



COMMISSION OF THE EUROPEAN COMMUNITIES

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**REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN  
PARLIAMENT**

**ON IMPLEMENTATION OF THE COMMUNITY WASTE LEGISLATION**

**Directive 75/442/EEC on waste,  
Directive 91/689/EEC on hazardous waste,  
Directive 75/439/EEC on waste oils,  
Directive 86/278/EEC on sewage sludge,  
Directive 94/62/EC on packaging and packaging waste and  
Directive 1999/31/EC on the landfill of waste**

**FOR THE PERIOD 2001-2003**

{SEC(2006)972}

## 1. INTRODUCTION

The aim of this report is to inform the other Community institutions, the Member States and the public about implementation of the EU waste legislation (Directives 75/442/EEC, 91/689/EEC, 75/439/EEC, 86/278/EEC, 94/62/EC and 1999/31/EC) over the period 2001-2003.

These six Directives are quite different in content and structure. Directives 75/442/EEC and 91/689/EEC lay down general basic provisions for all waste and hazardous waste; Directive 1999/31/EC deals with one specific treatment method – landfilling; and Directives 75/439/EEC, 86/278/EEC and 94/62/EC set out requirements for specific waste streams – waste oils, sewage sludge and packaging waste – each with different characteristics and management issues.

The report was drawn up in line with Article 5 of Directive 91/692/EEC<sup>1</sup> standardising and rationalising reports on the implementation of certain Directives relating to the environment. It is based on information supplied by the Member States and is accompanied by a Commission staff working document which gives fuller details of the information and data received from them.

Overall, further progress has been made but implementation of the waste legislation still cannot be considered satisfactory, as demonstrated by the large number of infringement procedures concerning waste. Significant efforts therefore need to be made towards full implementation, especially in the form of promoting waste prevention and recycling. These issues in particular are now addressed by the recently adopted EU Thematic Strategy on waste prevention and recycling<sup>2</sup>, which focuses on the environmental impact of waste and on life-cycle thinking in waste management.

## 2. DIRECTIVE 75/442/EEC ON WASTE, AS AMENDED BY DIRECTIVE 91/156/EEC

Directive 75/442/EEC<sup>3</sup> establishes the basic legal framework on waste management at Community level. It mainly addresses in particular: the definition of waste; the hierarchy of waste management principles; the principle of proximity and self-sufficiency for waste disposal; waste management planning; permits for establishments and undertakings carrying out disposal and recovery operations; inspections by competent authorities; record-keeping requirements; the polluter-pays principle; and reporting requirements.

All Member States have confirmed that they have provided the Commission with details of the **laws and regulations** in force to incorporate the Directive into their national law.

Correct implementation of the **definition of waste** is of key importance to ensure that Member States properly fulfil their waste management obligations under this Directive and other waste legislation. The European List of Wastes was established in consolidated form by

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<sup>1</sup> OJ L 377, 23.12.1991, p. 48.

<sup>2</sup> COM(2005) 666 final, 21.12.2005.

<sup>3</sup> OJ L 194, 25.7.1975, p. 47. Directive amended by Directive 91/156/EEC (OJ L 78, 26.3.1991, p. 32).

Commission Decision 2000/532/EC, as amended in 2001<sup>4</sup>. During the reporting period a number of infringement procedures and Court cases considered the implementation of the definition of waste (in Italy, the UK and Austria, and other relevant cases).

To date all Member States have drawn up and notified **waste management plans** based on the Directive. Several Member States indicated that they had collaborated with and consulted other Member States when drawing up their plans. Some Member States reported cases where they had to take measures to prevent movements of waste which were not in accordance with their waste management plans.

Measures have been taken on waste **prevention** but there is insufficient information on their impact.

Most Member States reported that they had attained a high degree of **self-sufficiency** in waste disposal, on around 99%, which in essence echoes the position indicated in the previous implementation report covering the period 1998-2000.

According to the **data on waste generation and treatment** in EU-15, domestic waste generation has grown to 580 kg per person per year. As for treatment, recycling has further increased to an average of 32%, although recycling rates vary widely between the Member States (from 8% to 56%); landfilling has declined slightly but remains the dominant method (44% on average). Incineration, primarily with energy recovery, is a major treatment option for certain Member States. Generation of hazardous waste has also increased to 120 kg per person per year; landfilling was again the dominant treatment method (26% on average), while the mean recycling rate was 21%.

Several Member States informed the Commission that they had applied the **exemptions from the permit requirements** allowed by the Directive.

