Co-operation with national judges in the field of environmental law under the European Commission Framework Contract ENV.A.I/FRA/2012/0018

Training module

HOW TO HANDLE COURT PROCEEDINGS INVOKING NON-COMPLIANCE WITH EU WASTE LAW

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Organised by Academy of European Law
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Today, my mission consists in the presentation of three specific directives covering some facets of the waste management policy:

- Directive 2000/53/EC on end-of life vehicles (ELVs)
- Directive 2012/19/EU on waste electrical and electronic equipment (WEEE)

I will finish my lecture with a quick finding on the theme of the seminar: how to handle Court proceedings invoking non-compliance with the three EU directives?

As you may already be aware of, these three directives come within the general framework of waste management policy based on Directive 2008/98/EC on waste. These three directives are daughter-directives of that parent-directive.

That is why, beside specific points peculiar to the three directives, we find several common features between them.

Thus, I intend to gather together the common points in my presentation after or before the analysis of specific points to each directive.
PART I - SPECIFIC POINTS

Directive 2000/53/EC on end-of life vehicles (amended) - ELVs
Preamble
End-of life vehicles represent:
- 12 million ELVs per year in the EU
- Between 8 and 9 million tonnes of waste.
It means an important impact on the environment.
Directive 2000/53/EC was adopted:
- to improve the environment protection, of course,
- but also to ensure coherence between national approaches particularly with
  a view to the design of vehicles.
Definitions (Article 2)

Article 2 gives us many definitions. The most important concern the definitions of “vehicle” and “end-of life vehicle”.

“vehicle” mainly means passenger car with maximum 8 people but also utilities with a maximum weight of 3.5 tonnes.

“end-of life vehicle”: vehicle which is waste within the meaning of the general Directive 2008/98/EC on waste. You know what waste is according to the directive and the case-law from the Court of Justice of the European Union. So, a vehicle could become an end-of life vehicle and consequently waste in itself or by a decision made by the owner. According to Recital 10 of the Directive, vintage vehicles, historic vehicles and vehicles for collectors or museums are excluded from the scope of the Directive.

Don’t forget that an ELV is a hazardous waste before its dismantling.
Scope (Article 3)

- Vehicles and end-of life vehicles
- Components and materials
- Waste used parts removed (reparation)

The Directive covers vehicles (because some provisions concern new vehicles) and end-of-life vehicles including their components and materials. But the Directive also covers waste used parts removed when a car is repaired.
Directive 2012/19/EU on waste electrical and electronic equipment (WEEE)
Preamble
The problem of waste electrical and electronic equipment (WEEE) is huge. **Quantitatively**, it represents in the EU:
- 9 million tonnes in 2005
- Probably 12.3 million tonnes in 2020
**Qualitatively**, waste of electrical and electronic equipment (WEEE) is a source of negative impact for human health provision and environment protection because its components involve hazardous substances. But components of waste electrical and electronic equipment are valuable resource to recycle.
Among many definitions given by Article 3, we can retain some of them.

“Electrical and electronic equipment”: equipment depending on electric current or electromagnetic fields (needs electricity for its primary function) with a voltage rating not exceeding 1 000 volts for alternating current and 1 500 volts for direct current.

“Waste electrical and electronic equipment”: EEE which is waste within the meaning of Directive 2008/98/EC.

“Producer”:
- Manufacturer, importer, seller or reseller who markets EEE
- Irrespective of the selling technique (e.g. by distance communication)
- Established in the EU (except for distance communication)
<table>
<thead>
<tr>
<th><strong>Definitions (Article 3) 2/2</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>o <strong>Making available on the market</strong>: any supply of product for distribution, consumption or use, also free of charge</td>
</tr>
<tr>
<td>o <strong>Placing on the market</strong>: first making available on a professional basis</td>
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</table>

“**Making available on the market**”**: any supply of product for distribution, consumption or use, also free of charge

“**Placing on the market**”: first making available on a professional basis.
The scope of the Directive will evolve. To 14th August 2018, EEE listed in Annex I are concerned. The list is detailed by Annex II which is purely indicative.

