

SENATE OF THE REPUBLIC

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RESOLUTION OF STANDING COMMITTEE NO 13

(Land Use, Environment, Environmental Assets)(Rapporteurs: MORGONI, PUPPATO

and VACCARI)

approved at the session of 14 June 2016

ON THE

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS: CLOSING THE LOOP – AN EU ACTION PLAN FOR THE CIRCULAR ECONOMY (COM (2015) 614 FINAL) (EU DOCUMENT No 93)

ON THE

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING DIRECTIVES 2000/53/EC ON END-OF-LIFE VEHICLES, 2006/66/EC ON BATTERIES AND ACCUMULATORS AND WASTE BATTERIES AND ACCUMULATORS, AND 2012/19/EU ON WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT (COM (2015) 593 FINAL)

ON THE

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING DIRECTIVE 1999/31/EC ON THE LANDFILL OF WASTE (COM (2015) 594 FINAL)

ON THE

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING DIRECTIVE 2008/98/EC ON WASTE (COM (2015) 595 FINAL)

AND ON THE

PROPOSAL FOR A PARLIAMENT AND COUNCIL DIRECTIVE
AMENDING DIRECTIVE 94/62/EC ON PACKAGING AND PACKAGING
WASTE (COM(2015) 596 FINAL)

pursuant to Article 144(1) and (6) of the Rules of Procedure

Sent to the Speaker's Office on 20 June 2016

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The Committee,

Having examined the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Closing The Loop – An EU Action Plan For The Circular Economy (COM(2015) 614 final);

Having examined the Proposal for a Directive of the European Parliament and of the Council amending Directives 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment (COM (2015) 593 final);

Having examined the Proposal for a Directive of the European Parliament and of the Council amending Directive 1999/31/EC on the landfill of waste (COM (2015) 594 final);

Having examined the Proposal for a Directive of the European Parliament and of the Council amending Directive 2008/98/EC on waste (COM (2015) 595 final);

Having examined the Proposal for a Parliament and Council Directive amending Directive 94/62/EC on packaging and packaging waste (COM(2015) 596 final);

Having regard to the Resolution (Doc. XVIII, No 80) approved on 19 November 2014 on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Towards a circular economy: A zero waste programme for Europe (COM(2014) 398 final),

Having regard to the Resolution (Doc. XXIV, No 51) approved on 30 July 2015 upon conclusion of the examination of the allocated dossier on the impact of the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Towards a circular economy: A zero waste programme for Europe, and the proposal for a Directive of the European Parliament and of the Council amending Directive 2008/98/EC on waste, 94/62/EC on packaging and packaging waste, 1999/31/EC on the landfill of waste, 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment;

Having noted the results of the public consultation launched by the Senate Environment Committee aimed at acquiring information and assessments from public bodies and private stakeholders concerning the package of measures on the circular economy;

Whereas the objective of establishing a circular economy system represents a paradigm shift involving regulatory, production, organisational and distributive aspects and also requiring a cultural approach. The scale of this radical change gives rise to considerable repercussions on the everyday lives of European citizens and on the habits of millions of consumers. One of the factors for success therefore lies in the ability to inform citizens – from their school days onwards – and to make them participants in this journey so that they become willing to adapt their lifestyle and consumption;

Having favourably assessed the objective of harmonising the definitions in the Directives on waste in order to align them with the European Waste Catalogue (EWC) so as to avoid ambiguity and have access to comparative data on the progress made by Member States and local and regional authorities;

Having stressed that the proposed harmonisation of minimum requirements for extended producer responsibility is crucial to increasing the performance of EPR schemes across Member States, and that co-legislators should strengthen these requirements by retaining provisions aimed at ensuring transparency and full coverage of costs by producers;

Having highlighted the need to specify the minimum quality requirements for foodstuffs and to define a minimum standard procedure for their recovery ensuring food safety that is uniformly applicable in the Member States;

Having called once again for further targets to be defined for re-use, which should be binding, independent and geared to specific waste streams, in particular furniture, fabrics and waste electrical and electronic equipment (WEEE).

Having stressed the importance of requiring Member States to report industrial waste and the European Environment Agency to monitor and report on this matter by 2020, defining targets relating to the preparation for re-use and recycling of such waste;

Having recognised the need for progressive landfill restrictions, while supporting the ban on the landfilling of separately collected waste and organic waste;

Having considered it to be essential to confirm the maintenance of the requirement to submit implementation plans with detailed timetables of actions to meet the required targets, even in the case of the derogations from the targets for municipal waste and landfilling granted to certain Member States;

Having highlighted the absence of any provision requiring industrial and commercial businesses to keep records of the non-hazardous waste they handle and, on request, to make such records available to the competent authorities;

Having assessed the extensive power which the proposed Directive confers on the European Commission to adopt delegated acts, asking the co-legislators to restrict its use;

Whereas the positive results achieved by the Covenant of Mayors for Climate and Energy suggest that a Covenant of Mayors on waste management should be set up so as to involve local and regional authorities, and that efforts towards greater resource efficiency in urban areas should be stepped up;

Whereas national and regional bodies should be involved in efforts to raise public awareness of the circular economy, including through instruments such as those created by some regions in setting up a 'Forum for the circular economy';

Having noted that the circular economy package proposed by the Commission respects the principle of subsidiarity, although there are issues concerning the precise application of the proportionality test;

In the context of political dialogue, hereby adopts a favourable resolution, while making the following comments concerning the different acts in question:

