

DRAFT THEMATIC GUIDANCE FICHE FOR DESK OFFICERS

WASTE MANAGEMENT

VERSION 2 - 20/02/2014

RELEVANT PROVISIONS IN THE LEGISLATION

<i>Regulation</i>	<i>Articles</i>
<i>Common Provisions Regulation (CPR)</i> <i>(N° 1303/2013)</i>	Article 8 " Sustainable development" Article 9(6) "preserving and protecting the environment and promoting resource efficiency" Article 96(7) (a) "[Each operational programme [...] shall, [...] include a description of] (a) the specific actions to take into account environmental protection requirements, resource efficiency, climate change mitigation and adaptation, disaster resilience and risk prevention and management, in the selection of operations; Related provisions: ANNEX XI, ex-ante conditionality, 6.2. <i>Waste sector</i>
<i>European Regional Development Fund Regulation</i> <i>(N° 1301/2013)</i>	Thematic Objective 6 "Preserving and protecting the environment and promoting resource efficiency" Article 5 (6) (a) "[The ERDF shall support [...] preserving and protecting the environment and promoting resource efficiency through investing in the waste sector to meet the requirements of the Union's environmental acquis [...]" Related provisions: Article 3 (1) (b), "[The ERDF shall support] investments in infrastructure providing basic services to citizens in the areas of energy, environment, transport, and information and communication technologies (ICT)", and (e) "networking, cooperation and exchange of experience between competent regional, local, urban and other public authorities, economic and social partners, and bodies representing civil society referred to in Article 5 of the CPR, studies, preparatory actions and capacity building."
<i>Cohesion Fund Regulation</i> <i>(N° 1300/2013)</i>	Article 2 - 1. (a) "[The Cohesion Fund shall [...] support] investments in the environment, including areas related to sustainable development and energy which present environmental benefits"

	<p>Article 4(c) (i) "[The Cohesion Fund shall support preserving and protecting the environment and promoting resource efficiency through (i) investing in the waste sector to meet the requirements of the Union's environmental acquis and to address needs identified by the Member States for investment going beyond those requirements."</p>
<p><i>European Territorial Cooperation Regulation</i> <i>(N° 1299/2013)</i></p>	<p>Article 8 (7) (a) "[Each cooperation programme shall [...] include a description of] the specific actions to take into account environmental protection requirements, resource efficiency, climate change mitigation and adaptation, disaster resilience, and risk prevention and risk management in the selection of operations"</p>

This is a draft document based on the new ESIF Regulations published in OJ 347 of 20 December 2013 and on the most recent version of the relevant Commission's draft implementing and delegated acts. It may still require review to reflect the content of these draft legal acts once they are adopted.

1. INTRODUCTION

This guidance explains issues related to thematic objective (TO) 6 “*Preserving and protecting the environment and promoting resource efficiency*” and the related investment priorities for the waste sector under the European Regional Development Fund (ERDF) and Cohesion Fund (CF).

2. STRATEGIC FRAMEWORK

2.1. Implementing the priorities of the 'waste hierarchy'

In the framework of regional policy, the 'waste sector' is to be mainly understood as the management of solid municipal waste. This encompasses management measures in the following priority order according to the waste hierarchy¹: waste prevention, re-use, recycling, energy recovery from waste (including incineration) and disposal (landfilling and incineration without energy recovery).



Source: DG ENV

2.2. Waste sector: resource of jobs and competitiveness

Waste management is an important component of regional development, not only in view of environmental and health considerations but also as regards socio-economic development, in particular in terms of the employment potential:

- First, the waste management sector already provides a significant number of jobs (both high and low qualified) in the EU with a potential for much more as some of measures (prevention, re-use, recycling) are particularly 'job intensive' so contributing to 'job intensive growth'. There is untapped potential to increase the annual turnover of the EU waste management and recycling sector by € 42 billion and create over 400.000 jobs by 2020².
- Second, waste management is a key element of competitiveness since it is directly linked to 'resource management' and 'resource costs'. Waste should no longer be considered as a problem but as a 'resource' that can be fed back into the economic cycle, especially in a context where prices of raw materials are steadily increasing.
- Third, improved waste management can be a cost-efficient way to reduce greenhouse gas (GHG) emissions: improved management of municipal waste could result in 92 million tons of GHG emissions avoided in 2020 compared with 1995³.

From a broader perspective, waste management is also directly related to the "Resource Efficiency Flagship".

