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Committee for Environment, Regional Planning and Local Authorities

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Report and Opinion

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COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT on future steps in bio-waste management in the European Union

Pursuant to Law 43/2006 of 25 August 2006 on monitoring, evaluation and contribution of opinions by the Assembly of the Republic in the context of the process of European Union integration, the Committee for European Affairs (CEA) asked the Committee for Environment, Regional Planning and Local Authorities to prepare a report on the document in reference (COM/2010/235 FIN).

The objective of this Communication is to present a number of conclusions regarding the Commission's analysis of the management of bio-waste and to make recommendations as to how to secure all the advantages of proper bio-waste management, setting out possible key action at EU and national level, along with the best way of implementing it.

According to the **principle of subsidiarity**, EU competence in the field of bio-waste management derives from the articles of the Lisbon Treaty that deal with environmental protection, namely Articles 191 and 194 of the Treaty on the Functioning of the European Union.

The objectives of these articles are reiterated in the revised version of the Framework Directive on Waste (2008/98/EC), which calls for improvements in bio-waste management by means of new Commission initiatives (Article 22 of the Directive).

As far as **prevention** is concerned, there is scope in Member States' legislation to lay down objectives on the production and recovery of bio-waste at national level. At the same time the Commission could provide general guidelines for national waste-prevention plans, which are subject to the requirements of the Framework Directive on Waste.

It would be easier to attain objectives shared by the Member States and secure a common market in, and minimum standards for, compost, if these matters were covered by EU rules. This would ensure greater uniformity in methodology and objectives between the Member States, while at the same time allowing Member States a degree of flexibility to secure their objectives on a case-by-case basis.

Policy options discussed in this Communication relate to a baseline scenario which is assuming that legislation already in force, and in particular the Landfill Directive, is fully implemented but that no additional legislative initiatives are taken in the next 20 years. They are therefore focusing on the costs and benefits of

additional measures, including a better application of the waste hierarchy of the Framework Directive on Waste.

The analysis confirmed significant and cost-efficient opportunities. It revealed no policy gaps at EU level that could prevent Member States from taking appropriate action but showed that additional supporting action at EU level, together with more incentives at national level and a proper application of the waste hierarchy, would serve to create significant economic and environmental advantages for the whole EU.

The most significant benefits of improved bio-waste management would be avoided emissions of greenhouse gases, which would translate into significant societal gains when compared to any additional costs. At the same time, production of good quality compost and bio-gas products would contribute to enhanced soil quality and resource efficiency, as well as a higher level of energy self-sufficiency given the potential of bio-waste as a raw material for the production of renewable energy.

The conclusion is that the subsidiarity principle is adhered to inasmuch as – notwithstanding the importance of national measures that will be needed to implement the Framework Directives – there is a need for EU intervention in the regulation of bio-waste that brings harmonisation and policy coordination in Europe, which are especially important to meet environmental goals and to complete the single market.

The Communication's suggestions for legislation and action

In the context of the Directives which form a legislative framework to the subject of bio-waste, the Commission puts forward a number of courses of action for the Member States and a European bio-waste strategy.

Waste Management Planning according to the "waste hierarchy"

While respecting specific local conditions, first and foremost Member States should implement the provisions of the Framework Directive on Waste and properly apply the "waste hierarchy" in national bio-waste management planning.

Proper use of these provisions, which will become a legally binding approach for Member States on 12 December 2010, would make a significant contribution to optimised bio-waste management and complement the effects of the Landfill Directive (1999/31/CE), in particular the obligation to divert bio-waste from landfills as set out in Article 5 of the Directive.

Rules on bio-waste are spread among a number of legislative instruments including the two Framework Directives on Waste and Landfill (and also the IPPC and Incineration Directives and the Regulation on health rules concerning animal by-products not intended for human consumption).

Prevention of bio-waste

In line with the "waste hierarchy", waste prevention should be increased, making best use of the Framework Directive's waste prevention programmes, including appropriate national bio-waste prevention objectives to break the link between economic growth and the environmental impacts of generating of bio-waste, national benchmarks for bio-waste prevention measures, monitoring, assessment and periodic reporting on progress made.

The Commission could provide assistance by creating a framework for this type of activities while maintaining a certain degree of flexibility by which the best solutions from an environmental and economic point of view would be found locally. It would provide tools for evaluation and monitoring and create a convergence of common policies in the Member States for the purpose of standardising good practice in the area of biofuels.

Promote separate collection and biological treatment of bio-waste

Composting and anaerobic digestion offer the most promising environmental and economic results for bio-waste that cannot be prevented. An important pre-condition is that the input to these processes be of good quality. This would in the majority of cases be best achieved by separate collection.