From 15th August 2018, all EEE are concerned; they are listed in Annex III, list detailed by the indicative Annex IV. Of course, the lists in Annexes III and IV are more extensive than in Annexes I and II.
Scope (Annex I) 1/2

- Large household appliances (refrigerators, washing machines, microwaves, ...)
- Small household appliances (toasters, coffee machines, electric knives, ...)
- IT and telecommunications equipment (minicomputers, printer units, pocket calculators, telephones, answering systems, ...)
- Consumer equipment (radio, TV, video, hi-fi, musical instruments, ...) and photovoltaic panels
- Lighting equipment (luminaires, ...)
- Electrical and electronic tools (except large-scale stationary industrial tools) (drills, saws, sewing machines, tools for gardening, ...)
Scope (Annex I) 2/2

- Toys, leisure and sport equipment (electric trains, video games, sports equipment with electric or electronic components, ...)
- Medical devices (except all implanted and infected products) (radiotherapy equipment, dialysis equipment, ...)
- Monitoring and control instruments (smoke detectors, heating regulators, thermostats, ...)
- Automatic dispensers (for hot or cold drink, for money, ...)

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There are some **exceptions** (Article 2.3 and 2.4). For instance:

- Equipment necessary for the security of Member States (war material, ...)
- Equipment to be sent into space
- ...

Equipment necessary for the security of Member States (war material, ...)
Equipment to be sent into space
**Interpretation**

Globally, Member States have correctly and completely implemented the Directive and its annexes. So in domestic law of the 28 States, there is no real non-compliance with the Directive WEEE.

But we could/can have some problems in the interpretation of some concepts in the scope of the Directive. An interesting example is given to us by a case submitted to the Court of Justice of the European Union.

**CJEU, 16 July 2015, C-369/14, Sommer Antriebs-und Funktechnik GmbH v. Rademacher Geräte-Electronick GmbH**

Is a garage-door operating device in the scope of the Directive EEE?

On a request for a preliminary ruling in proceedings between Sommer and Rademacher based on the German law against unfair competition.

Sommer and Rademacher produce and manufacture garage-door operating devices. So they are in competition.

Sommer is registered with the competent authority as a producer of electrical and electronic equipment (EEE). Rademacher is not registered.

For Sommer, it means that Rademacher is not allowed to place its products on the market. Rademacher disputes this view because, according the company, garage-door operating devices are not in the scope of the Directive.

What is the solution for the Court of Justice of the European Union?
1. Garage-door operating devices are dependent on electric currents of a voltage rating of approximately 220 to 240 volts. So these devices are likely to constitute electrical and electronic equipment (EEE) within the meaning of the Directive.

2. The second point is to know in which category of Annex I or Annex II garage-door operating devices fall. This kind of equipment is not in the list but the list of Annex II is purely indicative. For the Court of Justice, this kind of device can be “electrical and electronic tools (with the exception of large-scale stationary industrial tools)” within the meaning of Annex I, point 6.

“Tools” is not defined by the Directive. Its usual meaning is “any article used to carry out particular work or a particular task”. For the Court, that is the case of garage-door operating device which is an electrical tool. And clearly, those devices are not large-scale stationary industrial tools.

The last argument presented by Rademacher: its devices do not fulfil an independent function but form part of the components permanently installed in the home automation system of the building concerned. For Rademacher, pursuant to Article 2, § 3, (b), “the Directive shall not apply to “equipment which is specifically designed and installed as part of an another type of equipment that is excluded from or does not fall within the scope of the Directive which can fulfil its function only if it is a part of that equipment”.

The CJEU does not accept that interpretation because the objectives of the Directive need to include these kinds of devices. And the Court makes a comparison with lighting equipment and photovoltaic panels which are included in buildings without losing their qualification as electrical and electronic equipment within the meaning of the Directive.

Findings: garage-door operating devices are in the scope of waste electrical and electronic equipment Directive and Rademacher had to be registered as a producer of electrical and electronic equipment (EEE).
Directive 94/62/EC on packaging and packaging waste (amended)
Preamble
As everybody knows, packaging has many roles:
- to protect the product particularly during its transport
- to preserve the product
- to contain the product notably liquids
- to provide information to the consumer, information print on packaging

The components of packaging, hence of packaging waste, are various: metal, wood, plastic, glass and of course paper and cardboard.
The quantity of packaging waste is huge but relatively stable.
The components of packaging, hence of packaging waste, are various: metal, wood, plastic, glass and of course paper and cardboard.
The quantity of packaging waste is huge but relatively stable.
The quantity of packaging waste is huge but relatively stable.
### Definitions (Article 3)

- **Packaging** shall mean all products made of any materials of any nature to be used for the containment, protection, handling, delivery and presentation of goods, from raw materials to processed goods, from the producer to the user or the consumer. ‘Non-returnable’ items used for the same purposes shall also be considered to constitute packaging.
- **Packaging** consists only of:
  - sales packaging or primary packaging,
  - grouped packaging or secondary packaging
  - transport packaging or tertiary packaging
- The next § of Article 3 (1), gives us criteria to determine if an item is packaging and Annex I, amended by Directive 2013/2/EU, gives some positive or negative examples.

- **Packaging waste**: packaging or packaging material which is waste within the
meaning of Directive 2008/98/EC.
Scope

- All packaging placed on the market in the EU and all packaging waste, whether it is used or released at industrial, commercial, office, shop, service, household or any other level, regardless of the material used.
Interpretation

Even if the implementation of the Directive by Member States seems in compliance with the European legislation, we could/can face some problems of interpretation to know if a specific item is or not packaging. An interesting example is given to us by a case submitted to the Court of Justice of the European Union.

**CJEU, 29th April 2004, C-341/01, Plato Plastik GmbH v. Caropack Handelsgeselleschaft mbH**

The case concerns two Austrian companies. Plato Plastik manufactures and distributes plastic bags. Caropack markets them.

In the Austrian law, any producer, importer, packager and distributor has an obligation:

- to join a collection or recovery system
- or to take other measures for the return and recovery packaging.

Plato Plastik manufactures and distributes to retailers or intermediaries plastic carrier bags with handles and plastic tie bags.

Caropack markets **carrier bags** supplied by Plato Plastik:

- some of the bags are offered for sale in food supermarkets near the checkouts on request of consumers against separate payment
- some of these bags have the logo “the green point” which indicates that the producer takes part in the system for the collection and recovery of...
Caropack markets also tie bags supplied by Plato Plastik. These bags are available to customers, free of charge, at the fruit and vegetable sections of food supermarkets to put their purchases and to weigh the goods. Pursuant to the Austrian legislation, Plato Plastik is a producer of plastic bags, deemed to be a packaging producer with the obligation:
- either to take back the packaging waste itself, free of charge
- or to join a collection and recovery system and to pay a fee - actually, only one company manages the system in Austria: Altstoffrecycling Austria (ARA).

Instead of joining the ARA system, Plato Plastik concluded an agreement transferring to Caropack the obligation. So Caropack had to give to Plato Plastik in each case written confirmation that Caropack had joined the ARA system. Caropack refused to give such confirmation on the ground that carrier bags are not packaging within the meaning of the Austrian legislation and the Directive. For the company, these bags are an item like any other product. Hence, the national Court in charge of the case referred questions to the Court of Justice of the European Union for a preliminary ruling.

The main question is: Are plastic carrier bags packaging within the meaning of the Directive PPW?

In its reply, the Court recalls the definition of packaging. For the Court, the fact that the customer himself buys the carrier bag is not relevant. Carrier bags handed to consumers in shop are intended:
- to contain and protect the purchased goods
- and to facilitate their transport from the shop to the spot of consumption.

Carrier bags are conceived in these goals. Consequently, carrier bags are packaging within the meaning of the Directive. The Court added that the exclusion of plastic carrier bags from the definition of packaging would run counter to a broad interpretation of that term and the objectives of the Directive.
Now let’s continue with the common points between the three directives. As you know, there is a hierarchy in the waste management policy according to Article 4 of the general Directive 2008/98/EC on waste. Pursuant to Article 4, at the top of the hierarchy, there is the prevention against the production of waste. This first objective is successively followed by:

- the preparing for reuse,
- the reuse, the recycling and the other recovery, notably the energy recovery,
- and, at the bottom, the disposal.

We find exactly the same objectives and the same hierarchy in the three Directives.
Prevention

Different measures must be taken in order to reduce the waste generation. For instance, a product eco-design policy addressing both:
- the generation of waste
- and the presence of hazardous substances in waste.

In this context, we can mention some general EU law, for instance:
- Directive 2009/125/EC establishing a framework for the setting of ecodesign requirements for energy-related products
- Regulation (EC) N° 1005/2009 on substances that deplete the ozone layer (ODS)
- …
But we also have some **specific measures** in the field of the three directives. That is obviously the case with the Directive 2011/65/EU on the restriction of the use of certain hazardous substances in electrical and electronic equipment (RHOS).

Article 4 of the ELVs Directive pursues prevention objectives. This article imposes, *i.e.*., that the new vehicles put on the market after 1st July 2003 do not contain lead, cadmium, mercury or hexavalent chromium (used in textile dyes but also as anticorrosion product). There are some exceptions under conditions, listed in Annex II which is regularly amended by the Commission decisions on the basis of technical and scientific progress.

We have exactly the same approach in the waste electrical and electronic equipment (WEEE) Directive. Annex II lists the restricted substances referred to in Article 4.1 and the maximum concentration values tolerated by weight in homogeneous materials. We again find, among other substances, lead, cadmium, mercury and hexavalent chromium. And Annex III lists certain exceptions.
If the Commission has the power to amend the Annexes on the basis of technical and scientific progress, its power is controlled by the other European Institutions and the Member States (see CJEU, 1st April 2008, C-14/06 and C-295/06, European Parliament and Denmark v. European Commission). The Commission had illegally accepted too large exceptions.

The Directive on packaging and packaging waste imposes the reduction of the harmfulness for the environment of materials and substances contained in packaging and packaging waste (Article 3 (4), (9), (10) and (11) + Annex II).

Among preventive actions, we have to mention the efforts to reduce the quantity of waste and its weight but also to diminish the consumption of items which will become waste.

It is a clear objective of the PPW Directive in general and the Directive 2015/720/EU as regards reducing the consumption of lightweight plastic carrier bags in particular.
We can also mention the tricky fight against the **planned obsolescence** of electrical and electronic equipment.

Planned obsolescence or built-in obsolescence in industrial design and economics is a policy of planning or designing a product with an artificially limited useful life so it will become obsolete (unfashionable or no longer functional) after a certain period of time.

A French Act (n° 2015-992) adopted on the 17th August 2015 amends the French Code of Consumption. The new article L.213-4-1 makes the following provision: “**Planned obsolescence is defined as the set of techniques by which a producer on the market aims to reduce deliberately the life of a product to increase the replacement rate**”. The planned obsolescence is punished for a punishment of two years of detention and for 300.000 € of fine. And even 5 % of the average annual sales. The difficulty will be to prove the planned obsolescence.
The second objective of waste management policy is the preparing for reuse the products or all or a part of their components.

**ELVs Directive**

Article 4 (1) (b) of the ELVs Directive encourages the design and production of new vehicles which take into full account and facilitate dismantling, reuse and recovery, in particular the recycling.

And Article 4 (1) (c) encourages vehicle manufacturers to integrate quantity of recycled material in vehicles.

In this context, we have to mention Directive 2005/64/EC on the type-approval of motor vehicles with regard to their reusability, recyclability and recoverability. The goal of this Directive is to guarantee the reuse, the recycling and the other forms of recovery of components and materials when the new car will become an ELV.

Article 8 of the ELVs Directive also imposes:

- Coding standards to facilitate the identification of components and materials
- Dismantling information from producers for the treatment facilities
- Appropriate information by manufacturers of components used in vehicles.
**WEEE Directive**

Article 4 encourages Member States to design and produce electrical and electronic equipment, notably in view of facilitating reuse, dismantling and recovery.

**PPW Directive**

See Articles 9 and 10 which encourage standardization and Annex II about the essential requirements on the composition and the reusable and recoverable, including recyclable, nature of packaging.

And Article 8, about the marking and identification system to facilitate collection, reuse and recovery (including recycling) that packaging indicate, for the purposes of its identification and classification by industry concerned, the nature of packaging material(s) used. So an appropriate marking is appended on the packaging itself or on the label.
1. Collection

The first step, before reuse, recycling or other forms of recovery, is to collect end-of-life vehicles, waste electrical and electronic equipment and packaging waste. Pursuant to the ELV Directive (Article 5(1)), economic operators have an obligation of setting up system for the collection of ELVs and, if it is technically feasible, waste parts removed when cars are repaired.

It implies that there is an adequate availability within the territory. The delivery of ELVs to an authorized facility must be without cost for the last holder or owner even if the ELVs has no or a negative market value. Except if the ELV doesn’t contain the essential components (in particular the engine or the coachwork) or contains waste which has been added in the ELV.

Concretely, the usual system of trade-in is the following. In a majority of cases, when you buy a new car, the sales company purchases your old car. And the price of your old car is not only related to its objective value; it is also a commercial/incentive gesture from the manufacturer.

You sign a contract with the car company which becomes the new owner of your old car. There are some possibilities:
- the old car becomes a second-hand car;
- it is reused
- the old car is sold for some euro to a demolisher (components and materials have a certain value) and a certificate of destruction is granted.

**Case-law : CJEU 15th April 2010, C-64/09, Commission v. France**
The European Commission puts forward seven pleas in law about the incompatibility of the French legislation with some articles of the ELV Directive concerning, without being exhaustive:

- The definition of dismantling information,
- The date fixing the prohibition of hazardous substances
- The French system of cancellation of the registration upon presentation of a certificate of destruction
- Some interpretation or the lack of certain precisions
- The system of acceptance of ELV, which is, for us, the main point.

Pursuant to the previous French legislation, it was possible for a demolisher to refuse to accept an ELV for destruction if the manufacturer doesn’t bear the cost of the destruction.

If a demolisher had accepted an ELV for destruction without an agreement from the producer of the car, he had to take the cost of the destruction in charge.

For the French Republic, its legislation was in compliance with the ELVs Directive:

- Because the objective of the ELV Directive doesn’t impose free-of-charge acceptances; it is just an incentive, only one of a number possible means by which that objective may be attained
- Payment by the owner of an ELV is a punitive measure to penalize the abandonment of ELV.

It is not the Court of Justice’s findings.
For the Court, article 5(4) is clear: the delivery of an ELV to an authorized treatment facility must be free of charge and the related costs must be borne by the manufacturer.

But, the Court recognizes that it is possible for a demolisher to refuse to accept an ELV. It supposes, that on the territory there are enough treatment facilities that could accept the delivery.

If a demolisher has accepted an ELV to destroy it, the producer concerned has to bear the cost of destruction.

What about the rate of collection? The rate of collection of ELVs is normally 100%.
The WEEE Directive also imposes the collection of WEEE. It is a separate collection, out of unsorted municipal waste. Pursuant to Article 6, disposal of separated WEEE is prohibited before specific treatment described in Article 8

For WEEE from private households, the Directive imposes:
- Systems allowing final holders and distributors to return them at least free of charge
- Distributors have to accept when supplying a new product that the WEEE of equivalent type can be returned at least free of charge on a one-to-one basis
- Distributors at retail shops (min. 400 m²) have to accept free of charge very small WEEE (max. 25 cm)

The Directive imposes the transport of WEEE in optimal conditions for reuse, recycling and confinement of hazardous substances (Article 6).
Re-use, recycling and recovery

1. Collection

- **WEEE Directive: Collection rate** *(Article 7)*
  - From 2016: minimum 45% of the average weight of EEE placed on the market in the three years in the Member State
  - From 2019: minimum
    - 65% of the average weight of EEE placed on the market in the three years in the Member State
    - Or 85% of WEEE generated on the territory of the Member State
### Collection rate (WEEE Article 7)

<table>
<thead>
<tr>
<th>Country</th>
<th>Total waste</th>
<th>Large household appliances</th>
<th>Small household appliances</th>
<th>IT and telecommunications equipment</th>
<th>Consumer equipment (3)</th>
<th>Other (1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belgium</td>
<td>325,835</td>
<td>417,050</td>
<td>264,836</td>
<td>15,512</td>
<td>2,403</td>
<td>56,890</td>
</tr>
<tr>
<td>Germany</td>
<td>142,320</td>
<td>162,345</td>
<td>150,923</td>
<td>10,392</td>
<td>3,795</td>
<td>4,661</td>
</tr>
<tr>
<td>Ireland</td>
<td>121,056</td>
<td>132,575</td>
<td>116,583</td>
<td>4,972</td>
<td>1,876</td>
<td>1,029</td>
</tr>
<tr>
<td>Italy</td>
<td>219,410</td>
<td>239,520</td>
<td>225,512</td>
<td>10,008</td>
<td>3,591</td>
<td>1,419</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>55,750</td>
<td>61,976</td>
<td>51,932</td>
<td>9,044</td>
<td>1,619</td>
<td>1,318</td>
</tr>
<tr>
<td>Netherlands</td>
<td>175,500</td>
<td>196,650</td>
<td>178,700</td>
<td>7,950</td>
<td>1,970</td>
<td>1,250</td>
</tr>
<tr>
<td>Norway</td>
<td>35,950</td>
<td>40,130</td>
<td>32,650</td>
<td>7,480</td>
<td>1,570</td>
<td>1,040</td>
</tr>
<tr>
<td>UK</td>
<td>259,400</td>
<td>280,600</td>
<td>265,800</td>
<td>13,800</td>
<td>3,400</td>
<td>2,600</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>539,900</td>
<td>600,000</td>
<td>545,400</td>
<td>34,600</td>
<td>8,400</td>
<td>6,200</td>
</tr>
</tbody>
</table>

(1) EU-28 estimate excluding data
(2) Total waste: definition differs, see metadata
(3) 2012 data
Collection rate (WEEE Article 7)

Note: ranked on Households 2013.

* 2013: estimate.

*(2013: 2012 data instead.)
Collection rate (WEEE Article 7)

(*) Products put on the market in 2010 and 2011: definition differs, see metadata.
(1) Waste collection definition differs, see metadata.
(2) 2012 data.
(3) 2013 estimate.
The **PPW Directive** imposes a general obligation of collection (Article 7). Member States have to take the necessary measures to ensure the return and/or the collection of used packaging and packaging waste from the consumer or other final user and from the waste stream in order to channel it to the most appropriate waste management alternatives (reuse or recycling and other forms of recovery).

That collection implies the participation of the economic operators of the sectors concerned but also the competent public authorities. Each Member State has its specific system, generally with one or several companies in charge of the collection.

These rules concern also the imported products. But Member States are not allowed to create discriminatory conditions and barriers to trade or distortions of competition (obstacles to free movement within the EU) and they have to respect the principle of proportionality.

**CJEU, 20th September 1988, C-302/86, Commission v. Denmark** (Danish bottles case)

The PPW Directive doesn’t impose a collection rate but imposes a rate of reuse or recovery.
Storage and treatment facilities

- General requirements (Directive 2008/98/EC)
- Specific requirements by the three Directives

Storage and treatment facilities

As we know, the general Directive 2008/98/EC on waste imposes requirements for the sites for storage and/or treatment of waste. There are specific requirements in the three Directives.
Sites
For ELVs, Article 6 and Annex I (amendable by the Commission for technical and scientific progress reasons) determine some specific conditions for storage (and treatment):

- Impermeable surfaces
- Equipment for the treatment of water
- Appropriate storage for dismantled spare parts
- Appropriate containers/tanks for storage of batteries, fuel, motor oil, ... and used tyres

We have the same kind of requirements in the WEEE Directive (Annex VIII).
Treatment

ELVs must be treated in accordance with the general Directive 2008/98/EC and specific requirements. Annex I, points 3 and 4, describes obligations for:
- Treatment operations for depollution of ELV
- Treatment operations to promote recycling

Article 8 and Annex VIII of WEEE Directive specify the conditions of a proper treatment (removal of substances, mixtures and components listed; specific treatment of certain components listed).
Permit or registration
In accordance to Article 23 of Directive 2008/98/EC on waste which submits any establishment or undertaking intending to carry out waste treatment to obtain a permit from the competent authority, the specific Directives impose such an obligation.

Article 6(2) of the ELVs Directive says that treatment facilities must be granted a permit or registered with all conditions necessary for adequate treatment. We have the same rule in Article 9 of the WEEE Directive.
For the PPW Directive, considering the large diversity of types of treatment facilities, it is the general rule of the Directive 2008/98/EC which applies.
Reuse, recycling and other forms of recovery

According to the hierarchy imposed by the Directive 2008/98/EC, the preference is given to reuse, after that to recycling and finally to the other forms of recovery.

