Directive (EU) 2018/850 of the European Parliament and of the Council of 30 May 2018 amending Directive 1999/31/EC on the landfill of waste (Text with EEA relevance)

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amending Directive 1999/31/EC on the landfill of waste

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Having regard to the opinion of the Committee of the Regions[(2)],

Acting in accordance with the ordinary legislative procedure[(3)],

Whereas:

(1) Waste management in the Union should be improved, with a view to protecting, preserving and improving the quality of the environment, protecting human health, ensuring prudent, efficient and rational utilisation of natural resources, promoting the principles of the circular economy, increasing energy efficiency and reducing the dependence of the Union on imported resources.

(2) The targets laid down in Council Directive 1999/31/EC[(4)] setting landfill restrictions should be strengthened to make them better reflect the Union's ambition to move to a circular economy and make progress in the implementation of the Commission Communication of 4 November 2008 on 'The raw materials initiative: meeting our critical needs for growth and jobs in Europe' by gradually reducing to a minimum landfilling of waste destined for landfills for non-hazardous waste. The Commission and Member States should ensure that such reduction fits into an integrated policy which ensures a sound application of the waste hierarchy, enhances a shift towards prevention including re-use, preparing for re-use and recycling, and prevents a shift from landfilling towards incineration.

(3) In order to ensure greater coherence in Union waste law, the definitions set out in Directive 1999/31/EC should be aligned, where relevant, with those in Directive 2008/98/EC of the European Parliament and of the Council[(5)].

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(4) The existing definition of 'isolated settlement' needs to be adapted as regards outermost regions, in order to take account of the specificities of such settlements, which raise materially different concerns from an environmental perspective as compared to other regions.

(5) The scope of Directive 1999/31/EC should be aligned with that of Directive 2006/21/EC of the European Parliament and of the Council[(6)] and should continue to cover the deposit of waste from the extractive industries that are not covered by Directive 2006/21/EC.

(6) Clear environmental, economic and social benefits would be derived from further restricting landfilling, starting with waste streams that are subject to separate collection, such as plastics, metals, glass, paper and bio-waste. Technical, environmental or economical feasibility of recycling or other recovery of residual waste resulting from separately collected waste should be taken into account in the implementation of those landfill restrictions.

(7) Biodegradable municipal waste accounts for a large proportion of municipal waste. Landfilling of untreated biodegradable waste poses significant negative environmental effects in terms of greenhouse gas emissions and pollution of surface water, groundwater, soil and air. Although Directive 1999/31/EC already sets landfill diversion targets for biodegradable waste, it is appropriate to put in place further restrictions on the landfilling of biodegradable waste by prohibiting the landfilling of biodegradable waste that has been separately collected for recycling in accordance with Directive 2008/98/EC.

(8) In order to ensure proper application of the waste hierarchy, appropriate measures should be taken to apply, as of 2030, restrictions on landfilling to all waste that is suitable for recycling or other material or energy recovery. Those restrictions should not apply where it can be demonstrated that waste is not suitable for recycling or other recovery and that landfilling would result in the best overall environmental outcome in accordance with the waste hierarchy laid down in Directive 2008/98/EC.

(9) Many Member States have not yet completely developed the necessary waste management infrastructure. The setting of landfill reduction targets will require major changes in waste management in many Member States and will facilitate further progress and investment in separate collection, sorting and recycling of waste and avoid locking recyclable materials at the lower level of the waste hierarchy.

(10) A progressive reduction of landfilling is necessary to prevent detrimental impacts on human health and the environment and to ensure that economically valuable waste materials are gradually and effectively recovered through proper waste management and in line with the waste hierarchy as laid down in Directive 2008/98/EC. That reduction should avoid the development of excessive capacity for the treatment of residual waste facilities, such as through energy recovery or low grade mechanical biological treatment of untreated municipal waste, as this could result in undermining the attainment of the Union's long-term preparing for re-use and recycling targets for municipal waste as laid down in Directive 2008/98/EC. Similarly, while to prevent

detrimental impacts on human health and the environment Member States should take all necessary measures to ensure that only waste that has been subject to treatment is landfilled, compliance with that obligation should not lead to the creation of overcapacities for the treatment of residual municipal waste. In addition, in order to ensure consistency between the targets laid down in Directive 2008/98/EC and the landfill reduction target set out in Directive 1999/31/EC, as amended by this Directive, and to ensure a coordinated planning of the infrastructures and investments needed to meet those targets, Member States which, according to data reported under the Joint Questionnaire of the OECD and Eurostat, landfilled more than 60 % of their municipal waste in 2013 should be allowed to decide to extend the time for complying with the landfill target established for 2035.

(11) In order to ensure the reliability of data, it is important to lay down more precisely the rules according to which Member States should report municipal waste that has been landfilled. Reporting should be based on the amount of municipal waste landfilled after treatment operations to prepare such waste for subsequent landfilling, such as the stabilisation of biodegradable municipal waste, and on the input into disposal incineration operations. As for municipal waste that enters treatment operations prior to recycling and recovery of waste, such as sorting and mechanical treatment, the waste resulting from such operations that is ultimately landfilled should also be considered for the purposes of calculating the landfill target.

