



Committee of the Regions

ENVE-V-048

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**DRAFT OPINION**

**Commission for the Environment, Climate Change and Energy**

**Towards a circular economy: review of EU waste legislation**

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This document will be discussed at the meeting of the **Commission for the Environment, Climate Change and Energy** to be held **from 11 a.m. to 4.30 p.m. on 11 December 2014**. To allow time for translation, any amendments must be submitted through the online tool for tabling amendments (available on the Members ' Portal: <http://cor.europa.eu/members>) **no later than 3 p.m. (Brussels time) on 28 November 2014**. A user guide is available at <http://toad.cor.europa.eu/CORHelp.aspx>.

**DOCUMENT SUBMITTED FOR TRANSLATION: 13 November 2014**

### Reference documents

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Towards a circular economy: A zero waste programme for Europe – COM(2014) 398 final

Proposal for a directive of the European Parliament and of the Council amending Directives 2008/98/EC on waste, 94/62/EC on packaging and packaging waste, 1999/31/EC on the landfill of waste, 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment  
COM(2014) 397 final - 2014/0201 (COD)

**Draft opinion of the Commission for the Environment, Climate Change and Energy –  
Towards a circular economy: review of EU waste legislation**

**I. POLICY RECOMMENDATIONS**

THE COMMITTEE OF THE REGIONS

*General comments*

1. welcomes the Commission's launch of a package of measures on the circular economy<sup>1</sup> establishing a common and consistent EU framework for resource efficiency. The CoR points out that this requires the political will for change, a long-term investment policy and planning of that investment, and a shift in public awareness, involvement and behaviour regarding resources. The Committee emphasises again the key role played by local and regional authorities in framing such policies, and in implementing and assessing them<sup>2</sup>;
2. points to the progress made in waste management due to an EU legal framework based on a proactive policy. The CoR stresses the fact that some Member States and local and regional authorities are meeting and exceeding the EU targets in this area and feels that future legislation should encourage the least performing ones to pursue and increase their efforts here;
3. points out that, given the differences that exist between the EU's regions and Member States in achievement of the targets laid down in current EU waste management legislation<sup>3</sup>, it is very important to encourage cooperation and the dissemination of best practices in this area, so that the least performing Member States and regions can be helped to meet the ultimate goals;
4. stresses the importance of creating markets for secondary raw materials recovered from waste, creating a uniform legal framework as well as equal opportunities for all who recover these materials and reintegrate them into the economic cycle;
5. considers that the findings of the impact assessment<sup>4</sup> that accompanies the proposal for a directive are very optimistic and recommends that the Commission clarify the data on which it was based, including the scientific evidence that prompted the Commission to take a particular approach, the cost of this approach, and finally, the advisability of using the criterion of the best performing Member States;

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1 COM(2014) 398 final.

2 CdR140/2011 fin.

3 Directives 2008/98/EC, 99/31/EC, 94/62/EC.

4 SWD(2014) 208 final.

### *Definitions*

6. calls on the Council and the European Parliament to retain a single and unambiguous definition of *municipal waste* in Annex VI of the proposal for a directive, to be used by all Member States and local and regional authorities, so as to help create a common basis for comparing them. The Committee suggests that the Commission clarify this definition of municipal waste, shifting its focus from *who* collects the waste to *what* exactly is collected<sup>5</sup>;
7. welcomes the proposed change to the definition of what counts as *prepared for reuse and recycled*. Even if this is not yet a full output-based definition, it reflects previous CoR calls for a single calculation method for recycling performance and effectively recycled quantities<sup>6</sup>;
8. recommends that the Commission revise its definitions of *collection* and *separate collection*, since the Member States interpret these concepts in different ways. Furthermore, the CoR recommends that the concept of *sorting* also be defined, for both statistical and reporting purposes, and for the sake of material quality, since many Member States collect and report quantities of waste delivered to sorting facilities, quantities which can contain up to 30% of impurities;

### *A single method of measurement*

9. stresses and affirms the importance of establishing a *single method of calculation for recycling targets* and welcomes the Commission's proposal here. This simplification and opting for an "output-oriented method" will make it easier to compare the varying performance levels across the EU and help turn waste into a useful resource;

### *Waste prevention*

10. emphasises that waste prevention should come before any other consideration, in order to comply with the "waste hierarchy", in which waste prevention is ranked at the top, and given that this principle is also a key element of the circular economy. To this end, the Commission should first propose *binding waste prevention targets*, accompanied by financial incentives<sup>7</sup>, and the full implementation of the "polluter pays" principle;

### *Extended producer responsibility*

11. highlights the fact that extended producer responsibility (EPR) is proving to be an effective lever for the policy of promoting waste prevention measures. Recognises, however, that this

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<sup>5</sup> [http://epp.eurostat.ec.europa.eu/portal/page/portal/waste/key\\_waste\\_streams/municipal\\_waste](http://epp.eurostat.ec.europa.eu/portal/page/portal/waste/key_waste_streams/municipal_waste)

<sup>6</sup> CdR 3751/2013.

<sup>7</sup> Report on the consultation of the CoR Subsidiarity Monitoring Network (SMN) and the Subsidiarity Expert Group (SEG), 2014.

entails costs that will be passed on to end users and consumers, whilst the margins that are generated are not injected back into the waste management process;

12. continues to support reinforcing the principle of EPR in EU legislation<sup>8</sup>, and thus backs the proposal to introduce minimum requirements (coverage of the costs of collecting, managing and treating the waste streams and the cost of informing the public and of adapting product design – ecodesign);

#### *Targets*

13. calls on the European Parliament and the Council to maintain the level of ambition as proposed by the Commission as regards the re-use and recycling of municipal waste. The CoR also welcomes the new provision that Member States should include measures regarding collection and recycling of waste containing significant amounts of critical raw materials in their waste management plans;
14. recommends that the EU legislation be both ambitious and realistic. The Committee draws attention to the fact that the proposed amendment of the targets and simultaneous introduction of a single calculation method could prove very challenging for many Member States and local and regional authorities, especially for those that have experienced difficulties in implementing the current legislation. The new targets should be set following a realistic analysis of the reasons for the failure to meet the current targets and a more detailed analysis of the feasibility of the new ones and their impact on the Member States, including at regional level;
15. recommends that the Commission take account of the fact that implementation of the current targets varies considerably from one Member State to the next and that this constitutes an obstacle to fair competition, raising a number of significant problems. The Commission does, however, acknowledge in its impact assessment that "there is a risk that some Member States will fail to meet the existing targets"<sup>9</sup>. Moreover, the Commission's approach is also questionable in its reference – in assessing the feasibility of the new targets – to the "best performing Member States" regarding the application of the existing EU legislation;
16. strongly advocates that the targets set in the new directive be correlated with *the quality of recycled/recovered materials*, so that they can compete in the market on a level playing field with primary resources;
17. reiterates its call for a new *bio-waste recycling target* to be introduced in the revised Waste Framework Directive so as to encourage the development of this sector and set quantitative

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<sup>8</sup> CDR 1617/2013.

<sup>9</sup> SWD(2014) 207 final.

objectives<sup>10</sup>. Alongside this, the Commission could also establish binding quality criteria for compost in order to promote the bio-waste recycling market and environmental protection<sup>11</sup>;

#### *Landfilling*

18. The CoR, in line with the European Parliament, has called for the landfilling of recyclable waste and biodegradable waste to be prohibited by 2020<sup>12</sup>. In this regard, it calls on the European Parliament and Council to at least maintain the proposed target of no landfilling by 1 January 2025 of recyclable and biodegradable waste;

#### *Early warning mechanism and reporting*

19. welcomes the proposal to introduce an *early warning system* for monitoring compliance with the recycling targets proposed in the new directive. The compliance plans reflect CoR recommendations for individual roadmaps for each Member State;
20. also welcomes the introduction of mandatory *annual reporting* accompanied by a quality check report and verified by an independent third party. This could pave the way to better assessment of the situation in the Member States as regards achieving the targets and enable measures to be taken to improve their performance;

#### *Subsidiarity and proportionality*

21. considers that the new recycling targets for municipal waste, packaging waste and WEEE, the plan to phase out landfilling of recyclable waste by 2025 and then 2030, the early warning system and the new reporting obligations give no cause for concern regarding subsidiarity and proportionality. Some problems exist, however, in terms of subsidiarity and proportionality, with regard to the varying levels of implementation of the current targets and the timetable envisaged by the Commission; these issues could be resolved through national or regional measures but not by EU-level action;

#### *Delegated acts*

22. notes with concern the numerous provisions in the new directive empowering the Commission to adopt delegated acts in the future. In the CoR's view, this does not seem the best way of deciding on certain "non-essential elements"<sup>13</sup>, especially given that issues such as amending the list of waste and end-of-waste status have an immediate impact on day-to-

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<sup>10</sup> CdR 74/2009 fin.

<sup>11</sup> CDR 1617/2013.

<sup>12</sup> CDR 3751/2013, CDR 1617/2013.

<sup>13</sup> As described in Article 290 TFEU.

day current practice in waste management. The Committee recommends that such changes be made by means of implementing acts, so that experts in the Member States can consider, and if necessary, amend the Commission's proposals.

## II. RECOMMENDATIONS FOR AMENDMENTS

### Amendment 1

COM(2014) 397 final - 2014/0201 (COD)

Article 1 – Amendment of Directive 2008/98/EC, point (6) – amendment of Article 8, letter a)

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
(a) in paragraph 1, first subparagraph is added as follows:  '1a. Extended producer responsibility means the producer's operational and/or financial responsibility for a product extended to the post-consumer state of a product's life cycle.';	(a) in paragraph 1, first subparagraph is added as follows:  '1a. Extended producer responsibility means the producer's operational and <del>or</del> financial responsibility for a product extended to the post-consumer state of a product's life cycle.';

#### Reason

The objective of the extended producer responsibility should always be to fully internalise the environmental costs into the price of a product, according to the polluter-pays principle.

### Amendment 2

COM(2014) 397 final - 2014/0201 (COD)

Article 1 – Amendment of Directive 2008/98/EC, point (6) – amendment of Article 8, letter b)

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
(b) paragraph 2 is replaced by the following:  '2. Member States shall take appropriate measures to encourage the design of products in order to reduce their environmental impact and the generation of waste in the course of the production and subsequent use of products, without distorting the internal market.  Those measures shall include measures to encourage the development, production and marketing of products that are suitable for multiple use, that are technically durable and that are, after having become waste, suitable for re-	(b) paragraph 2 is replaced by the following:  '2. <u>The European Commission and</u> Member States shall take appropriate measures to <u>ensure that</u> <del>encourage the design of</del> products <u>are designed</u> in order to reduce their environmental impact and the generation of waste in the course of the production and subsequent use of products, without distorting the internal market.  Those measures shall include measures to encourage the development, production and marketing of products that are suitable for multiple use, that are technically durable and that are, after having become waste, suitable for re-

use and recycling in order to facilitate proper implementation of the waste hierarchy. The measures shall take into account the full life cycle impacts of products.';	use and recycling in order to facilitate proper implementation of the waste hierarchy. The measures shall take into account the full life cycle impacts of products.';
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**Reason**

It is at source that the most significant changes can be made to achieve resource efficiency. Improving the design of products to be reusable, repairable and recyclable, and optimizing packaging can make a significant contribution to waste avoidance, which is at the top of the waste hierarchy, above recycling and re-use. Therefore, a more ambitious eco-design policy is needed, both at EU and national level.

**Amendment 3**

COM(2014) 397 final - 2014/0201 (COD)

Article 1 – Amendment of Directive 2008/98/EC, point (11)

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
<p>(11) in Article 22, the second paragraph is replaced by the following:            'In order to minimize contamination of waste materials, Member States shall ensure separate collection of bio-waste by 2025.            The Commission shall carry out an assessment on the management of bio-waste with a view to submitting a proposal if appropriate. The assessment shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment.';</p>	<p>11) in Article 22, the second paragraph is replaced by the following:            'In order to <del>minimize contamination of</del> <u>ensure optimal recycling of organic</u> waste materials, Member States shall <del>ensure</del> <u>encourage</u> separate collection of bio-waste by 2025.            The Commission shall carry out an assessment on the management of bio-waste with a view to submitting a proposal if appropriate. The assessment shall examine the opportunity of <del>setting minimum requirements for bio-waste management and</del> quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment.';</p>

**Reason**

Bio-waste is not a contaminant. The collection should be based on how to make the most of the waste (e.g. energy from biogas, fertilizer, etc.), not for keeping other waste dry. In addition, separate collection or management options of bio-waste should not be imposed. Flexibility to adapt to local circumstances and new technologies should be allowed. The quality of the bio-waste is what matters, not the method used to collect/manage it.

#### Amendment 4

COM(2014) 397 final - 2014/0201 (COD), Annex VI

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
<p><b>Composition of municipal waste</b></p> <p>Municipal waste includes household waste and waste from retail trade, small businesses, office, buildings and institutions (such as schools, hospitals, government buildings) similar in nature and composition to household waste, collected by or on behalf of municipalities.</p> <p>It includes:</p> <ul style="list-style-type: none"> <li>– bulky waste (e.g. white goods, furniture, mattresses);</li> <li>– yard waste, leaves, grass clippings, street sweepings, the content of litter containers, and market cleansing waste;</li> <li>– waste from selected municipal services, i.e. waste from park and garden maintenance, waste from street cleaning services;</li> </ul> <p>It also includes waste from the same sources, and similar in nature and composition, which:</p> <ul style="list-style-type: none"> <li>– are not collected on behalf of municipalities but directly by producer responsibility schemes or private non-profit institutions for re-use and recycling purposes mainly by separate collection,</li> <li>– originate from rural areas not served by a regular waste service.</li> </ul> <p>It excludes:</p> <ul style="list-style-type: none"> <li>– waste from sewage network and treatment, including sewage sludge,</li> <li>– construction and demolition</li> </ul>	<p><b>Composition of municipal waste</b></p> <p>Municipal waste includes household waste and waste from retail trade, small businesses, office, buildings and institutions (such as schools, hospitals, government buildings) similar in nature and composition to household waste, <del>collected by or on behalf of municipalities.</del></p> <p><u>The definition of municipal waste is based on the European waste catalogue. It includes for instance:</u></p> <ul style="list-style-type: none"> <li>– bulky waste (e.g. white goods, furniture, mattresses);</li> <li>– yard waste, leaves, grass clippings, street sweepings, the content of litter containers, and market cleansing waste;</li> <li>– waste from selected municipal services, i.e. waste from park and garden maintenance, waste from street cleaning services;</li> </ul> <p>It also includes waste from the same sources, and similar in nature and composition, which:</p> <ul style="list-style-type: none"> <li>– are not collected on behalf of municipalities but directly by producer responsibility schemes or private non-profit institutions for re-use and recycling purposes mainly by separate collection,</li> <li>– originate from rural areas not served by a regular waste service.</li> </ul> <p>It excludes:</p> <ul style="list-style-type: none"> <li>– waste from sewage network and treatment, including sewage sludge,</li> <li>– construction and demolition</li> </ul>

**Reason**

A common definition is needed to assess whether MS are achieving the targets of the waste legislation and compare their policies, not to assess local authorities' performance. Therefore, municipal waste should not be defined on the basis of who collects the waste, but on what is collected (i.e. the composition of the waste). In addition, the definition should remain based on the European waste catalogue to ensure consistency between Member States.

Brussels,

### III. PROCEDURE

<b>Title</b>	Towards a circular economy: review of EU waste legislation
<b>References</b>	COM(2014) 398 final COM(2014) 397 final - 2014/0201 (COD)
<b>Legal basis</b>	Article 307 TFEU COM(2014) 398 final: optional referral COM(2014) 397 final: mandatory referral
<b>Procedural basis</b>	
<b>Date of Council/EP referral/ Date of Commission letter</b>	COM(2014) 398 final: 20.10.2014 (European Commission – C. Day) COM(2014) 397 final: 23.7.2014 (EP), 28.7.2014 (Council)
<b>Date of president's decision</b>	11.7.2014
<b>Commission responsible</b>	Commission for the Environment, Climate Change and Energy (ENVE)
<b>Rapporteur</b>	Mariana Gâju (RO/PES)
<b>Analysis</b>	3.10.2014
<b>Discussed in commission</b>	Scheduled for 11.12.2014
<b>Date adopted by commission</b>	Scheduled for 11.12.2014
<b>Result of the vote in commission</b>	
<b>Date adopted in plenary</b>	Scheduled for 11-12 February 2015
<b>Previous Committee opinions</b>	Opinion on the Proposal for a Directive on Lightweight Plastic Carrier Bags, CdR 8067/2013 Opinion on the Green Paper on a European Strategy on Plastic Waste in the Environment, CdR 3751/2013 fin <sup>14</sup> Outlook Opinion on The Review of the European Union's Key Waste Targets, CdR 1617/2013 fin <sup>15</sup> Opinion on A Resource-Efficient Europe – Flagship Initiative Under the Europe 2020 Strategy, CdR 140/2011 fin <sup>16</sup>
<b>Date of subsidiarity monitoring consultation</b>	CoR secretariat analytical note on subsidiarity and proportionality related aspects, 31.10.2014

<sup>14</sup> [OJ C 356, 5.12.2013, p. 30.](#)

<sup>15</sup> [OJ C 280, 27.9.2013, p. 44.](#)

<sup>16</sup> [OJ C 9, 11.1.2012, p. 37.](#)