With reference to the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Closing The Loop – An EU Action Plan For The Circular Economy (COM(2015) 614 final), hereby makes the following comments:

The reference to the need for a link between legislation on waste, products and chemicals aimed at promoting the development of the market in secondary raw materials is welcomed; in defining the regulatory framework for waste management, it is indeed necessary to adopt a cross-sectoral approach to ensure the simultaneous achievement of the objectives of health protection and safeguarding the environment through a more efficient use of resources;

With special reference to the updating of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 (REACH) – which is the reference framework for the management of chemicals – and to the need to give priority to waste recovery over landfilling, an increasing number of chemicals found in recoverable waste could be subject to authorisation or restriction procedures;

Since certain procedures under REACH may be particularly burdensome in terms of cost and red tape, appropriate simplifications are necessary so as to not to discourage the recovery of waste otherwise intended for landfilling;

The recovery of waste – provided it has been established and certified that it is not toxic or hazardous – is in fact aimed at managing waste in an environmentally compatible manner so as to facilitate the phasing-out of the most polluting chemicals at the stage at which it is no longer possible to take action regarding the original composition;

This phasing-out on the market up to the point at which toxic and hazardous chemicals are entirely replaced by other chemicals that are compatible with environmental protection forms part of the circular economy paradigm;

With regard to the paper industry, there is a lack of measures specifically aimed at encouraging paper recycling and, finally, a need to focus not solely on the quantity but also the quality of recycling;

With regard to the timetable, the criteria for its definition are not sufficiently clear or consistent with the amendments proposed and the measures planned.

With reference to the Proposal for a Directive of the European Parliament and of the Council amending Directives 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment (WEEE) (COM (2015) 593 final), hereby makes the following comments:

With regard to the management of end-of-life vehicles:

(a) the term ‘shearing’ should be deleted from the definition of ‘treatment’ since shearing is not a form of treatment;

(b) waste identified by EWC codes 16.01.06 (end-of-life vehicles, containing neither liquids nor other hazardous components), 16.01.22 (engines and transmission components containing neither liquids nor other hazardous components) and 16.01.17 should be required to be sent for ‘R4’ recovery (recycling/reclamation of metals and metal compounds) solely at installations carrying out shredding operations that are equipped with the best available technology as identified in *Best Available Technology Reference Documents* (BREF);

(c) within the scope of treatment (Article 6 of Directive 2000/53/EC), it should be specified that treatment operations for the depollution of end-of-life vehicles, as referred to in

Annex I, point 3, must be carried out within a specific and pre-determined time limit. In this regard, a period of sixty days from the date of deregistration of the vehicle is proposed;

(d) Member States should be required to take the necessary measures to establish criteria and methods to ensure the traceability of waste from the treatment of end-of-life vehicles; this can be achieved by means of a statement by the treatment plant operator to the effect that the processing operations referred to in Annex I, points 3 and 4, to Directive 2000/53/EC have been properly performed.

(e) within the scope of the minimum technical requirements for treatment contained in Annex I to Directive 2000/53/EC: – a requirement should be inserted that the treatment plant be equipped with an appropriate weighing system. This is because meeting the goal of 95 % of end-of life vehicles being re-used and recovered is strictly dependent on certainty as to the weight of the vehicle before and during the different stages of treatment. However, there currently is no obligation for dismantling facilities that carry out securing and dismantling operations to be equipped with a weighing system. Consequently, even the waste loading and unloading data entered in the single environmental declaration form (MUD) are approximate since they are based on the registration documents of vehicles and not on the weights actually recorded;

– in point 4, the words ‘Treatment operations in order to promote recycling’ should be replaced by the words ‘Treatment operations for recycling’;

– treatment activities and the division of tasks between the dismantler and the shredder should be streamlined;

The urgent need to act on Article 8 of Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012, which requires the European Commission to draw up minimum quality standards for the treatment, recycling and preparation for re-use of WEEE, should be stressed. This would guarantee a real boost to environmentally sound management of WEEE and appropriate checks since it would allow all treatment plants to operate on the basis of uniform quality standards;

In order to promote the attainment of the collection targets provided for in Directive 2012/19/EU, door-to-door WEEE collection systems from households and businesses should be promoted and encouraged. This would discourage the disposal of such waste via alternative pathways by reducing operating costs, ensure the smooth launch of the re-use or recovery of WEEE managed by producers of such goods, and allow alternative pathways to be monitored and the potential pollution caused by treatment carried out by entities not equipped with suitable facilities to be reduced.

With reference to the proposal for a Directive of the European Parliament and of the Council amending Directive 1999/31/EC on the landfill of waste (COM (2015) 594 final), hereby makes the following comments:

In order to discourage new landfills, the following should be inserted after point (3) in Article 1:

“(3a) The following Article 5b shall be inserted:

‘Article 5b – (Concessions for the closure of landfills). – 1. Member States may not grant funding or subsidies for new landfills.

2. Funding shall, however, be permitted for measures involving the closure of landfills or the launch and completion of the rehabilitation of existing landfills.”;

The moratorium on attaining the objectives granted to certain Member states should be withdrawn by deleting paragraph 6 from Article 1(2)(c);

In order to reduce the deadlines for the transmission of data, the words ‘18 months’ should be replaced by the words ‘6 months’ in Article 15 (Article 1(6) of the proposal);

The target for the landfilling of municipal waste by 2030 should be more ambitiously redefined to 5 % in a technologically sustainable manner, while setting an interim objective, to be set at 25 % by 2025; this would be better able to even out the significant differences between Member States, whereby tariff penalties should also be imposed on landfilling;

It should also be ensured with targeted regulatory intervention that there is a solution to the sometimes frequent cases of 30-year guarantees submitted by operators for post-mortem activities following the closure of a landfill which in some cases do not meet the minimum reliability requirements since they are issued by credit institutions lacking the necessary capital and with low solvency, which sometimes close a few months after issuing of the guarantee in question.