Most Member States have met their **record-keeping** obligations under Article 14. Some have developed producer-related obligations in addition to those for producers of hazardous waste.

### 3. DIRECTIVE 91/689/EEC ON HAZARDOUS WASTE

Directive 91/689/EEC<sup>5</sup> extends Directive 75/442/EEC by establishing stricter management and monitoring requirements for hazardous waste. It mainly addresses the definition of hazardous waste; the ban on mixing hazardous waste with other hazardous or non-hazardous waste; specific permit requirements for establishments and undertakings dealing with hazardous waste; periodic inspections and record-keeping by producers of hazardous waste; appropriate packaging and labelling of hazardous waste during collection, transport and temporary storage; and management plans for hazardous waste.

All Member States confirmed that they had provided the Commission with details of the **laws and regulations** in force to incorporate Directive 91/689/EEC on hazardous waste and the waste list (Decision 2000/532/EC, as amended) into their national legislation.

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<sup>4</sup> Commission Decision 2001/118/EC, OJ L 47, 16.2.2001, p. 1.

<sup>5</sup> OJ L 377, 31.12.1991, p. 20.

Austria along with the Walloon region of Belgium, the Czech Republic, Denmark, Finland, Germany, Sweden and the UK notified the Commission, in accordance with Article 1(4), of **more wastes considered hazardous**.

Austria, Belgium (the Brussels and Flemish regions), the Czech Republic, Finland, Germany, Ireland, the Netherlands, Portugal, Slovenia, Spain and Sweden have adopted measures to **distinguish domestic from non-domestic hazardous waste** in line with Article 1(5). Essentially these measures aim at separate collection of certain hazardous components contained in household waste.

All Member States reported that the requirements of Article 2(1) on **recording and identifying** discharges of hazardous waste had been met.

The Member States confirmed that the necessary measures had been taken to **prevent mixing** of hazardous waste (Article 2(2)–(4)). The level of detail in the replies varies, however, with some Member States only giving the reference to the national legislation and others quoting or explaining the rule.

Italy has adopted exemptions, as provided for in Article 3(2) on general national rules replacing **permit requirements** for recovery operations. In 2005 the UK (England, Scotland and Wales) notified amendments to existing exemptions adopted before 27 June 1995.

All Member States reported that appropriate **periodic inspections** are carried out by the competent authorities, as required by Article 4(1). The frequency varies in most countries and depends, amongst other criteria, on the type and quantity of waste and the type of installation. Inspection plans have been drawn up in the Czech Republic, Hungary, the Netherlands, Slovenia and Sweden.

Most countries set out in detail the provisions implementing the **record-keeping** requirements laid down in Article 4(2). The United Kingdom has not yet fully implemented the requirements for hazardous waste producers. The Brussels and Flemish Regions of Belgium, along with Germany and Ireland, made no mention of any record-keeping requirements for waste transporters. Furthermore, in the Flemish Region of Belgium, Denmark and Portugal (extracts of) the recorded information must be sent regularly to the competent authorities.

The Member States indicated the national measures implementing Article 5(1) to ensure that hazardous waste is **properly packaged and labelled**, and a few gave details of the substance of those provisions.

In most Member States hazardous waste comes under the general **waste management plans**. Slovakia and Spain reported that their hazardous waste management plans were being drawn up or revised respectively.

#### 4. DIRECTIVE 75/439/EEC ON THE DISPOSAL OF WASTE OILS

Directive 75/439/EEC<sup>6</sup> is designed to establish a harmonised system for the collection, treatment, storage and disposal of waste oils, such as lubricant oils for vehicles and engines, and to protect the environment against the harmful effects of such operations. It mainly

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<sup>6</sup> OJ L 194, 25.7.1975, p. 31, as amended by Directive 87/101/EEC (OJ L 42, 12.2.1987, p. 43).

addresses safe and controlled management of waste oils; the priority to be given to regeneration; public information campaigns; permits for undertakings to handle waste oils; emission limit values for combustion; and indemnities for undertakings collecting or disposing of waste oils.

All Member States reporting provided the Commission with the **laws and regulations** in force concerning the disposal of waste oils. Many stated that they had adopted more stringent measures for environmental protection reasons. The Czech Republic, Ireland, the Netherlands, Portugal and Slovenia indicated that there were no regeneration plants on their territory.

