

EC waste legislation

Introduction

EC waste legislation can be divided into **three main categories**:

- **horizontal** legislation;
- legislation on **waste treatment operations**;
- legislation on **specific waste streams**.

Horizontal legislation establishes the **overall framework for the management of waste**, including **definitions** and **general principles**. The objective of this legislation is to set the **overall requirements** that apply to all waste management operations, e.g. permitting of waste treatment facilities, and to provide the "**common vocabulary**" necessary to allow a **uniform implementation of waste legislation across the Community**. However, due to its very general nature, this horizontal legislation cannot take into account the specificity of all waste management operations nor of all waste materials.

It is therefore complemented by more detailed legislation in two areas:

1. legislation concerning **waste treatment** – including disposal – operations, such as the **landfill and incineration directives**;
2. legislation to regulate the **management of specific waste streams**. This legislation has been motivated by one or more of the following considerations:
 - the **growing volumes or complexity** of some waste streams, e.g. **packaging, end-of-life vehicles and waste electrical and electronic products**;
 - the need to subject them to **specific controls due to their hazardousness**, e.g. **certain types of batteries, PCBs**;
 - the fact that their uncontrolled use can have **harmful effects on human health and the environment**, e.g. the **uncontrolled spreading of sewage sludge on agricultural land**.

In several cases, Community waste legislation is partly motivated by the need to ensure the

effective functioning of the Internal Market

as **different requirements adopted at national level could lead to barriers to trade or distort competition.**

This is for example the case for **product-related requirements**, such as

- **restrictions on the contents of dangerous substances in certain products** (mercury in batteries) and
- **recycling targets for certain end-of-life products** (packaging).

This annex describes the main provisions of each category of EC waste legislation. The objective is not to be comprehensive, but rather to provide an overview of the main elements.

Horizontal legislation

Horizontal legislation establishes the overall framework for the management of waste.

- Council **directive 75/442/EEC of 15 July 1975 on waste**¹ (the "**waste framework directive**" or WFD) includes the **main definitions** and principles concerning waste management. It was comprehensively revised in **1991**² and again in **1996** and **finally in 2008**³ to update the disposal and recovery operations listed in annexes II A and II B.⁴

¹ Council directive **75/442/EEC** of 15 July 1975 on waste, OJ L 194, 25.7.1975, p.39.

² Council directive **91/156/EEC** of 18 March 1991 amending directive 75/442/EEC on waste (OJ L 78, 26.3.1991, p. 32).

³ **Directive 2008/98/EC on waste (Waste Framework Directive)**

⁴ Commission decision **96/350/EC** of 24 May 1996 adapting Annexes IIA and IIB to Council directive 75/442/EEC on waste (OJ L 135, 6.6.1996, p. 32).

In essence, the WFD requires Member States to give priority to :

- **waste prevention** and to
- **encourage re-use and recovery** of waste.
- Member States must also ensure that waste is recovered and disposed of **without endangering human health** and
- **without using processes or methods which could harm the environment.**
- The directive also requires Member States to draw-up **waste management plans** and to establish a system for the authorisation of waste management installations.

The WFD defines waste as **"any substance or object in the categories set out in Annex I which the holder discards or intends or is required to discard."** Annex I of the WFD lists 16 categories of waste.⁵

Such as :

⁵ Such as "Production or consumption residues not otherwise specified below" (Q1), "Materials spilled, lost or having undergone other mishap, including any materials, equipment, etc., contaminated as a result of the mishap" (Q4), "Residues of industrial processes (e.g. slags, still bottoms, etc.)" (Q8) and "Any materials, substances or products which are not contained in the above categories" (Q16).

1. **Q1** : "Production or consumption residues not otherwise specified below" ,
2. **Q4** : , "Materials spilled, lost or having undergone other mishap, including any materials, equipment, etc., contaminated as a result of the mishap"
3. **Q8** : "Residues of industrial processes (e.g. slags, still bottoms, etc.)"
4. **Q16** :. "Any materials, substances or products which are not contained in the above categories"

This annex is now replaced by the EWC ([European Waste Catalog](#))

Finally, the new 2008 WFD sets criteria for [End of Waste process](#)

- Council directive **91/689/EEC of 12 December 1991 on hazardous waste**,⁶ as amended, complements the waste framework directive for hazardous waste.
 - **Annex III of the directive lists 15 properties** of waste which render them hazardous within the meaning of the directive.⁷
 - The directive also contains substantive requirements concerning, for example :
 - the **permitting** of installations handling hazardous waste.
 - **it contains additional requirements** concerning, for example,
 - **limitations of mixing** of hazardous waste,
 - **record keeping** and the **shipment of waste at national level**, which must be accompanied by a **tracking form**.

⁷ Such as explosive (H1), flammable (H3-B), carcinogenic (H7), teratogenic (H10) and ecotoxic (H14).

The WFD and the directive on hazardous waste are the basis for the **list of wastes and of hazardous wastes**.⁸ This list is applicable for the purposes of, for example, the permit requirements of the waste framework directive.

This Hazardous waste Directive is now merged with the WFD⁹

The Community has also adopted legislation concerning the **cross-border shipment of waste**. The main legal instrument in this field is **Council regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste** within, into and out of the European Community,¹⁰ as amended.

⁸ Commission Decision of 3 May 2000 (OJ L 226, 5.9.2000, p. 3) as last amended by Council Decision 2001/573/EC, superseded the previously existing lists.

⁹ **2008/98/EC (Waste Framework Directive)**

¹⁰ Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community,

This regulation implements the Community's international obligations arising from the **Basel Convention**¹¹ and the **OECD Decision**¹² about shipments of waste

The regulation incorporates the internationally agreed principle that waste **should be treated in an Environmentally Sound Manner (ESM) and bans shipments of hazardous waste from EU countries to non-OECD countries**. Furthermore, it lays down the procedures and requirements concerning the all **transboundary shipment of wastes destined for recovery and for disposal**.

In essence, for shipments within the EU area, the requirements are intended to apply the **proximity and self-sufficiency principles** to waste destined for **disposal**, while allowing a **more liberal regime for wastes destined for recovery**.

¹¹ Basel Convention on the control of trans-boundary movements of hazardous wastes and their disposal, 22 March 1989.

¹² OECD Council Decision C(92)39/FINAL on the control of the trans-boundary movements of wastes destined for recovery operation..

The Basel Convention, OECD Decision and the waste shipment regulation are the origin of a **second system of lists of waste** that are specifically used for the **control and supervision of transboundary shipments** of waste.

Waste treatment operations

- **Directive 1999/31/EC of 26 April 1999 on the landfill of waste**¹³ ("the landfill directive") sets out a number of administrative requirements, including:
 - **permit conditions,**
 - **technical requirements** and
 - **environmental standards** applying to landfills accepting various categories of waste (**inert, non-hazardous and hazardous waste**).
 - **reduction of biodegradable waste** disposed of in landfills
 - **banning of the landfilling of certain types of waste**, such as **liquid wastes, infectious waste and most tyres.**

¹³ Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste, OJ L 182, 16.7.1999, p.1.

Main principles to ensure environmental protection

- The landfill directive also requires **all costs** relating to the **establishment, operation and closure of a landfill** are **internalised into the price charged by the operator**.
- **Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000 on the incineration of waste**¹⁴ ("the incineration directive")

It replaces three older directives¹⁵ and thus consolidates the Community's legal requirements concerning :

¹⁴ Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000 on the incineration of waste, OJ L 332, 28.12.2000, p.91.

¹⁵ Council directive 94/67/EC of 16 December 1994 on the incineration of hazardous waste (OJ L 365, 31.12.1994, p.34), Council directive 89/369/EEC of 8 June 1989 on the prevention of air pollution from new municipal waste incineration plants (OJ L 163, 14.6.1989; p. 32) and Council directive 89/429/EEC of 21 June 1989 on the reduction of air pollution from existing municipal waste incineration plants (OJ L 203, 15.7.1989, p. 50)

- **the incineration and co-incineration of waste**
- **of non-hazardous and hazardous waste.**
- The directive establishes the **permitting conditions** for incineration plants, **including under abnormal operating conditions**, as well as
- **limit values** in relation to, for example, **emissions to air and discharges to water.**
- The directive includes requirements concerning the **delivery and reception of waste** and concerning
- the **management of incineration residues**, including the requirement that when appropriate the residues be **recycled.**
- Finally, it also includes requirements on **control, monitoring and measurement.**

- **"the IPPC directive"** replaced by the **IED Directive**

In addition, a number of waste treatment operations fall within the scope of **Council directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control**¹⁶

These are mainly :

1. **hazardous waste recovery operations**
2. **incineration of waste, with or without energy recovery,**
3. and **certain waste disposal operations**, including **landfilling** of waste.

As part of the implementation of the IPPC directive, the Commission is developing a number of **Best Available Technique Reference (BREF)** documents.

¹⁶ Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control, OJ L 257, 10.10.1996, p.26.

In practice, permits issued to **waste treatment installations** falling within the scope of the **IPPC directive** have to be based on **Best Available Techniques (BAT)** as described in the corresponding **BREF document** (or other recognised publications), although competent authorities can derogate from BAT to a certain extent because of local conditions.

- **One BREF document** will cover mainly **recovery of hazardous waste, preparation for energy recovery and disposal of waste.**
- **BREF document** will be dedicated to **waste incineration.**
- **One exists of recovered paper in paper production**¹⁷
- **Another one** on use of metal scrap in metal production,¹⁸

¹⁷ See the BREF document for pulp and paper manufacture at <http://eippcb.jrc.es>

¹⁸ See the BREF document on ferrous metals processing at ftp://ftp.jrc.es/pub/eippcb/doc/fmp_bref_1201.pdf and that for non-ferrous metals processing at <http://eippcb.jrc.es>.

As a general rule, **recovery and recycling of non-hazardous waste and many types of hazardous waste** and the related preparatory operations **are not included in the scope of the IPPC directive** and will therefore **not be covered by BREF documents**.

The **IPPC directive** lists among the **basic obligations** :

- **waste production is avoided** in accordance with Council directive 75/442/EEC of 15 July 1975 on waste. Moreover,
- the **use of low-waste technology** and
- the **use of less hazardous substances** are listed among the considerations that should be borne in mind when determining Best Available Techniques (BAT) in accordance with the.
- This means IPPC directive will be an important instrument to **promote waste prevention in the industrial sector**, although it is not yet possible to estimate the significance of this impact due to the **early stage of implementation** of the directive.

The **landfill, incineration and IPPC directives** are currently at **various stages of implementation.**

These directives all make a distinction between **"existing"** and **"new"** installations.

The **former** are generally granted a **transition period to implement the requirements** of the applicable directive, while the **latter** have to **comply immediately with the relevant requirements** of the applicable directive.

For the **landfill directive**, any landfill in operation or for which a permit has been granted **before 16 July 2001** is considered an **"existing" landfill**, while any landfill authorised after this date is considered a new landfill.

Existing non-hazardous waste landfills have **until 16 July 2009** to comply with the requirements of the landfill directive.

Similarly, the **incineration directive** foresees a transitional period **for existing incinerators until 28 December 2005**,

while the **IPPC directive** grants a transitional period **for existing installations until 30 October 2007**.

Specific waste streams

This section is limited to the most important legal instruments and focuses on their provisions that directly affect recycling.

- **European Parliament and Council directive 94/62/EC of 20 December 1994 on packaging and packaging waste**¹⁹ is perhaps the best known directive concerning a specific waste stream. It is certainly the one for which most practical experience exists. The directive sets /
 - **quantitative targets for the recovery and recycling** of various packaging materials. These targets are **currently being revised**, with a view to their substantial increase.
 - The Commission initiated this **review**²⁰ on the basis of studies of the **environmental and economic costs and benefits of recycling**, which aimed at identifying **optimum recycling rates** **differentiated for each of the materials** covered by the directive;

¹⁹ European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste, OJ L 365, 31.12.1994, p. 10.

²⁰ Proposal for a Directive of the European Parliament and of the Council amending Directive 94/62/EC on packaging and packaging waste, COM (2001) 729 final of 07.12.2001, OJ C 103, 30.4.2002, p.17.

- **Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of-life vehicles**²¹ ("the ELV directive") is currently being implemented by Member States. The directive also includes a number of **targets for recycling**.
 - Article 7(2)(a) provides for a **"re-use and recovery" target of 85%**
 - and a **"re-use and recycling" target of 80%**, both of which should be achieved since the **1 January 2006**.
 - Article 7(2)(b) provides that these targets have been **increased to 95% re-use and recovery** and **85% re-use and recycling** since the **1 January 2015**. This directive is the first piece of Community legislation making producer responsibility mandatory.

²¹ Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of-life vehicles, OJ L 269, 21.10.2000, p. 34.

- **The directive on Waste **Electrical and Electronic Equipment** (WEEE) adopted in January 2003²² contains a number of targets concerning the recovery of WEEE – these are described in Article 6 and must be met **since the 31 December 2006**. The recycling targets range **from 50% to 80%** depending on the type of equipment and recovery rates are also set for the different types of equipment. This directive also makes producer responsibility mandatory.**
- **Council directive²³ 75/439/EC of 16 June 1975 on the disposal of **waste oils** as amended by 87/101/EEC contains a requirement that where **technical, economic and organisational constraints** so allow, Member States shall take the measures to give **priority to the **processing of waste oils by regeneration****.**

²² Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE), OJ L 37, 13.2.2003, p.24.

²³ Council Directive 75/439/EEC of 16 June 1975 on the disposal of waste oils, OJ L 194, 25.7.1995, p. 23.

Qualitative and quantitative prevention is an important objective of a number of directives on EOL products.

- **Directive 94/62/EC on packaging and packaging waste**²⁴

. One of the essential requirements contained in this directive states that “**packaging shall be so manufactured** that the **packaging volume and weight be limited** to the minimum adequate amount to maintain the necessary level of safety, hygiene and acceptance for the packed product and for the consumer.”

- **Directive 91/157/EC on batteries and accumulators containing certain dangerous substances,**²⁵

- **Directive 2000/53/EC on end-of-life vehicles**²⁶

- **Directive on the Restriction of certain Hazardous Substances (RoHS) in electrical and electronic equipment.**²⁷

²⁴ European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste, OJ L 365, 21.12.1994, p.10.

²⁵ Council Directive 91/157/EEC of 18 March 1991 on batteries and accumulators containing certain dangerous substances, OJ L 78, 26.3.1991, p.38.

²⁶ Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of-life vehicles, OJ L 269, 21.10.2000, p.34.

²⁷ Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment, OJ L 37, 13.2.2003, p. 19.