In general terms, there is a need to promote programming instruments, including with a view to improving local authorities' instruments for giving priority to re-use and recycling over disposal.

With reference to the proposal for a Directive of the European Parliament and of the Council amending Directive 2008/98/EC on waste (COM (2015) 595 final), hereby makes the following comments:

With regard to the alignment of the definitions set out in Article 1(2) of Directive 2008/98/EC, it is suggested that their alignment with those adopted by EUROSTAT be assessed. In this context, a clearer distinction should be made between what should be considered a ‘by-product’, ‘end of waste’ and ‘waste’ in order to enable waste production to be effectively limited, thereby boosting simplification and better controls on by-products;

With reference to the definition of ‘municipal waste’ (Article 3(1a)), it is welcomed that the term of reference adopted is that of household waste in the sense that, in order to be classified as ‘municipal’, special waste must be comparable in nature, composition and quantity, as a result of which the quantitative and not just the qualitative parameter is also considered. Exclusions should also be provided for regarding waste created in productive areas (including warehouses), except for waste deriving from canteens, company food outlets, offices and premises open to the public;

With reference to the definition of ‘preparation for re-use’ (Article 3(16)), the provision in the wording proposed by the Commission that preparation for re-use operations must be carried out by authorised operators provides an element of certainty; it should, however, be added that waste must be prepared in such a way as to be able to be re-used without any other pre-treatment ‘in accordance with the applicable rules and with the necessary impartial checks for consumer protection purposes, in particular as regards health and safety and the protection of the environment.’ In contrast, the clarification in the current definition (‘components of products that have become waste’) should be maintained in order not to create confusion between ‘re-use’ (regarding a product) and ‘preparation for re-use’ (regarding waste);

With reference to the definition of ‘final recycling process’ (Article 3(17), to be read in conjunction with Article 11 of the Directive concerning the method of calculating the target, it should be borne in mind that, under Article 6 (End of waste), given the very meaning of the circular economy and in continuation of the current Directive and national legislation, resources to be returned to the productive cycle, which may be materials and substances as well as products, may also be regenerated from waste. In the definition of ‘final recycling process’, access to production processes should also not be limited since final recycling may also apply to the processing of waste in the context of a processing operation other than that of production which is placed on the market for subsequent use;

With reference to the definition of ‘backfilling’ (17b), the general reference to the concept of replacement beyond individual practices of backfilling is positive; however, an effort should be made to further clarify the meaning of the word ‘suitable’ specifying that ‘suitable waste means waste which complies with specific technical standards, or, failing that, waste for which a specific risk analysis has been carried out concerning the characteristics of the area for which they are intended’.

With reference to extended producer responsibility in Article 1(7), the following should be inserted after point (b):

“(ba) the following shall be inserted after paragraph 3:

‘(3a) In order to increase the involvement of producers in the design of environmentally friendly products, Member States shall provide for systems of more stringent producer responsibility in the case of products with a lower recycling index and a design which is less compliant with ecodesign criteria. In this context, the environmental cost shall be quantified taking account of all cost components borne by the community and generated at each stage of the life cycle of products’”;

In order to encourage the re-use of poor and mixed plastics, the following should be inserted after subparagraph 13 in Article 1:

“(13a) in Chapter III, the following shall be inserted after Article 22:

‘Article 22a. – (*Incentives for the re-use of poor and mixed plastics*) – 1. Member States shall fund applied research on the recyclability and re-use of poor and mixed plastics and, to that end, develop scientific collaboration agreements with research centres and associations representing industry’”.

In order to simplify consumers’ assessments of the sustainability of the cycle of the raw materials used and of the end product, the following should be inserted after subparagraph 15 in Article 1:

“(15a) in Chapter IV, the following shall be inserted after Article 27:

‘Article 27a – (*Labelling of products and planned obsolescence*) – 1. The European Union shall promote a uniform system of product labelling that allows consumers to immediately assess the sustainability of the cycle of raw materials used and the end product in its entirety, the planned lifespan and any methods to be used to correctly dispose of the product’”.

For the same purpose as referred to in the preceding paragraph, the circularity assessment should be introduced and, to that end, the following should be inserted after paragraph 18 in Article 1:

“(18a) in Chapter V, the following shall be inserted after Article 33:

‘Article 33a. – (*Circularity assessment*) – 1. In order to facilitate the uptake of ecodesign and the creation of sustainable production systems, Member States shall encourage the adoption of the circularity assessment in order to enable consumers to assess the whole life cycle of a product, taking into account the renewability of the raw materials, technological development and the potential for re-use, repair and recycling of products. The circularity assessment shall involve the definition of indicators capable of immediately revealing information useful to its drafting, from the planning stage to the stages of the production, use, reuse, recycling and disposal of products’”.