According to the data provided on **waste oils management**, in 2003 almost 2 million tonnes of waste oils were collected in EU-15, giving a collection rate of 81%. Out of this amount, 44% was regenerated (highest regeneration rates recorded in Luxembourg, the Netherlands, Italy and Hungary) and 46% was combusted. Over the period 1995-2003 the total quantity of oil marketed/sold decreased by 11% (from 5.0 million tonnes to 4.4 million tonnes), while the volume of waste oils generated and collected remained almost stable; the regeneration and combustion rates for waste oils showed no significant variation either.

Several Member States reported no **constraints** preventing them from giving priority to regeneration of waste oils, in line with Article 3(1). Other Member States indicated such constraints, however, mainly arising from economic aspects such as the low volume of waste oils produced, the possibility of low-cost combustion in other Member States and saturation of the base oils market.

The majority of the countries reporting had carried out **public information** and awareness campaigns, as required by Article 5(1).

About half of the countries reporting indicated that waste oils are **allocated** to any of the types of processing (regeneration and combustion), as provided for in Article 5(3).

The Member States reported that they had in place an **authorisation system** for undertakings which handle waste oils and for undertakings collecting waste oils (Article 5(4)). **Inspections** are carried out to check compliance with the conditions laid down in the permits.

The **emission limit values reported for combustion** are all in the range of or below the limit values set in the Directive. Several countries have also set limit values for combustion plants with a thermal input of less than 3 MW.

Certain Member States provide **indemnities** for the collection and/or disposal of waste oils.

## 5. DIRECTIVE 86/278/EEC ON SEWAGE SLUDGE

Directive 86/278/EEC<sup>7</sup> regulates use of sewage sludge in agriculture to prevent harmful effects on soil, vegetation, animals and man. It also aims at encouraging correct reuse of sludge in agriculture. It mainly addresses limit values for heavy metals in soil and sludge; treatment of sludge; conditions on the use of sludge in agriculture; sampling and analysis of soil and sludge; and record-keeping for sludge production and use of sludge in agriculture.

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<sup>7</sup> OJ L 181, 4.7.1986, p. 6.

A number of amendments to **national legislation** have been notified to the Commission since the last reporting period, in particular by Belgium, the Czech Republic, Ireland and Austria (around 20 legislative acts of the *Länder*).

Eight of the EU-15 Member States reported one or more **limit values for heavy metals in soil** lower than those set by the Directive. This also applies to all new Member States for which data are available.

The Member States use a variety of biological, chemical, thermal or mechanical **methods for treating sludge**, or combinations of them. These include aerobic and anaerobic stabilisation, dewatering and drying, composting, conditioning with lime or other chemicals, soilification and storage. The **frequency of analysis** of sludge depends on the size of the waste water treatment plant.

Most EU-15 Member States reported an increase in **sludge generation** over the period 2001-2003, the others equal or slightly lower production. The new Member States reported increases.

Concerning the **use of sludge in agriculture**, seven Member States (Belgium-Wallonia, Denmark, Spain, France, Ireland, the UK and Hungary) reported that they apply 50% or more of the sludge they generate on land. At the other end, Finland, Sweden and Slovenia apply less than 17% of the sludge they generate on land, while Greece, the Netherlands, Belgium (Flanders), Slovakia and the Czech Republic spread very little, or no, sludge on agricultural land.

There are appreciable variations between Member States, some of which showed a downward trend that could be explained by increased public concern about the safety of using sludge in agriculture. Also, some Member States or regions within Member States prohibit by law or severely restrict sludge-spreading in agriculture, based on stringent limit values for heavy metals and, in some cases, organic compounds.

As regards the **quality of sludge**, the average concentrations of heavy metals in sludge used in agriculture in the EU are well below the threshold limits set in Annex IB to the Directive. This applies to both the EU-15 and the new Member States for which data are available. Although disparities still exist between the individual Member States, the general trend towards a slow but steady decrease in concentrations is confirmed.

On the whole, Directive 86/278/EEC is a long-standing instrument which has been quite effective in preventing any spread of pollution due to use of sewage sludge. Use of sewage sludge as fertiliser on agricultural soils can therefore be considered as one of the best environmental options, if and only if it poses no threat to the environment or to animal and human health.

## 6. DIRECTIVE 94/62/EC ON PACKAGING AND PACKAGING WASTE

Directive 94/62/EC<sup>8</sup> has two main objectives: to protect the environment and to ensure the functioning of the internal market. To this end, the Directive lays down measures aimed, as

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<sup>8</sup> OJ L 365, 31.12.1994, p. 10, as amended by Directive 2004/12/EC, OJ L 47, 18.2.2004, p. 26 and by Directive 2005/20/EC, OJ L 70, 16.3.2005, p. 17.

the first priority, at preventing the production of packaging waste and, as additional fundamental principles, at reusing packaging, at recycling and at other forms of recovering packaging waste and hence, reducing final disposal of such waste.