¹ Article 4 of Directive 2008/98/EC on waste

² <http://ec.europa.eu/environment/waste/studies/pdf/study%2012%20FINAL%20REPORT.pdf>

³ Resource Efficiency Flagship

2.3. From waste management to resource efficiency

In this respect, the most important new development as regards 'waste' is the focus on 'resource efficiency': the goal is to make the most efficient use of the limited available resources, leading to cost cuts. Many raw materials as well as energy (and water in certain cases) are very scarce in the EU and represent high costs for citizens, companies and the economy as a whole. Re-using and recycling key raw materials such as gold, rare earth, copper, silver, bio-waste, paper, metals etc. can boost resource efficiency and increase 'resource security' for the EU. Preventing for instance food waste in the EU (which alone amounts to nearly 100 Mt a year) can bring significant benefits, not only in financial terms e.g. for households, municipalities, but also at society level e.g. GHG reduction, social benefits.

Hence supporting regions to go up the 'waste hierarchy' towards prevention, re-use and recycling is a key measure to boost their competitiveness.

2.4. Meeting the recycling targets

A significant number of Member States (MS) still have important needs in terms of ensuring adequate management of solid municipal waste in compliance with EU standards, in particular to meet the 50% targets by 2020 on recycling and preparation for re-use and the landfill biodegradable waste diversion targets. In this respect, investments in the enabling conditions need to be properly considered:

- ensuring qualitative waste source separation and the needed transport and handling assets are a key pre-condition for effective recycling;
- public awareness and education on recycling and resource efficiency can also be part of supported measures where needed and relevant.

Hence waste management will remain a priority for investments in a number of MS especially when these targets will be reviewed by 2014 so as to align them to the Roadmap on resource efficiency and to the 7th Environmental Action Program⁴.

2.5. Framework of ERDF and CF investments: waste management plans and long-term view

The waste management priority within an Operational Programme (OP) should be linked, be consistent with and serve to implement the national and/or regional waste management plans and waste prevention programmes. They should also be consistent with the other environmental and resource efficiency priorities and objectives of the OPs in the given country.

Waste management has to be addressed in the waste management plans and waste prevention programmes in a long-term perspective and life-cycle approach: a long-term needs assessment/analysis is essential. In particular the long-term impacts of certain investments, like in new landfills or incinerators, need to be carefully assessed because of 'lock-in effects': over-capacity in incineration undermines waste prevention, re-use and recycling, drives waste imports to feed existing under-used facilities and can represent high-costs for the tax payers. Priority should be given to the development of the necessary infrastructures to ensure high re-use, recycling (including composting) rates including the development of the necessary separate collection systems (whether door-to-door or through collection points and/or civil amenities).

2.6. Fostering financial sustainability of waste management: implementation of 'polluter-pays' and use of economic instruments

Where regional policy will co-finance investments in waste over 2014-2020, the pricing mechanisms need also to be carefully considered. It has been demonstrated that without some key economic instruments in place, it is extremely difficult to meet the EU legally binding targets notably due to the lack of profitability of reuse/recycling infrastructures compared to other waste treatment options.

⁴ <http://ec.europa.eu/environment/newprg/index.htm>

In this respect, the 'polluter-pays principle' and 'extended producer-responsibility', in relation with affordability and other economic aspects (landfill/incineration taxes or bans, 'pay-as-you-throw' schemes, financial producer responsibility schemes for main waste streams, deposit systems, incentives/penalties for municipalities based on their performances) are key aspects to be taken into account.

Funding from cohesion policy should be complementary to private funding, national funding and incentives, achieving additional benefits. EU funding should be used where:

- Extended producer responsibility does not provide enough financial support;
- The polluter pays principle does not sufficiently cover costs;
- Other sources of revenue (e.g. from taxes, pay as you throw, etc.) cannot be used.

3. Regulatory scope of support

In line with the results orientation of the new legislative framework for Cohesion policy, the ERDF and the Cohesion Fund regulation distinguish clearly between the scope of support for the ERDF/CF (the activities it may support) and the investment priorities for each thematic objective (objectives to which the ERDF/CF shall contribute)⁵. For an operation to be eligible for ERDF/CF support it must contribute to a specific objective defined for an investment priority and fall within the scope of the fund's activities

3.1. Scope of support

ERDF The main field of intervention of the ERDF in the waste sector are the investments in infrastructure providing basic services to citizens in the area of environment, as provided for in Article 3 (1) of the ERDF Regulation. However, it is also possible to support investments in the development of endogenous potential, through fixed investment and small-scale infrastructure.

This scope of assistance is restricted by the generic exclusions: decommissioning and construction of nuclear power stations, tobacco and in undertakings in difficulty.

Cohesion Fund

The Cohesion Fund shall support investments in the environment, including areas related to sustainable development and energy which present environmental benefits, in compliance with article 177 of the Treaty. The Cohesion Fund has traditionally been used to allow compliance with the EU environmental acquis, in particular in the field of waste management.

Exclusions are similar to those applying to the ERDF: decommissioning and construction of nuclear power stations, tobacco and investments in undertakings in difficulty.

3.2. Investment priorities

Investments under the thematic objective 6 "Preserving and protecting the environment and promoting resource efficiency" shall contribute to the following investment priority: "a) *investing in the waste sector to meet the requirements of the Union's environmental acquis and to address needs, identified by the Member States, for investment going beyond those requirements*".

⁵ Cfr. Recital 7 of the ERDF Regulation: (...) investment priorities should set out detailed objectives, which are not mutually exclusive, to which the ERDF is to contribute. Such investment priorities should form the basis for the definition of specific objectives within programmes that take into account the needs and characteristics of the programme area.

4. Key measures linked to investment priorities

4.1. Indicative Actions of high European added value for the ERDF and the CF.

The Commission has identified a number of actions⁶ which can be expected to make a significant contribution to the achievement of the targets and objectives of the Union strategy for smart, sustainable and inclusive growth and which shall act as a reference point in the preparation of programmes.

For the ERDF and the CF these include:

- investment in waste management in line with the waste management hierarchy, in particular re-use, recycling and, for non-recyclable materials, recovery.

4.2 Why should the ERDF and the CF co-finance this kind of investments?

The underlying principles justifying a support of regional policy in the waste sector could be differentiated depending on the fund which is used, so either the ERDF or the CF.

As regards the Cohesion Fund, "investments in the environment" is one of the two focus areas (with transport) underlined in the CF regulation. It includes programmes related to waste management. In the framework of the objectives of the CF, the co-financed programmes linked with waste should primarily aim at fostering compliance with the related EU waste management directives in those regions and MS that are most lagging behind⁷. Nevertheless this first objective of providing basic waste management infrastructures and improved services to citizens should not be isolated from the broader socio-economic development perspective. Even for waste management related priority axes, an integrated approach should be developed to foster synergies with the overall regional development, in particular in increasing resource efficiency and fostering growth and job creation.

As regards the ERDF, the central justification for interventions in the waste area is linked to competitiveness and resource efficiency on one hand, and on innovation on the other hand. Indeed investments in waste prevention, re-use and recycling, in particular through innovative approaches, can boost the competitiveness and resource efficiency of a country/region. In addition the waste management sector is facing enormous challenges worldwide, therefore representing a significant market potential for EU companies in this sector to develop and commercialise new services and technologies. As TO 6 is about 'environment and resource efficiency', the related waste management programmes and investments should mainly have environmental and resource efficiency targets. Where the 'innovation'/business dimension is the predominant aspect, the programmes should be developed under TO1 or possible TO3 if the aim is mainly about SMEs.

4.3. Where should the money go and how to invest?

In a number of MS and regions (mostly EU-13) support, mainly through the Cohesion Fund, will be carried on for investments in 'basic' solid waste infrastructure such as first of all supporting actions to reduce waste generation, deploying selective collection and/or developing recycling and re-use centres and equipment's and then when justified building energy recovery facilities, closing non-compliant/illegal landfills. Measures lower in the waste hierarchy should only be resorted to if measures higher in the waste hierarchy are not possible, in particular following relevant economic analyses. In any case, where the less desired options of the waste hierarchy are co-financed (landfilling

⁶ SWD(2012)61 final Part II, Elements for a Common Strategic Framework 2014 to 2020
http://ec.europa.eu/regional_policy/sources/docoffic/working/strategic_framework/csf_part2_en.pdf

⁷ This study has singled out the 10 MS performing the worst in terms of waste management:
http://ec.europa.eu/environment/waste/studies/pdf/Screening_report.pdf

and incineration), a strong focus should be set at the accompanying measures in terms of waste prevention, separate collection infrastructures, re-use and recycling measures as well as accompanying measure aiming at meeting the EU targets with a focus on economic instruments.