It should be specified that the exclusion concerning ‘construction and demolition waste’ is limited to waste of ‘non-household origin’ so as to prevent the dumping of construction and demolition waste from private sources. According to the rules in force, this waste can be taken to municipal waste collection facilities and counted as municipal waste since it is considered to be from household sources. It is therefore suggested that Article 1(2)(a) be replaced by the following:

“(a) the following point 1a shall be inserted: ‘(1a) ‘municipal waste’ means

(a) mixed waste and separately collected waste from households including:

– paper and cardboard, glass metals, plastics, biowaste, wood, textiles, waste electrical and electronic equipment, waste batteries and accumulators;

– bulky waste, including white goods, mattresses, furniture;

– garden waste, including leaves, grass clipping;

construction and demolition waste from small-scale maintenance;

(b) market cleansing waste and waste from street cleaning services, including street sweepings, the content of litter containers, waste from park and garden maintenance.

Municipal waste does not include waste from sewage network and treatment, including sewage sludge and construction and demolition waste’”.

The proposed measures for non-hazardous construction and demolition waste, which represent a large share of all waste, are not ambitious enough. Instead of the current combined target for preparation for re-use, recycling and backfilling, it is proposed that specific recycling objectives for construction materials be defined.

Therefore, in Article 1(10), point (c) should be replaced by the following:

“(c) in paragraph 2, point (b) shall be replaced by the following:

‘(b) by 2020, the preparing for re-use, recycling and backfilling of non-hazardous construction and demolition waste, excluding naturally occurring material defined in category 17 05 04 in the list of waste, shall be increased to a minimum of 70 % by weight.

The Commission shall assess the management of this waste stream and whether it is appropriate by 2020 to set recycling targets for specific construction materials to be attained by 2025 and 2030”;

End of waste is recognised in the Communication as an instrument of crucial importance to implementing the circularity of resources strategy. It therefore seems right that Member States should be required to ensure that end of waste is exploited without necessarily having to act only if ‘criteria have not been set at Community level’. However, the possibility of identifying and regulating end of waste on a case-by-case basis in individual permits should be retained (as in the current Directive), pending either identification by the Commission of harmonised schemes, in order, where necessary, to standardise the end of waste criteria for specific streams or, in the absence of European regulation, or identification at national level of the end of waste criteria for different types of waste. It is therefore proposed that the words ‘or may decide on a case-by-case basis, within the context of the waste management permits issued by the competent authorities, whether a certain type of waste has ceased to be waste taking account of the applicable case law; in that case, the notification requirement in Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 shall not apply’ be inserted at the end of the first subparagraph of Article 6(4).

The raising of targets having been welcomed, account should also be taken of the market outlets and fluctuations in demand for materials obtained from recycling since, in order to set more ambitious targets, it is essential to establish economic instruments and incentives allowing them to be attained.

There is a lack in the package and in the proposal for a Directive of any indication on how the proposed recycling targets can be reconciled with the demand on the market in a situation in which the value of recycled raw materials is increasingly compressed and uncertain. The price of waste treatment services cannot be made consistent with the market value of treated materials, which are also subject to constant fluctuations; rather, treatment must be remunerated for what it involves, thereby ensuring that the treatment processes necessary to obtain quality materials from waste are carried out and taking account of the specific responsibility of producers in this field. Faced with the crisis on the raw materials market, which has recently also heavily affected the recycled materials market, EU action to promote the circularity of resources should be stepped up, in particular with regard to economic measures in favour of promoting demand for secondary raw materials and, above all, specific measures such as tax measures, including reduced VAT.

It is therefore proposed that the following be inserted at the end of Article 4(3): “shall promote and support the development of an economically viable recycling chain by tackling illegal cross-border waste trafficking and introducing appropriate measures to support the market in recycled materials and products, such as preferential tax instruments, green purchasing and public procurement, the modulation of environmental contributions relating to product recyclability”.

Clarity is needed in the provision on the use of indicators to measure the quantity of waste. Uncertainty due to the absence of specifics on the subject of measurements could give rise to non-homogeneous data. In any case, the indicators should include recycling and be based on the quantity of waste generated.

Point (9) in Article 1 should therefore be replaced by the following:

“(9) Article 9 shall be replaced by the following:

‘Article 9 – (*Waste prevention*) – 1. [...].

2. Member States shall monitor and assess the implementation of the waste prevention measures. For that purpose, they shall use appropriate qualitative or quantitative indicators and targets to measure the quantity of waste generated, including waste to be recycled, and notably the per capita quantity of municipal waste that is disposed of or subject to energy recovery.

[...]”.

The target of 70 % should be retained, as proposed by the Commission last year.

Point (d) in Article 1(10) should therefore be replaced by the following:

“(d) the following points (c) and (d) shall be inserted in paragraph 2:

‘(c) by 2025, the preparing for re-use and the recycling of municipal waste shall be increased to a minimum of 60% by weight;

(d) by 2030, the preparing for re-use and the recycling of municipal waste shall be increased to a minimum of 70% by weight;”

the wording on separate collection of biowaste does too little to encourage this type of collection. Subparagraph (a) should be amended to make it clear that the recycling of biowaste serves the purposes of producing high-quality compost and digestate,

Point (13) in Article 1 should therefore be replaced by the following:

“(13) Article 22 shall be replaced by following:

‘Member States shall ensure the separate collection of biowaste unless it is shown to be technically, environmentally and economically impracticable and provided that it is suited to meeting the relevant quality standards for compost and attaining the targets set out in Article 11(2)(a), (c) and (d) and 11(3).

They shall take measures, as appropriate, and in accordance with Articles 4 and 13, to encourage the following:

(a) recycling, in order to produce compost and digestate which meet relevant quality standards;

(b) the treatment of biowaste in a way that fulfils a high level of environmental protection;

(c) the use of environmentally safe materials produced from biowaste.

(d) energy recovery from waste products from agro-industrial activities, with support for highly innovative production chains, though the use of fuel cells (FCs).