Separate, economically sustainable collection is preferable to centralised non-separate composting or landfill given that differentiating between types of bio-waste according to their potential for re-use and their position in the waste hierarchy fosters energy and organic efficiency.

Member States should redouble their efforts to introduce separate collection in order to meet high quality recycling and anaerobic digestion. Systems of separate collection can differ significantly depending on, for instance, the types of waste collected (food waste, garden waste etc.) and the availability of treatment options. The key for success lies in adaptation to local conditions and user-friendly design.

The Commission recommends that Member States make fullest use of the possibilities available under Articles 11 and 22 of the Framework Directive on Waste to introduce separate collection systems as a matter of priority in line with the competition rules of the Treaty on the Functioning of the European Union.

Information on implementing those articles will likely form part of the reporting requirements under the Framework Directive on Waste.

Standardising good practice to secure a convergence in Member States' bio-waste policies is the surest way of optimising bio-waste, not only from the energy perspective, but also regarding the whole system of society's material flows, to step up the sustainability of the system.

The introduction of EU regulations, in accordance with the Union's competition rules, speeds up the standardisation process and eliminates possible distortions between Member States which might lead to bio-waste flows to regions with lower bio-waste standards.

Protecting EU soils

The Commission is considering proposing minimum standards for use of compost and digestate in agriculture via the revision of the Sewage Sludge Directive. These rules would likely be equal or less stringent than national rules already in place in some Member States, thus requiring minimal re-adjustment or additional costs.

In any event, this review of the Sewage Sludge Directive would allow for the inclusion of bio-waste that is recovered as compost products for agriculture and soil enrichment which makes possible and encourages alternative bio-waste recovery and its most sustainable re-use.

Compost – a product of the highest quality for better resource efficiency

Member States should promote the production and use of compost from "clean" (separately collected) bio-waste. They should pro-actively support the wide up-take of this material by end-users. This would improve resource efficiency by partially replacing non-renewable mineral fertilizer as well as by maintaining the quality of EU soils. The Member States should proactively participate in the definition of quality criteria and support their application to accelerate market growth.

Compost production should be results-oriented in order to secure a high-quality product. According to the Thematic Strategy on Soil Protection, compost is one of the best sources of stable organic matter, providing the basis for the formation of new humus in degraded soils. Compost use brings agronomic benefits, such as improvements in soil structure, infiltration of humidity, water capacity retention, soil micro-organisms and

the provision of nutrients. It is estimated that 45% of soil in Europe has a low organic material content. It is thus important to promote the production of high-quality compost from proper bio-waste treatment.

The underpinning provided by Community rules is important to ensure quality, and thus confidence on the part of the European consumer who uses this type of fertilizer as an alternative to agro-chemical products designed for the same use, and in so doing boosts the compost market, which is one way to optimise high-quality bio-waste.

Towards "zero landfilling"

With regard to landfilling, national efforts should focus on the full implementation of the Landfill Directive's diversion targets and other provisions of the Directive related to safe and sound landfilling of stabilised bio-waste residue.

The Commission strongly recommends that all Member States aim at "zero landfilling" of untreated bio-waste at the fastest possible pace, in line with the provisions of the Framework Directive on Waste.

In the quest to reduce landfilling to its lowest possible level, all options that are higher in the waste hierarchy can play their role.

Energy efficient incineration can also contribute to improved overall waste management. However utmost care must be taken to avoid over-investment in incineration capacity that could later limit options for a more biological treatment or prevention. At the same time, bio-waste incineration will be the recommended option when other energy production solutions (for compost or generating bio-gas and other means of production) are less efficient from an economic and environmental standpoint.

National waste management plans should include an explicit mid- to long-term consideration of this issue.

Producing energy from waste

The 'decarbonisation' of the energy sector is one of the EU's main challenges. Bio-waste can be converted to electricity, heat or transport fuels at relatively low cost, thus limiting the use of fossil fuels and increasing security of supply.

Member States should consider this opportunity when working on measures to reach their national binding renewable energy targets for 2020 under the Renewable Energy Directive.

Bio-waste may also be a key raw material for the production of bio-energy. Bio-energy is produced from anaerobic digestion, the most appropriate way of treating humid bio-waste (e.g. fat in kitchen waste). Anaerobic digestion produces bio-gas in controlled reactors and may be used to generate electricity, heating or bio-fuels for motor vehicles.

The Directive particularly acknowledges the benefits of using waste to produce transport fuels by weighting its use at double the rate to meet the 10% transport fuel target.

The EU Directives tackle the bio-waste energy vector and as such ensure that the rules cut across all sectors and highlight the renewability of bio-waste and its potential contribution to the Union's goals on reducing the economy's dependence on fossil fuels; efficient waste management; and the promotion of renewable energy.