As regards recycling, the related programmes and measures should be focused on those areas with a 2020 target for recycling (at least paper, metal, plastic and glass). Particular focus should also be set on 'bio-waste', not only to meet the mandatory target (the amount of biodegradable municipal waste that a MS landfills has to be reduced to 35% of 1995 levels by 2016 (for some countries with a derogation by 2020)) but also of the potential that 'bio-waste' has to support the 'bio-economy', so turning bio-waste into energy for instance. Co-financing low performing mechanical and biological treatment facilities (MBTs) should be avoided so that a maximum of incoming waste could be recycled and composted. Electronic and electric equipment waste (WEEE) also represents an increased challenge (the existing binding EU collection target is at 4 kg of WEEE per capita per year and will be at 20kg per capita from 2019 onwards): while covered by the extended producer responsibility that provides for financial resources, EU funding could intervene for certain accompanying measures.

An effective collection and separation of waste needs to be implemented. This would facilitate that each type of waste gets in the right treatment process thus maximising the potential for recycling of high-quality and avoids having, for instance, cross contamination e.g. electronic or chemical/toxic waste mixed in municipal waste.

4.4. Key implementation principles: consistency with waste management plans and waste hierarchy

All investments have to take place within the context of the relevant waste management plans (at national and/or regional level) that provide the overall strategic framework and are required to comply with ex-ante conditionalities. So, very clear and explicit links need to be made between the waste related priorities in an OP and the relevant waste management plans, including the related 'state-of-play' and needs/gap analysis. The CF as well as the ERDF should be used to support the implementation of measures identified in the waste management plans, hence helping the MS/regions to address the identified needs. In addition Member States had to establish Waste Prevention Programmes until 12 December 2013 (Article 29 of the WFD): hence the future OP's should be well articulated with those waste prevention programmes.

Investments need also to be consistent with the waste hierarchy. The main focus should therefore be on waste prevention, re-use and recycling, which means developing the necessary selective collection. In this framework innovative approaches beyond 'traditional recycling' should be further supported over 2014-2020: measures that aim at developing the 'circular economy' or a 'zero-waste' society need to be considered as well for adequate public investments. Concrete examples are 'industrial symbiosis', 'cradle-to-cradle' (see links in section 5) or cross-cutting 'resource efficiency' approaches at regional level.

Eventually the use and development of 'economic instruments' by MS to address waste management should be fully considered when discussing the possible intervention of regional policy (for instance landfill taxes and fees, incineration taxes and fees, pay-as-you-throw (PAYT) schemes and producer responsibility schemes for specific waste streams). A recent study (see links in point 5) provides very helpful elements and scenarios for 'optimal' use of economic instruments. In addition public intervention in waste management should complement efforts by the private sector and municipalities should be financially encouraged by the National authorities to invest in the first steps of the hierarchy.

Recent findings by the [Court of Auditor's in a Performance Audit on solid waste management](#) should be taken into account when Operational Programmes are designed, approved and implemented. It underlines some of the weaknesses in the support of regional policy to waste management and calls:

- the EC to a proper implementation of the 'polluter-pays principle';
- MS to set up reliable waste management databases, both to monitor their progress towards the achievement of EU waste policy objectives and to underpin their reporting to the Commission;
- MS to introduce economic instruments in the management of waste to promote waste prevention and recycling, particularly through a waste disposal tax, “pay as you throw” schemes and other incentives in the tariffs paid by households.

As regards governance, MS and their authorities should also design the relevant priorities on capacity building within administrations, in particular at local level since waste is often managed at regional/municipal level, put the right focus on awareness raising and education on environmentally – friendly behaviour, including on waste management, and pro-actively involve NGOs and other civil society organisation that can have high expertise and outreach for the success in implementing co-funded measures.

4.5. Synergies and complementarities within ERDF/CF and with other EU funds

In a broader perspective and given the horizontal nature of 'waste management', synergies and spill-over aspects linked to waste have to be considered and factored in the decision making process. The design and selection of priorities and measures on waste management within TO6 should be linked with the possible priorities and measures in other OP's and TO's, especially TO 1 and 3 on innovation and SMEs: innovation plays a crucial role in improved resource efficiency as well as SME's.

As provided for in the Common Strategic Framework, synergies with other ESI Funds and EU policies and funds should also be carefully taken into account. The waste sector has important labour market implications, not only as potential for maintain and creating new jobs, but also in terms of trainings/capacity building to adapt to the growth in waste re-use, recycling and making the best of the shift towards resource efficiency. Therefore the potential links with the ESF have to be factored in.