The three directives impose rates of reuse, recycling and recovery.
Re-use, recycling and other forms of recovery

**ELVs Directive (Article 7)**, the rate imposed since 1st January 2015

- Reusable and/or recyclable to a minimum of 85% by an average weight per vehicle and year

- Reusable and/or recoverable to a minimum of 95% by an average weight per vehicle and year
Re-use and recovery (ELVs)

[Bar chart showing the re-use and recovery rates for different countries in the EU-28, with notes and sources provided below the chart.]

Note: ranked on 'Reuse and recovery'.
(1) Eurostat estimates.
(2) 2012 data.
(3) Estimates.
Re-use, recycling and other forms of recovery

**WEEE Directive (Article 11 and Annex V):** the recovery targets

- To 14 August 2018 (depending on the category concerned in Annex I)
  - Between 75% and 85% recovered
  - Between 55% and 80% recycled
- From 15 August 2018 (depending on the category concerned in Annex III)
  - Between 75% and 85% recovered
  - Between 55% and 80% recycled
Re-use, recycling and other forms of recovery

**PPW Directive** (Article 6), the recovery and recycling targets from 31st December 2008:

- 60% as a minimum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery
- between 55% as a minimum and 80% as a maximum by weight of packaging waste will be recycled
- as a minimum recycling for materials contained in packaging waste:
  - 60% by weight for glass or for paper and cardboard;
  - 50% by weight for metals;
  - 22.5% by weight for plastics, counting exclusively material that is recycled back into plastics;
  - 15% by weight for wood.
Recycling

![Graph showing recycling percentages for different countries, with 2008 target indicated.](Image)
Recovery and recycling (share of treatment)

Note: ranked on Recycling.
Reporting and information

Member States have some obligations of reporting and information. They have to regularly send a report to the Commission on the implementation of the Directives and the results reached concerning collection, dismantling, reusing, recycling and recovery (ELVs Directive Article 9; WEEE Directive Article 16; PPW Directive Articles 17 and 20a).

They also have an obligation to give information to users. For instance, WEEE Directive (Articles 14 to 16) imposes to give information on:

- Separate collection
- Consumer’s role in recycling
- Effects of hazardous substances
- Treatment facilities.

And also to put marking “no bin” symbol on EEE
Financing

As seen hereinbefore, producers of vehicles meet all or a significant part of the costs of dismantling ELVs (ELVs Directive Article 5(4)).
For WEEE, pursuant to Articles 12 and 13, costs of collection, treatment, recovery and environmentally sound disposal of WEEE are the follows.
MISCELLANEOUS - Financing

- PPW Directive: all people involved must accept their responsibility in accordance with the polluter-pays principle (Article 15)
  - Member States adopt their national system:
    - Taxation systems
    - Subsidies
    - More generally, eco-agencies financed by manufacturers, producers, converters, fillers and users, importers, traders and distributors and of course consumers (e.g. tie bags)
WEEE Directive (Article 10)

There is a possibility to treat WEEE outside the Member State or the EU in compliance with:
- Regulation (EC) No 1013/2006 (waste shipments)
- Commission Regulation (EC) No 1418/2007 (export for recovery of certain waste)

Treated WEEE is taken into account for targets if treatments are in the equivalent requirements of the WEEE Directive.
WEEE Directive (Article 23)
Shipment of used EEE is authorized only if it is proved that used EEE are not WEEE. Annex VI imposes some conditions and obligations to give:

- A copy of invoice and contract stating that:
  1. The equipment is intended for direct reuse
  2. The equipment is fully functional
- The evidence of evaluation or functionality testing
- A declaration of non waste

That is a big problem because, there are high exports to Asia and Africa as products which in fact are waste.
How to handle Court proceedings invoking non-compliance with the three EU directives?

Before the Court of Justice of the European Union
- By the European Commission against a MS for non-compliance with the directives
  o Non-respect of the time limit for the implementation
  o Non-fulfillment of the implementation
- By a domestic court: question for a preliminary ruling (interpretation)

Before a domestic court
- Request for a preliminary ruling
- Direct effect