(12) When implementing the obligation laid down in Directive 1999/31/EC to ensure treatment of waste before its landfilling, Member States should apply the most appropriate treatment, including the stabilisation of the organic fraction of waste, in order to reduce as far as possible the adverse effects of landfilling such waste on the environment and human health. When assessing the appropriateness of a treatment, Member States should take into account measures already implemented to reduce those adverse effects, notably the separation of bio-waste and the separate collection of paper and cardboard.

(13) In order to ensure better, more timely, and more uniform implementation of this Directive and anticipate any implementation weaknesses, a system of early warning reports should be established to detect shortcomings and allow taking action ahead of the deadlines for meeting the targets.

(14) In order to help achieve the objectives of Directive 1999/31/EC, and to boost the transition to a circular economy, the Commission should promote the coordination and exchange of information and best practices among Member States and different sectors of the economy.

(15) Implementation reports prepared by Member States every three years have not proved to be an effective tool for verifying compliance or ensuring good implementation, and are generating unnecessary administrative burdens. It is therefore appropriate to repeal provisions obliging Member States to produce such reports. Instead, compliance monitoring should be exclusively based on the data which Member States report every year to the Commission.

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(16) Data reported by Member States are essential for the Commission to assess compliance with Union waste law by Member States. The quality, reliability and comparability of data should be improved by introducing a single entry point for all waste data, deleting obsolete reporting requirements, benchmarking national reporting methodologies and introducing a data quality check report. Reliable reporting of data concerning waste management is paramount to efficient implementation, to sound planning of waste treatment infrastructure, and to ensuring comparability of data among Member States. Therefore, when reporting on the attainment of the targets set out in Directive 1999/31/EC, as amended by this Directive, Member States should use the most recent rules developed by the Commission and methodologies developed by the respective national competent authorities responsible for implementing this Directive.

(17) In order to ensure uniform conditions for the implementation of Directive 1999/31/EC, implementing powers should be conferred on the Commission in respect of Articles 5a(4) and 15(5) and Articles 15b and 15c thereof as amended by this Directive. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[(7)].

(18) Since the objectives of this Directive, namely to improve the waste management in the Union, and thereby to contribute to the protection, preservation and improvement of the quality of the environment and to the prudent and rational utilisation of natural resources, cannot be sufficiently achieved by the Member States, but can rather, by reason of the scale and effects of the measures, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

(19) Directive 1999/31/EC should therefore be amended accordingly.

(20) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents[(8)], Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

Directive 1999/31/EC is amended as follows:

(1) in Article 1, paragraph 1 is replaced by the following:

1. With a view to supporting the Union's transition to a circular economy and meeting the requirements of Directive 2008/98/EC of the European Parliament and of the Council[9], and in particular Articles 4 and 12 thereof, the aim of this Directive is to ensure a progressive reduction of landfilling of waste, in particular of waste that is suitable for recycling or other recovery, and, by way of stringent operational and technical requirements on the waste and landfills, to provide for measures, procedures and guidance to prevent or reduce as far as possible negative effects on the environment, in particular the pollution of surface water, groundwater, soil and air, and on the global environment, including the greenhouse effect, as well as any resulting risk to human health, from landfilling of waste, during the whole life-cycle of the landfill.;

(2) Article 2 is amended as follows:

(a) point (a) is replaced by the following:

(a) the definitions of "waste", "hazardous waste", "non-hazardous waste", "municipal waste", "waste producer", "waste holder", "waste management", "separate collection", "recovery", "preparing for re-use", "recycling" and "disposal" laid down in Article 3 of Directive 2008/98/EC shall apply;;

(b) points (b), (c), (d) and (n) are deleted;

(c) in point (r), the following subparagraph is added:

In outermost regions within the meaning of Article 349 of the Treaty, Member States may decide to apply the following definition:

"isolated settlement" means a settlement:

— with no more than 2 000 inhabitants per settlement and no more than five inhabitants per square kilometre, or with more than 2 000 but less than 5 000 inhabitants per settlement and no more than five inhabitants per square kilometre and whose production of waste does not exceed 3 000 tonnes per year, and

— where the distance to the nearest urban agglomeration with at least 250 inhabitants per square kilometre is not less than 100 km and with no access by road.;

(3) Article 3 is amended as follows:

(a) in paragraph 2, the last indent is deleted;

(b) paragraph 3 is replaced by the following:

3. The management of waste from land-based extractive industries, that is to say, the waste arising from the prospecting, extraction, including the pre-production development stage, treatment and storage of mineral resources and from the working of quarries shall be excluded from the scope of this Directive where it falls within the scope of other Union legislative acts.;

(4) Article 5 is amended as follows:

(a) in paragraph 2, the following subparagraph is deleted: