

Position Paper

UEAPME¹ position on the Proposal for a Directive amending different waste directives (COM (2014) 397 final)

General considerations

UEAPME welcomes the Proposal for a Directive since waste legislation was cited as one of the “TOP 10 most burdensome EU legislative acts for SMEs” in the results of Commission’s consultation carried out in 2012.

The results of the consultation demonstrated the need to tackle the regulatory burden SMEs face in relation to waste legislation as well as to simplify it. The **simplification** goals voiced by the Commission are only reflected in the alignment of some definitions but not on the extension of the record keeping to all establishments, which is in contradiction with such goals.

Even though the EU ambitious waste targets have existed for decades, there are still significant discrepancies between Member States when it comes to their implementation. As for the measures to **improve implementation** we see the good will of the Commission with its proposal to set up an early warning system (Article 11a) and some of the measures of Annex VIII (i.e. improve the quality of statistics, use of European Structural and Investments Funds, increase public awareness). In spite of this, the implementation of existing EU waste legislation in all member states should be given priority before adopting new targets which might deepen the existing discrepancies.

Fixing new targets requires a gradual approach, it is not constructive to change target values and calculation methods simultaneously. In order to measure, as a first step, the status quo concerning the implementation of existing waste targets correctly, , aligning the calculation methods of the Member States is extremely important as it is the only means to have comparable data. Only after this assessment, new waste targets can be fixed bearing in mind that they have to be based on well-founded data and be technically and economically feasible in all Member States. In this context, a simple reference in recital 30 to ‘the most recent methodology’ is not sufficient.

¹ UEAPME subscribes to the European Commission’s Register of Interest Representatives and to the related code of conduct as requested by the European Transparency Initiative. Our ID number is [55820581197-35](#).

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Moreover, it is important that the targets on reuse and recycling support the achievement of the EU climate and energy targets, specifically promoting the use of renewable fuels. Sustainably produced biofuels are necessary to achieve the greenhouse gas emission reduction targets EU has set. Producing biofuels from waste should count as recycling and as such help to fulfil the recycling target value. In addition to this, it should be possible for enterprises to make innovative use of waste to produce high technology products.

Specific considerations

The specific considerations hereby below refer to three of the directives amended by the Proposal, the Waste Framework Directive, the Packaging and Packaging Waste Directive and the Landfill Directive.

Directive 2008/98/EC “Waste Framework Directive”

Article 3: Definitions

Municipal Waste:

UEAPME proposes the following definition: “Municipal waste includes household waste and waste from retail trade, small businesses **as defined in the EU Recommendation 2003/361/EC**, office buildings and institutions (such as schools, hospitals, government buildings) similar in nature and composition to household waste”.

The aim of UEAPME is twofold:

First of all, we want to avoid the introduction of a new definition of small business. The Proposal’s definition of small establishments is misleading as it comprises not only small but medium enterprises. UEAPME proposes to refer to the European SME definition of Recommendation 2003/361/EC.

Secondly, we want the legislation not to undermine the market for SMEs operating as private waste collectors. Therefore, the definition of municipal waste of the Proposal should not make reference to who collects the waste and the sentence **“collected by or on behalf of municipalities”** should be deleted from the definition.

Food waste:

In our opinion, the definition is incomplete as it does not include hygiene and quality standards. Health and quality standards are mentioned in ‘recital25’ of the Proposal but should also be part of the definition.

Article 8: Extended Producer Responsibility

According to the new definition, producers shall cover the costs of the actions beyond the use phase of a product on which the producer has no influence. UEAPME cannot accept such a large responsibility for producers since the administrative and economic costs would be excessive for SMEs (e.g. product register proposed in Annex VII of the Proposal) and harm their competitiveness. Similarly, a very large responsibility for producers would also have negative consequences for consumers since the extra costs of the producers’ responsibility would have an impact on products prices. Therefore, we propose to eliminate from the definition the term “operational responsibility” and instead add the following: “the producer’s responsibility shall be based on the principle of shared responsibility between all actors involved in the application of EPR (e.g. producers, public and private waste management companies, national authorities, consumers etc.) to be implemented in a transparent way, reducing costs and ensuring that these are really related to the proper management of the waste”.

Moreover, it might also prove difficult to include non-EU producers into the EPR schemes.

As far as the new minimum requirements laid down in Annex VII, UEAPME is of the opinion that such requirements should not be binding but a guideline to Member States, who should have the right to decide how to organise producer responsibility schemes.

Article 9: Prevention of waste

It is worth noting that SMEs in the food sector have an economic interest in keeping food waste to a minimum since losses represent a significant cost factor. The retail sector has introduced numerous measures to prevent food from being wasted: daily orders, short transport routes, reduced sale prices for remaining items, etc.

With regards to the target introduced by the Proposal (30% reduction of food waste by 2025), UEAPME highlights the need to put forward some measures (i.e. information, exchange of best practices, technical assistance) addressed to SMEs on how to attain the target by 2025. Furthermore, it is not admissible that the Commission intends to adopt implementing acts in order to monitor the implementation of food waste prevention measures. A monitoring system with regular reporting would result in considerable costs for the small businesses.

Article 17: Control of Hazardous Waste

UEAPME agrees with the fact that the measures to control hazardous waste during production, collection, transportation, storage and treatment should ensure the protection of human health and the environment. However, such measures should be simplified, transparent and non-burdensome for small and medium-sized enterprises.

Article 24: Exemptions from permit requirements

In our opinion, the proposed exemption for the collection and transport of non-hazardous waste from permit requirements lacks of value.

The reason is that Article 24 refers to Article 23, which stipulates a permit requirement for the treatment of waste. Waste collection and transport activities cannot be subsumed under the term “treatment” of waste, which means they are not subject to the requirement for permit under article 23.

As a consequence, the proposed exemption provided for in article 24 is unnecessary.

Article 26.2: Registration

UEAPME suggests modifying Article 26 distinguishing between two categories of enterprises: professional waste collectors and enterprises that collect and transport waste as a result of a business activity not directed at waste collection (i.e. carpenters, electricians etc.).

The obligation to register should apply to professional waste collectors.

As far as the second category of enterprises is concerned, UEAPME is of the opinion that an exemption should apply to those collecting and transporting waste as a result of a business activity and whose collection or transport rates are up to 20 tons of non-hazardous waste in a calendar year. Moreover, we call for an exemption from the registration obligation for those enterprises collecting and transporting among their scrap materials a very small quantity of hazardous waste (up to 2 tons) as a result of a business activity. This exemption is justified by the disproportionately high administrative costs SMEs would be faced with if they should register only to transport this minor quantity of hazardous waste. Moreover, these small entrepreneurs only transport material linked to their own sector of activity and they know how to handle it even if it is hazardous. So this exemption would not open the door to indiscriminate transport of any hazardous material although in very small quantity.

Article 35: Record Keeping

Article 35 of the Waste Framework Directive currently in force provides record keeping for all establishments (producers, collectors, transporters, etc.) only dealing with hazardous waste and the possibility to extend the obligation only to producers of non-hazardous waste.

The Proposal (point 18) extends the obligation of record keeping (“*keep a chronological record of the quantity, nature and origin of the waste, etc.*”) to **all establishments** (of any size and activity) dealing both with hazardous and non-hazardous waste (be it small or big quantities).

Extending the record keeping obligation to all establishments irrespective of the quantity of non-hazardous waste and of the professional activity significantly increases red tape for many enterprises. Besides, it is in stark contrast with the simplification goals of the current Revision.

Therefore and as demanded under article 26 above, UEAPME believes that establishments collecting and transporting up to 20 tons of non-hazardous waste and up to 2 tons of hazardous waste in a calendar year as a result of a business activity not directed at waste collection should be exempted from the obligation to keep record.

Directive 94/62/EC “Packaging Directive”

The Proposal fixes overambitious targets for re-use and recycling, even impossible to reach by the Member States with the best recycling performance. If such targets are to be reached through the new calculation method -no longer based on input quantities but on output quantities- the targets will be tightened further. Methods of calculation need to be aligned and deliver comparable results. Only then it will be worthwhile determining new recycling targets.

It should also be noted that ambitious recycling targets might give rise to high recycling rates but can lead to lower the quality of the recycled materials.

Directive 1999/31/EC “Landfill Directive”

With regards to the target introduced by the Proposal to ban the landfill of recyclable materials by 2025, UEAPME doubts of the feasibility of such a target as it implies a collection rate of 100%. The existing collection schemes are in many cases not able to cope with current waste rates. This is particularly true for small quantities of waste produced by SMEs, which are often left uncollected, especially if the SME is located in a remote area. Such collection schemes will definitely not be able to cope with soaring collection rates. In turn, this might result in expensive waste management systems and, ultimately a lack of quality of the systems. It is necessary to develop new collection and recycling schemes, which will need to be tested before its application. This requires a longer timeframe than the one proposed.

The market uptake for recyclable materials is also an issue. Fiscal incentives for contractors should be available in order to promote the use of recyclable materials, in particular of those originating from construction and demolition (C&D) waste. Nevertheless, market uptake will not happen while these products remain expensive and their safety not guaranteed.

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