No later than 2018, the Commission shall assess whether minimum quality criteria should be set for compost and digestate produced from biowaste in order to guarantee a high level of protection for human health and the environment.”;

The absence of specific measures for the recovery of the organic fractions from municipal waste should also be highlighted; the separate collection of biowaste should be made mandatory for all Member States by 2020 by setting a recycling target of at least 65 % by 2025;

Greater prevention (reduction) of municipal waste is consistent with the objectives set out in the Seventh Environmental Action Programme and with the task entrusted to the Commission of defining waste prevention targets for 2020 by the end of 2014. Point (17) in Article 1 should therefore be replaced by the following:

“(17) Article 29 shall be amended as follows:

‘(a) in paragraph 1, the first sentence shall be replaced by the following:

‘1. Member States shall establish waste prevention programmes setting out waste prevention measures in accordance with Articles 1, 4 and 9 in order to meet the targets of decreasing the quantity of municipal waste generated in 2025 by 10 % compared to 2015 levels and reducing food waste by at least 3 0% by 2025 and 50 % by 2030.’”;

(d) paragraphs 3 and 4 shall be deleted;

In Article 1(2)(b), the proposal for a Directive amends Article 3 of Directive 2008/98/EC, introducing a definition of ‘non-hazardous waste’ alongside that of ‘hazardous waste’. In particular, ‘non-hazardous waste’ is defined as displaying none of the hazardous properties listed in Annex III. This definition appears to contradict Decision 2014/955/EU containing the European Waste Catalogue (EWC), which considers ‘non-hazardous waste’ to be waste entries in the Catalogue which are not marked with an asterisk (*) and which are not ‘mirror entries’. It is therefore proposed that the definition of ‘non-hazardous waste’ be deleted;

The Commission proposes to delete a number of definitions from the Packaging Directive so that they are retained solely in the Waste Framework Directive. As part of this process, however, the definition of ‘organic recycling’, which is currently contained in Article 3(9) of Directive 94/62/EC, has not been included in Directive 2008/98/EC. It is therefore proposed that this definition be included in Directive 2008/98/EC in order to provide interpretative clarity on organic recycling operations included in the definition of recycling;

The proposed rewording of paragraph 1 and the new Article 5(3) of Directive 2008/98/EC give Member States a guarantee function in the application of European rules on by-products and introduce the express possibility for individual countries to adopt technical rules to that end. These provisions are not to be understood as a desire on the part of the Commission relaunch a discussion into the general Community conditions on the identification of by-products, with the consequent risk of distorting the competitive framework. It would therefore be preferable not to amend the current wording of Article 5(1) of Directive 2008/98/EC, or, alternatively, replace the word ‘guarantee’ with ‘promote’. Provision should also be included in the new proposal for a Directive for a periodic updating of the interpretative guidelines of Directive 2008/98/EC drawn up by the European Commission as a useful tool to guide operators in applying the definition of by-products;

With reference to extended producer responsibility (EPR), the introduction of minimum conditions of operation (Articles 8 and 8a) for its application is welcomed since EPR can be an effective tool for waste management in helping to promote the prevention, re-use, recycling and recovery of waste. EPR should be a transparent system based on the

‘polluter pays’ principle, and the correct implementation of the principle should not lead to undue cost for consumers or to distortive effects in terms of competitiveness, either within or outside the European Union. This instrument should therefore be given the necessary flexibility both to be able to take account of different situations existing in the various sectors and according to market conditions (in particular the price of raw materials, which affects the value of recovered materials), which impact on recycling activities, making them more or less profitable and, therefore, viable. Producer liability for the recycling of materials contained in goods placed on the market should indeed be an important aspect of EPR. In a raw materials market in steep decline, the circular economy risks being blocked because there is less incentive for businesses to be interested in recyclable materials, the treatment of which requires more investment and operations. In this sense, EPR cannot be understood as a variable that is independent from the raw materials market. On the contrary, the intervention of producers must be adaptable within a system of shared governance in which the roles and responsibilities of the stakeholders involved are clearly defined, guaranteeing that everybody is adequately consulted and is able to take part in the implementation of the EPR scheme. ‘Equal treatment’ and ‘non-discrimination’ should be ensured within the same category of stakeholders (this principle currently appears to be expressly provided for solely for producers; see Article 8a(1)) and should in any event be extended to businesses involved in the collection, transport and processing of waste covered by EPR. Overlaps of burdensome and unjustified costs weighing on citizens and businesses should be avoided.

We therefore propose the following amendments:

“The following shall be inserted at the end of the first indent of Article 8a(1): ‘by establishing to that end appropriate forms of consultation and participation by those categories of operators’”.

“The following shall be inserted at the end of the fourth indent of Article 8a(1): ‘and undertakings involved in the collection, transport and processing of waste covered by extended producer responsibility’”.