5. Lessons from the past and result orientation

In the 2007-13 period the investments into waste through cohesion policy was an area which faced serious difficulties in many MS. Among the hurdles are inadequate governance, weak capacities and lack of, or weak strategic plans and framework documents. In this respect, these threats need to be addressed upfront in the 2014-2020 programming. Public acceptance of projects should also be fostered; hence strong inclusion of civil society in the programme and project design and implementation is a key success factor.

Specific objectives should be in line with the waste hierarchy

Respecting the waste hierarchy preference does not mean that the objectives are automatically set for this investment priority. Instead, specific objectives should respond to the needs of the region/sector and avoid the ‘lock-in effect’ – that is installing too much capacity at a lower level in the waste hierarchy that, by generating demand for waste, may prevent or hinder the achievement of goals that are higher in the waste hierarchy. In practical term, it means:

- The primary goal is waste reduction, therefore the waste management capacity should not be higher than the expected waste generated after waste reduction and prevention measures will have effect;
- Schemes and facilities that encourage product re-use and/or preparation of waste for re-using are preferred to other methods of processing;

- Capacity of recycling facilities should match the volume of unavoidable and non-reusable products/non-recyclable waste (and not the volume of waste actually not being reused);
- Increasing energy recovery capacities should be avoided, particularly when the global capacity of the country exceeds the EU energy recovery average, that is, approximately 20% , and the focus should be improving the energy performance of existing facilities;
- Building new facilities or increasing capacity for landfills or other disposal methods (incineration without energy recovery) should be avoided at all cost.

Examples:

- Generated municipal waste
- Recycled municipal waste

Management of special waste

While the focus is on solid municipal waste, the investment priority may address the management of other waste such as hazardous waste to which the waste hierarchy should also be observed. We recommend setting the specific objectives in a way that reflects the specific nature of the waste.

Examples:

- Hazardous waste generated by households
- Recycled construction waste

Closure of landfills

Landfills that do not comply with the EU standards set out in Directive 1999/31/EC can create serious problems, e.g. methane emissions and toxic leachate into ground water, depending on their location and the nature and amount of waste. In many cases, it is impossible to select a single or only a few environmental factors that can be improved by closing non-compliant landfills. In these cases the specific objective can reflect the intended change as progress towards an improved situation, and other prevention measures may be included. The logic for selecting result indicators remains the same, including the importance of setting baseline.

Examples:

- Number of sub-standard or illegal landfills in the region
- Amount of waste (tonnes) in sub-standard or illegal landfills

6. Useful resources

DG Environment resources

- General 'waste' webpage:
<http://ec.europa.eu/environment/waste/index.htm>
- Study on "Funding Needs for the Waste Sector":
<http://www.endseurope.com/docs/110112b.pdf>
- Guidance on the interpretation of key provisions of Directive 2008/98/EC on waste:
http://ec.europa.eu/environment/waste/framework/pdf/guidance_doc.pdf

- Scoreboard by MS on waste management performance, factsheets and Roadmaps for the 10 less advanced Member States (to be published by March 2013):
http://europa.eu/rapid/press-release_IP-12-888_en.htm
- Use of Economic Instruments and Waste Management Performances:
http://ec.europa.eu/environment/waste/pdf/final_report_10042012.pdf

European Environment Agency

- Webpage section on 'waste' with many reports, data, figures...:
<http://www.eea.europa.eu/themes/waste>
- Report 'Earnings, jobs and innovation: the role of recycling in a green economy':
<http://www.eea.europa.eu/publications/earnings-jobs-and-innovation-the>

European Court of Auditor's:

- Special Report No 20/2012 – Is structural measures funding for municipal waste management infrastructure projects effective in helping member states achieve EU waste policy objectives?
<http://eca.europa.eu/portal/pls/portal/docs/1/20156748.PDF>

Examples of co-funded projects with collection of good practices

- ERDF co-funded industrial symbiosis programme (NISP) in UK
http://ec.europa.eu/environment/waste/prevention/pdf/NISP_Factsheet.pdf
<http://www.nispnetwork.com/>
- Resource efficiency in SME's – improved waste management
<http://www.enworks.com/about>
- 'Cradle to Cradle (C2C) network: <http://c2cn.eu/>
- Cradle to Cradle Islands (C2CI): <http://c2cislands.org/>