All Member States have provided the Commission with details of their **laws, regulations and administrative provisions** introduced to comply with the Packaging Directive. Austria, Belgium and the Netherlands have informed the Commission of programmes setting **higher targets** than Article 6(1)(a) and (c). The Commission confirmed all these programmes by adopting decisions pursuant to Article 6(10). Currently, **infringement proceedings** are in progress against two Member States (Germany and the Netherlands).

All Member States have introduced measures to **prevent the production of packaging waste**. These include various types of plans, agreements, information campaigns, subsidies, targets and economic instruments (taxes, producer responsibility fees, etc.). Despite these measures, the quantity of packaging waste generated has increased from 65.5 million tonnes in 2000 to 66.6 million tonnes in 2002. This growth is, however, slower than GDP growth over that period.

Most Member States have introduced measures to encourage **reuse** of packaging. These include various types of plans, agreements, information campaigns, targets and economic instruments (taxes, deposits on one-way packaging, differentiated producer responsibility fees, etc.).

By 2002 all Member States had achieved their **targets** under Article 6(1)(a) and (c). Greece, Ireland and Portugal were allowed to postpone achievement of these targets until 2005 and have achieved their interim target of 25% recovery and incineration at waste incineration plants with energy recovery. In 2002 the EU-15 average rate of packaging recovery and incineration at waste incineration plants with energy recovery was 62%, and the average recycling rate was 54%. The following average recycling rates were achieved for packaging materials: glass 58%, paper and board 68%, metals 57% and plastics 24%.

All Member States have set up **return, collection and recovery systems** for packaging waste. Most use producer responsibility systems, some of which cover the entire cost of collecting, sorting and recycling packaging waste. In other systems, municipalities pay all or part of the cost of collecting, sorting and recycling household packaging waste. Similarly, producer responsibility systems or industrial/commercial waste holders pay for industrial/commercial packaging waste. The United Kingdom uses a tradable certificate scheme ("packaging recovery notes" or PRNs) as part of its producer responsibility regulations. Denmark and the Netherlands do not use producer responsibility systems but base their return schemes on action by municipalities and voluntary agreements with industry. At the end of 2003 Denmark, Sweden and Germany had obligatory deposits on certain types of one-way beverage packaging.

Most Member States have measures to **encourage the use of recycled material**. These include various types of plans, agreements, information campaigns and economic instruments (taxes and subsidies, in particular for research and development).

All Member States have widely publicised the measures under the Directive. There is a wide range of **information activities** run by all levels of government, business organisations and recycling schemes. These are targeted on a wide range of players, such as obligated companies, consumers and schools.

During the reference period covered by this report, only EN 13428:2000 and EN 13432:2000 were considered harmonised **standards**<sup>9</sup>. They were transposed into national standards in most Member States. The Commission is unaware of any other national standards connected with compliance with the essential requirements in Annex II to the Packaging Directive.

All Member States have included a chapter on the management of packaging and packaging waste in their **waste management plans**<sup>10</sup>.

Among the **economic instruments**, taxes or differentiated taxation are used in Belgium, Denmark, Finland, France, Hungary and Ireland. The United Kingdom uses a tradable certificate scheme as part of its producer responsibility obligations. Subsidies are applied in a number of Member States.

The **results** show that Directive 94/62/EC has succeeded in pushing the rates for recycling and for recovery and incineration with energy recovery at waste incineration plants above the targets set for 2001. In addition, although the total tonnages of packaging waste are still increasing in most Member States, the growth in packaging waste was decoupled from economic growth for the EU as a whole and for many individual Member States in the period 2000 to 2002. An in-depth analysis of the costs and benefits of the Packaging and Packaging Waste Directive will be given in a separate report pursuant to Article 6(8) of the Directive.

## 7. DIRECTIVE 1999/31/EC ON THE LANDFILL OF WASTE

Directive 1999/31/EC<sup>11</sup> regulates landfill in order to prevent or reduce as far as possible any negative effects on the environment and human health, also taking into account the global environment. To this end, the Directive contains provisions on the wastes and treatment methods acceptable or unacceptable in landfills and lays down conditions for the authorisation, operation, closure and after-care of landfills. The Directive also requires a gradual reduction of the volume of biodegradable waste sent to landfill.

All the Member States that replied have submitted their measures for **transposition into national legislation**. The European Court of Justice ruled against the United Kingdom for incomplete transposition of the Directive (case C-423/02). In the mean time the missing transposition measures have been notified to the Commission. The European Court of Justice also ruled against France for incomplete transposition of the Directive (case C-172/04). As the missing transposition measures concerning non-industrial inert waste still have not been notified, the Commission has started a procedure against France under Article 228 of the Treaty.

The Commission is assessing whether the transposition measures notified by the Member States are in compliance with the Directive.

Some Member States have made use of the possibility of **excluding certain wastes or landfills from some provisions** of the Directive (Italy, Slovakia and Sweden for non-

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<sup>9</sup> The references to standards EN 13427:2004, EN 13428:2004, EN 13429:2004, EN13430:2004, EN 13431:2004 and EN 13432:2000 were published in a Commission Communication in OJ C 44, 18.2.2005, p. 23.

<sup>10</sup> Slovenia reported that the measures concerned are part of a separate programme.

<sup>11</sup> OJ L 182, 16.7.1999, p. 1.



hazardous mining waste, France, Greece and Spain for islands and isolated settlements, and Germany, Ireland, the Netherlands, Slovakia and Sweden for underground storage). The Commission will assess whether these exclusions meet the conditions laid down in Article 3(3) to (5). In line with Article 3(5), the lists of excluded islands and isolated settlements notified to the Commission were posted on the Commission's website ([http://europa.eu.int/comm/environment/waste/landfill\\_index.htm](http://europa.eu.int/comm/environment/waste/landfill_index.htm)) and a notice was published in the Official Journal (OJ C 316, 13.12.2005).

The Member States reporting had adopted measures to meet the **technical requirements** of the Directive, including provisions concerning the design, operation, closure and after-care of landfills.

All Member States reporting had incorporated in their legislation the obligation on the landfill operator to include all the costs of construction, operation, closure and after-care in the price charged for accepting waste.

As regards **waste acceptance criteria**, most Member States have defined some criteria or lists for wastes acceptable in landfills, but only Sweden has already implemented Decision 2003/33/EC establishing criteria and procedures for the acceptance of waste.

All Member States reporting had submitted their national strategies for **reducing the biodegradable waste going to landfills**, except the Czech Republic, Ireland and Spain. The Commission is taking all necessary measures to ensure that their strategies are submitted as soon as possible.

The **data** submitted by Member States on the amount of biodegradable municipal waste produced in 1995 and the amounts landfilled in each year of the reporting period are incomplete and must be further discussed. It can be seen from the data reported that Austria, Flanders, Denmark, the Netherlands and Sweden have already met the target for 2016 (reduction of the amount landfilled to 35% of the amount of biodegradable municipal waste produced in 1995), France and Germany have already met the 2009 target (reduction of the amount landfilled to 50% of the amount produced in 1995) and Finland and Italy have already met the 2006 target (reduction of amount landfilled to 75% of the amount produced in 1995).

Concerning the need for **adaptation of existing landfills**, the data supplied indicate that in some Member States many landfills, in particular for hazardous waste, already comply with the Directive. However, a very high number of landfills for non-hazardous waste and for inert waste will have to be re-equipped or closed in the next two reporting periods in order to ensure that by 16 July 2009, as stipulated by Article 14, no landfill that does not comply with the Directive will still be in operation.

Also, the information on the number of existing landfills in several Member States, and their compliance with the Directive, is incomplete. This could be because not all the conditioning plans have been submitted and assessed yet. The conditioning plans had to be presented in July 2002 (as of accession in the case of the new Member States). In the next reporting periods a more accurate figure should be available for the number of existing landfills and of landfills to be closed or re-equipped.

In response to complaints, the Commission has started infringement proceedings against Spain, Greece, Ireland and Belgium for failing to ensure that all operators of existing landfills

had presented their conditioning plans by 16 July 2002, as required by Article 14 of the Directive.

In addition, the Commission has initiated “horizontal” infringement cases against Italy and France for incorrect application of Articles 4, 8 and 9 of the Waste Framework Directive and of Article 14 of the Landfill Directive because of the numerous unauthorised landfills in these Member States. The European Court of Justice ruled against Spain for failing to take the measures necessary to apply Article 14 of the Directive in the case of an uncontrolled landfill in Punta de Avalos, La Gomera (case C-157/2004).

Finally, several other specific Court cases have been brought against Spain on the issue of uncontrolled landfills, while the Court has also ruled against Ireland (case C-494/01) and Greece (case C-502/03) for systematic failures.