Better Implementation

Correct implementation of EU legal instruments addressing the management of bio-waste must be made a

key priority by Member States.

General waste management requirements such as environmental and human health protection during waste treatment, priority for waste prevention and recycling are laid down in the Framework Directive on Waste, which also contains specific bio-waste related elements (recycling targets for household and similar waste, which may include bio-waste, separate collection requirements). Together with the Landfill Directive they form a key legislative framework on bio-waste.

Conclusions

Concerning the Communication to the Council and the European Parliament on future steps in bio-waste management in the European Union, the Committee for Environment, Regional Planning and Local Authorities, in accordance with the subsidiarity principle, takes the view that these steps must take into account a) the conclusions of the Communication that the different Directives that make up the legislative framework for bio-waste should be complied with, and b) a separate new Directive on bio-waste that targets:

1. Prevention/reduction of waste to secure significant environmental and economic gains. This goal can be achieved through legislation and awareness-raising;
2. Transforming the EU into a 'recycling' society in which bio-waste is considered, together with other material flows, as having a key role in combating climate change and a valuable potential for soil protection and promoting the production of renewable energy, which in turn fosters sustainable development by means of efficient resource management;
3. Targeting the elimination of bio-waste from landfills so as to prevent the resulting uncontrolled emission of greenhouse gases (methane) and leachate that might contaminate underground watercourses;
4. Promoting the use of biowaste in restoring land by its use in compost; this is the most appropriate way of treating green waste and has the advantage of use as a fertilizer. Composting must be done downstream of the final producer but could be incentivised on a small scale at civil society level for use in gardens, orchards and on small holdings; and
5. Assessing the potential of bio-waste as a raw material for the production of bio-gas to generate electricity, heating or fuel for automobiles.

In conclusion, current EU legislation does not limit Member States' options regarding bio-waste treatment insofar as these respect a number of general conditions, particularly those set out in the Framework Directive on Waste, in which Member States are called on to take measures to promote:

1. the separate collection of bio-waste with a view to its composting and anaerobic digestion;
2. the treatment of bio-waste in a way that achieves a high level of environmental protection; and
3. the use of environmentally safe materials produced from bio-waste.

The Landfill Directive already requires the gradual exclusion of bio-waste from landfills. But these legislative instruments have not achieved their objectives.

There is a pressing need for supplementary measures to back up the Landfill Directive given the low rate of exclusion of bio-waste from landfills on the part of the Member States.

A specific Directive on bio-waste management would thus be an essential pillar to achieve the aims of the Framework Directive on Waste and the other Directives covering waste management in general.

Furthermore, bringing together all the various rules on bio-waste management in a **single legislative instrument** would in itself be an exercise in better legislation and regulation. A specific Directive on bio-waste management would make possible **greater clarity, simplification and legal certainty** in this area and give long-term confidence to public and private investors.

A Directive on bio-waste management must allow for a certain degree of flexibility so that the best solutions from an environmental and economic standpoint are found locally. It is crucial to introduce environmental convergence rules in this area to guide new investment.

One line to take must concern separate bio-waste collection insofar as the separation of biowaste from other waste flows helps to avoid contamination and to achieve the goal of high-quality compost, It also helps to provide quality bio-waste recycling materials and to step up energy recovery efficiency. Separate collection should thus be mandatory.

Member States will nonetheless be able to opt out of this obligation if it is not viable or not the best choice from an environmental and economic standpoint (eg. when the logistics of separate collection do not prevent the contamination of bio-waste, or the imposition of an infrastructure for separate collection is not justified from an environmental point of view in rural or sparsely populated areas.

A specific bio-waste Directive that focuses in this area will help us to reconcile a high level of environmental protection and sustainable growth which would guarantee European citizens' quality of life.

Finally, any EU rules on bio-waste should be in line with the subsidiarity principle, not only since there are clear advantages to adopting a specific framework Directive on bio-waste that ensures the transversality of EU policies and the sustainability of the waste sector, but also because such a Directive would not preclude practical intervention by Member States where they are capable of adapting the rules to their own specific circumstances.

Opinion

In view of the foregoing and in the absence of any objection, the Committee for Environment, Regional Planning and Local Authorities hereby submits this report to the Committee for European Affairs for its consideration, in accordance with Article 7(2) of Law No 43/2006 of 25 August 2006.

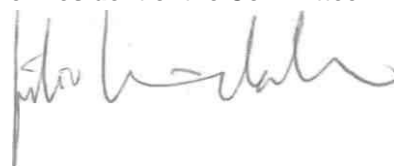
Assembly of the Republic, 30 June 2010

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