrow, as it does not take into account forms of sorting other than mechanical. In addition, it does not reflect the case where the output of a sorting operation is reported as recycling (Art. 11a, par. 3). Therefore, it would be appropriate to replace “mechanical sorting” by “mechanical and other sorting technologies”.



BUSINESSEUROPE recommendation

- ✓ To adjust the proposed definitions for “municipal waste”, “preparation for re-use” and “final recycling process” with a view of ensuring consistent calculation and reporting of EU recycling targets.

b) Calculation methodology

BUSINESSEUROPE fully supports the objective of elaborating harmonised rules for calculating the achievement of the same EU targets among Member States. The present lack of reliable data in all EU Member States prevents comparisons, which are fundamental prerequisites to monitor improvements and to develop meaningful policy approaches.

The calculation method for recycling targets must be clear and appropriate for each waste stream.

In particular, the measurement point for any quantities recycled must be stable and identical for all Member States to ensure harmonisation. Similarly, the impact of the new calculation method on a Member State’s ability to collect relevant statistical data and reach the targets should be more thoroughly re-assessed.

BUSINESSEUROPE supports both the input of waste going to the final recycling process (Art. 11a par.1) and the output of any sorting operation (Art. 11a, par. 3) as an appropriate calculation method. This supports the objective of high-quality recycling. However, the re-use of products and components should not be included, as the Waste Framework Directive – which lays down rules for the treatment of waste - is not designed to regulate the re-use of products.

The output of any sorting operation (Art. 11a par. 3) should be used since for certain waste streams this is easier to calculate. This is the case if, due to specific sorting processes, the waste entering the final recycling process consists of a mix of various waste streams (not only municipal waste). The output method would also allow including waste exported out of the EU directly after sorting.

BUSINESSEUROPE recommendations

- ✓ To elaborate harmonised rules for calculating the achievement of the same EU targets among Member States. In particular, to use the inputs of waste going to the final recycling process as an appropriate calculation method.
- ✓ To use the output of any sorting operation for certain waste streams as this is easier to calculate.



c) Targets

Targets for recycling and preparation for re-use can be ambitious, but must be economically, environmentally and socially viable and achievable and should take technological development into account. In a sequential logic, the level of targets depends on the calculation methodology that will finally be applied and on the Member State performance that will be measured.

Unrealistic targets ultimately lead to mandatory recycling with a poorer quality of the recycled material, having no further application in practice. Therefore, stronger attention should be given to quality requirements of secondary raw materials and disseminating innovative technologies that boost cleaner waste streams.

BUSINESSEUROPE recommendations

- ✓ To include, in Art. 11 par. e, a provision aimed at revising the targets by 2020 after the impact of the new calculation methodology has been analyzed and documented.
- ✓ To strengthen the link between the level of targets and recycled materials meeting quality requirements.

d) By-products/end-of-waste

BUSINESSEUROPE looks positively at the greater harmonisation and simplification of the legal framework on by-products and end-of-waste status aimed at by the new legislative proposal. Lessons learnt from different national end-of-waste or by-product criteria could be collected and their suitability for EU-wide usage examined.

More uniformed conditions on by-products and end-of-waste is important. A number of Member States have introduced their own criteria, which may cause problems when these materials are transported across borders. The Commission should set up a monitoring mechanism of current situations in all Member States in order to act whenever internal distortions are identified, which might be an obstacle to the single market.

Nevertheless, the proposed procedure of establishing detailed criteria by adopting delegated acts raises concerns. This would give the Commission extensive powers, whereas Art. 290 of the Treaty only allows “to supplement or amend certain non-essential elements of the legislative acts”.

Instead, the Commission should evaluate specific cases and problems in close cooperation with Member States and affected stakeholders. Following the example of the Commission Communication 2007/59 on waste and by-products, interpretative guidelines could be developed and published. Goals of these guidelines could be i) to realise a unified implementation and application in the Member States, ii) to promote the objective that market



access to materials classified as 'by-products' should be incentivised and iii) to give priority to material streams already involved in existing industry processes. This should lead to solving problems arising for specific by-products with a view to ensuring the functioning of the circular economy.

BUSINESSEUROPE recommendations

- ✓ To set up a monitoring mechanism to evaluate how 'by-products' and 'end-of-waste' provisions are implemented at the national level and how this impacts the single market.
- ✓ To avoid the establishment of detailed criteria for by-products' and 'end-of-waste' through delegated acts and to develop interpretative guidelines ensuring their uniform application across the EU.

e) Extended producer responsibility

BUSINESSEUROPE supports the objective of the European Commission to encourage extended producer responsibility (EPR) in Member States. It can be an effective waste management tool used by industry. In that respect, the Commission's proposal to set up minimum requirements to ensure more transparency of EPR financial management and cost-efficiency can be a positive step. However, it should be implemented in a way that does not challenge the existing and well-functioning waste stream-specific schemes in Member States.

To secure an efficient allocation of resources, the EU guidance framework on how EPR schemes operate should be based on the transparency and polluter-pays principles and evolve according to new market realities. Minimum performance requirements, along with clear definitions as well as roles and responsibilities, should be ensured. Therefore, the creation of any EPR scheme should i) be preceded by an analysis of its technical, economic and environmental viability and ii) be defined in close cooperation with all actors involved in waste management.

In this respect, EPR policy should be complemented by shared responsibility to ensure that all actors playing a role in waste management do live up to the policy objectives in practice. Producers cannot be liable for events and costs beyond their sphere of influence/remit, such as littering or illegal collection of waste. In cases where public waste management operators are responsible for implementing organizational tasks on behalf of the extended producer responsibility schemes, the costs that the extended producer responsibility organization bears must be limited to the optimized costs of the services provided and to aspects that are indeed covered by specific EPR obligations.



BUSINESSEUROPE recommendations

- ✓ To support minimum requirements ensuring cost-efficiency and transparency of the financial management of EPR schemes, without challenging existing waste-specific schemes in Member States and existing sector-specific legislation.
- ✓ To complement EPR policy by shared responsibility and optimized costs, without companies being made liable for events and costs beyond their sphere of influence or their EPR obligations.

2. Proposal for amending the directive on the landfill of waste (1999/31/EC)

By reducing the amount of waste streams from households going to landfill, the EU would make better use of its raw material potential. It would facilitate more recycling and recovery of such waste, thus contributing to a more efficient use of resources.

The reduction of waste going to landfill can only be achieved if recycling and recovery are increased while technical and economic efficiency remain ensured.

It is key that only the residual part resulting from the treatment of waste from households is landfilled. The treatment of such waste (e.g. mechanical-biological, physio-chemical, sorting, incineration, co-incineration) substantially reduces the quantities going to landfill. To achieve this reduction, an increase of treatment capacities (recycling, recovery) is essential.

The possible extension of the landfill reduction target to non-hazardous waste other than municipal waste (art. 5 par. 7) would, in the case of industrial waste, be counterproductive and may lead to more unwanted effects (e.g. long-time storage). Such waste undergo thorough pre-treatment processes. However, residual amounts from industrial processes will remain that cannot be recovered otherwise. In this case, landfilling is the only viable option and needs to be allowed in the future. It is therefore important to exclude waste resulting from industrial production processes from the landfill reduction target.

BUSINESSEUROPE recommendations

- ✓ To prevent landfilling of untreated waste from households.
- ✓ To ensure that non-recoverable waste from industrial production processes can be landfilled.