“The following shall be inserted at the end of the first indent of Article 8a(4)(a): ‘and also taking account of the fees or charges paid by citizens and undertakings for the management of municipal waste’;

With reference to the calculation of the recycling target (Article 11a), notwithstanding what was stated above in relation to the definition of ‘final recycling’, the possibility of introducing excessive derogations to the calculation method should be strictly avoided in order to prevent parameters from being excessively imprecise with the result that it would be impossible to compare national recycling rates. In this respect, it would be more than enough to stipulate in paragraph 3 that municipal waste from separate collection intended for a final recycling process may also be counted toward the target up to a maximum of 10 %;

With reference to the destination of paper collected by means of separate collection systems, there should be a ban on it being landfilled;

The amendments made to Article 22 of the Directive make the measures on organic waste collection ineffective. It is proposed that the separate collection of such waste be made mandatory by 31 December 2018. Where a Member State considers that such collection is not technically, environmentally or economically feasible, provision should be made for a mechanism for notifying the European Commission for the purposes of providing appropriate justification for any difficulties experienced in attaining the target;

In order to give a boost to the identification of new and more sustainable forms of industrial waste management, thereby promoting the recovery of waste instead of its disposal, further simplification of Article 24 of Directive 2008/98/EC needed to ensure research, development and innovation activities concerning the recovery of waste or new types of waste to be channelled to recovery activities that have already been implemented should be identified.

The Commission proposals provide for the broad use of the instrument of delegated acts. The Commission will thus be able to define the properties of specific substances or objects for them to be regarded as a by-product. Delegated acts will also be used to define the criteria to be met for access to the status of 'non-waste' after recovery operations (end of waste). Delegated acts will also be able to be used to amend the European Waste Catalogue and the annexes to Directive 2008/98/EC. If necessary, provision should be made for appropriate forms of consultation of the manufacturing sectors affected by those provisions. In particular, operators from whose production cycles by-products and raw materials are derived as a result of recovery operations should be consulted. This comment should also be extended to the proposal for a Directive set out in COM (2015) 596 final.

With reference to the proposal for a Directive of the European Parliament and of the Council amending Directive 94/62/EC on packaging and packaging waste (COM (2015) 596 final), hereby makes the following comments:

Regarding the proposed amendments to the definitions, the fact that that the amendment concerning 'packaging waste' does not more explicitly exclude 'production residues' is inconsistent with the definition of 'packaging' Packaging is defined as such where it is intended to contain, protect, handle, deliver and present goods, and only as such does it count towards the calculation of packaging placed on the market or for the purposes of attaining recycling and recovery targets. Thus, notwithstanding the need to define better what is meant by 'production residues', these should not be regarded as packaging waste when they refer to something which does not meet the definition of packaging;

With reference to the proposal to delete Article 6(3), which allowed Member States to encourage energy recovery where it was preferable to recycling, from the Packaging Directive, this prohibition should be extended to all products that are compostable, recyclable and convertible into a secondary raw material by requiring that any energy recovery from packaging be carried out more efficiently and in cogeneration mode;

There is a lack of any 2030 target for the preparation for re-use and recycling of plastic packaging. As an alternative to the parameters identified, there should at least be a requirement for the Commission to set such a target within the coming years. Consequently, the 75 % target for plastic should be inserted into Article 1(3)(b) to (g);

Since the methods of calculating the targets referred to in Article 1(3) are difficult to compare vis-à-vis Article 6 of the Directive, they should be amended in order to facilitate any comparisons. In this respect, the quantitative targets of 70 % to be achieved by 2025 and 80 % to be achieved by 2030 should be repeated.

OPINION OF THE 14TH STANDING COMMITTEE

(EUROPEAN UNION POLICIES)

Rapporteur: CARDINALI)

10 February 2016

The Committee, having examined the documents in question,

Whereas the four proposals for Directives on Waste of 2 December 2015, together with the Communication entitled ‘Closing The Loop - An EU Action Plan For The Circular Economy’ (COM(2015) 614 final), constitute the new regulatory package on the circular economy presented by the European Commission to replace the one proposed in July 2014;

Recalling that the 2014 package – which set a recycling target of 70 % of municipal waste and 80 % of packaging waste by 2030 and a ban on the landfilling of recyclable waste from 2025 – was withdrawn by the new Juncker Commission in February 2015 following concerns expressed by some political parties and by some Member States. In particular, the Commission justified this withdrawal with reference to the need to adopt a broader approach and to address all aspects of the waste cycle, including sustainable consumption and the development of a market for the recycling of products and raw materials;

Having noted that, compared to the previous proposals, the new legislative proposals review the waste management targets downwards, introduce derogations for five Member States and eliminate the target of increasing resource productivity by 30 % by 2030 and the target of reducing food waste by at least 30 % by 2025. On the other hand, an integrated approach is proposed that goes beyond the limited focus on waste to include measures to promote the circular economy at each stage in the value chain, from production to repair and secondary products, involving all actors on both the production and the consumption side. From the point of view of greater resource efficiency, turning waste into a resource is an essential part of increasing resource efficiency and closing the loop in a circular economy;

Whereas, in particular, the main features of the new legislative proposals on waste are:

- a target for recycling or preparation for re-use of 60 % for municipal waste and 65 % for packaging waste by 2025 and 65 % and 75 % respectively by 2030.
- a target of reducing the landfilling of all municipal waste generated to no more than 10 % by 2030;
- a complete ban on the landfilling of separately collected waste;
- the promotion of economic instruments to discourage landfilling;
- a simplification and harmonisation of definitions and calculation methods for recycling rates;
- concrete measures to promote re-use and to stimulate industrial synergies, in which the waste on one industry becomes the raw material of another;
- financial incentives for producers to market greener products and support for recovery and recycling programmes;

Having considered the delegated and implementing powers which the European Commission would acquire under the four proposals for directives;

Having assessed the reports submitted by the Government pursuant to Article 6(4) of Law No 234 of 2012 concerning the four proposals for directives;

Having assessed the document drawn up by the Conference of Presidents of the Legislative Assemblies of the Regions and Autonomous Provinces concerning EU priorities for 2016, which demonstrates how both waste and its treatment directly affect regional and local authorities since they are called on to draw up and adopt regional waste management plans, and how the measures contained in the package could result in increased responsibility for regions and local authorities;

Having also examined the Resolution of the Assembly of the Marche Region approved at the session of 2 February 2016;

Hereby comments favourably on the proposal, as regards matters falling within its area of responsibility, while presenting the following remarks:

– The legal basis is identified, for proposals COM(2015) 593, 594 and 595, as Article 192(1) of the Treaty on the Functioning of the European Union (TFEU), which provides for the ordinary legislative procedure for the adoption of environmental measures and, for proposal COM(2015) 596, as Article 114 TFEU concerning the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market.

In this regard, it may be appropriate to consider making the legal bases of the Packaging Waste Directive and other Directives on waste both Article 192 and Article 114 TFEU. This is because, as things stand, the difference between the management of waste under Directive 2008/98/EC and the management of packaging waste under Directive 94/62/EC has been significantly reduced given that provision is also made for recovery of non-packaging waste in the form of preparation for reuse, recycling and energy recovery, with obvious implications also on competition between undertakings and on the functioning of the internal market. Moreover, the environmental implications linked to the management of packaging waste could not today be considered less significant than those linked to the protection of competition and the functioning of the internal market;

– The principle of subsidiarity is largely respected. The targets relating to re-use, recycling and energy recovery from waste and to the reduction of landfilling require a framework which is both uniform and applicable to all Member States owing to the obvious burdens of reorganisation that they place on businesses and the authorities alike.

It should also be noted that, according to the distribution of administrative powers under Italian law, and in accordance with the principle of subsidiarity, the regions are required to put in place a whole range of measures that are essential to ensuring timely and strict compliance with European law. This has been confirmed by the case law of the Court of Justice, which has ruled that waste management through dedicated management plans adopted under Article 7(1) of Directive 2006/12/EC may be organised on a regional basis, as is the case in Italy. This means that, in principle, each region must guarantee that its waste is treated and disposed of as close as possible to where it is produced in order to reduce transport to a minimum (see Court of Justice Judgments in Cases C-155/91 and C-297/08 of 17 March 1993 and 4 March 2010 respectively);

The new proposals therefore take into account the impact of their transposition into Member States' legislation in acknowledging that very often the transposition of waste legislation is highly decentralised. This aspect warrants the interest of the Italian regions and, more generally, of local authorities, which will then play a vital role in ensuring that the objectives contained in the amended Directive are fully and properly implemented.

With respect to the principle of subsidiarity, there are however concerns about the extensive delegated and implementing powers conferred on the European Commission by the four proposals for directives.

In particular, proposal COM(2015) 594 confers delegated powers on the Commission to amend the Annexes to Directive 1999/31/EC on the landfill of waste, including: – requirements for all classes of landfills; – the measures to be taken in relation to the protection of soil, water and air and the risk of landslides; – detailed waste acceptance criteria for the various landfill categories; – control and monitoring procedures for landfill sites.

Moreover, proposal COM(2015) 595 confers delegated powers on the Commission to lay down: – detailed criteria on the application of the conditions for regarding waste as a by-product or for determining when waste ceases to be waste (end of waste) – the list of waste – minimum requirements for recognition of preparation for re-use operators and for the approval of deposit-refund schemes; – requirements to be able to calculate recovered metals by incinerating waste as part of the calculation for determining the attainment of general recycling targets; – the threshold for the quantities of non-hazardous waste which trigger the obligation to keep a register of establishments or undertakings which collect or transport waste; – the minimum technical standards for treatment activities requiring authorisation and for collection or transport activities requiring registration; – the energy efficiency threshold for waste-to-energy plants.

In this respect, it should be borne in mind that, on 19 January 2016, the Federal Council of Austria issued a 'reasoned opinion' (determining that there had been a breach of the principle of subsidiarity) on the proposal for a Directive on waste (COM(2015) 595) criticising the excessive delegated and implementing powers conferred on the European Commission and the erosion of powers of Member States and regions.

In this respect, it is clear that national parliaments will in future have a diminished role in terms of their power to adopt opinions on Union 'draft legislative acts', conferred on them by Protocols 1 and 2 to the Treaties since this power does not exist with respect to 'draft delegated acts'.

– The proposals also largely respect the principle of proportionality since the rules and obligations introduced by the four Directives do not go beyond what is necessary in order to achieve the objectives laid down by the Directives, namely: to safeguard human health and the environment, increase resource efficiency, ensure the proper functioning of the internal market and avoid obstacles to trade and restrictions to competition within the Union.

However, some of the definitions – particularly in the Proposal for a Directive amending Directive 2008/98/EC on waste (COM(2015) 595 final) – are likely to be too vague, to the point, at least potentially, of being 'manifestly inappropriate' for achieving the objectives set in practice, thus compromising the very legitimacy of the proposal (Court of Justice, Judgment of 18 June 2015 in Case C-508/13). Any difficulties in implementing the new provisions owing to vague definitions could, furthermore, limit the objectives set out by the European Commission and jeopardise correct transposition.

– The four proposals for Directives provide for the replacement of the three-yearly reports on implementation of the European rules in national law (currently incumbent on Member States) with transmission of annual statistics accompanied by reports on the quality of the data collected. This might give rise to a significantly greater burden on the authorities involved and is thus not fully consistent with the objectives of better regulation;

– With reference to the proposal to amend Directive 1999/31/EC on the landfill of waste (COM(2015) 594), there are issues with the definition of ‘treatment’ of waste intended to be landfilled, as set out in Article 2(h) of Directive 1999/31/EC. In this respect, for reasons of legal certainty and better application of the Directive, the interpretation provided by the Court of Justice in its Judgment of 15 October 2014 in Case C323/13 concerning the Malagrotta landfill to the effect that ‘it cannot ... be said that ... Member States may limit themselves to opting for any waste treatment and are not obliged to investigate and implement the most appropriate treatment, including stabilising the organic fraction of that waste, in order to reduce as far as possible the negative effects of waste on the environment and on human health’ and that ‘the mere compressing and/or grinding of unsorted waste intended to be landfilled does not meet the requirements laid down by Directive 1999/31’ should be taken into account.

It should also be assessed whether it is appropriate to amend Annex I to the Directive concerning the ‘General requirements for all types of landfills’. In point 3.3 of the second table, it is proposed that the second line after the heading be replaced by the following:

Landfill category	Non hazardous waste	Hazardous waste
artificial sealing liner	required	required

This amendment would also extend the artificial sealing liner to liners intended to cover landfills which are currently made from natural materials, in particular gravel, which have a much higher cost compared to sealing liners, extraction of which involves a high environmental impact, and the permeability of which encourages the production of leachate (in the event of the infiltration of rain) and the release of biogas into the atmosphere;

– With reference to the proposal amending Directive 2008/98/EC on waste (COM(2015)595), there are some potential issues relating to the definition of ‘recovery’, ‘recycling’ and ‘end-of-waste status’ which should be clarified in the interests of uniform application of the Directive in all Member States. Some recovery operations may indeed be regarded as recycling and counted towards the attainment of the recycling target for municipal waste.

The proposal for a Directive amending Directive 2008/98/EC introduces, *inter alia*, a new definition of ‘municipal waste’ that does not include ‘construction and demolition waste’ (Article 1 inserting paragraph 1a into Article 3). In order to make the new legislation clearer and therefore more effective, it is vital to specify that the exclusion concerning ‘construction and demolition waste’ is limited to waste of ‘household origin’ by inserting in the definition of ‘municipal waste’ a reference to ‘household construction and demolition waste’ If the exclusion proposed by the proposal were to remain valid, it could increase the extent to which household construction and demolition waste resulting from small-scale maintenance work carried out by home owners to their own property is dumped. This is waste which, under current Italian rules, can be taken to municipal waste collection facilities and which is counted

as municipal waste provided that it is currently considered to be from household sources. Accordingly, the proposed paragraph 4a should also be amended (regarding the definition of construction and demolition waste).

The amendment of the definition of ‘preparing for re-use’ in Article 1(e) of the proposal could lead to confusion with the concept of ‘re-use’ since it links the preventive operations carried out on products or components of products (that are not waste) with those carried out on waste. The lack of any demarcation between the concepts of re-use (prevention) and recovery (waste management) creates confusion since waste is managed according to certain well-defined procedures which do not extend to the management of the above-mentioned products. This lack of demarcation may give rise to problems during checks on compliance with waste recycling legislation and procedures and create problems in monitoring data. The recovery operation of a product (an object which must be repaired in order not to become waste) should therefore be distinguished from something that is already waste and subject to a recovery process.

Another problem relates to the calculation method introduced by Article 11a, which involves a level of non-deductible waste equal to 10 % of the total weight of recycled waste, whereas Italy calculates recycling rates by subtracting all waste produced by facilities.

The proposed wording of the new Article 22 of Directive 2008/98/EC requires the separate collection of organic waste to be carried out taking into account its technical, environmental and economic feasibility. We consider that this condition does not encourage the collection of the organic fraction. It is therefore proposed that a different wording be considered in order to make the collection of the organic fraction mandatory;

– With reference to the proposal for a Directive on packaging and packaging waste (COM(2015) 596), there are issues relating to the fact that the draft refers to basic concepts and definitions in the Framework Directive which have not been clearly specified in the current Directive or in the proposal for its amendment. In addition, it establishes a calculation model involving a level of non-deductible waste equal to 10 %, thereby penalising Italy, which calculates recycling rates by subtracting all waste produced by facilities;

– With regard to actions to be undertaken, with funding of over EUR 650 million from Horizon 2020 and EUR 5.5 billion from the Structural Funds, clarifications should be obtained on the resources earmarked for use as regards both the Structural Funds and the share of Horizon 2020. In particular, it should be clarified whether the European Commission intends to ask Member States accessing Structural Funds to allocate a portion of their share for that purpose and whether, under Horizon 2020, it is intended to refer to specific projects or to use resources already earmarked for other purposes.

The question is relevant because, in order to achieve the 65 % recycling target and the 10 % landfilling target for municipal waste, significant additional resources will have to be made available in many Member States, including Italy, in order, *inter alia*, to create an effective separate collection system throughout the national territory, to establish the waste-treatment facilities needed and to ensure that energy is recovered from the residual waste. Some of these resources, albeit a limited amount, will then have to be used to meet the annual reporting requirement;

– As regards the actions to be undertaken to reduce food waste, including a common measurement methodology, improved date marking and instruments to meet the global sustainable development target of halving food waste by 2030, the call by some national

parliaments, including the Senate, for the European Commission to take specific action to combat food waste (green card) would appear to have been heard.

Moreover, it is hoped that the European Union will promote more effective action to support and disseminate good practices for preventing food waste, involving not only regional and local authorities but a broader social partnership involving social cooperation, voluntary associations and the forms of solidarity-based commercial distribution represented by social purchasing groups, which are now widespread and active in all European countries.