

COUNCIL DIRECTIVE of 15 July 1975 on waste (75/442/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 100 and 235 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament (1);

Having regard to the Opinion of the Economic and Social Committee (2);

Whereas any disparity between the provisions on waste disposal already applicable or in preparation in the various Member States may create unequal conditions of competition and thus directly affect the functioning of the common market ; whereas it is therefore necessary to approximate laws in this field, as provided for in Article 100 of the Treaty;

Whereas it seems necessary for this approximation of laws to be accompanied by Community action so that one of the aims of the Community in the sphere of protection of the environment and improvement of the quality of life can be achieved by more extensive rules ; whereas certain specific provisions to this effect should therefore be laid down ; whereas Article 235 of the Treaty should be invoked as the powers required for this purpose have not been provided for by the Treaty;

Whereas the essential objective of all provisions relating to waste disposal must be the protection of human health and the environment against harmful effects caused by the collection, transport, treatment, storage and tipping of waste;

Whereas the recovery of waste and the use of recovered materials should be encouraged in order to conserve natural resources;

Whereas the programme of action of the European Communities on the environment (3), stresses the need for Community action, including the harmonization of legislation;

Whereas effective and consistent regulations on waste disposal which neither obstruct intra-Community trade nor affect conditions of competition should be applied to movable property which the owner disposes of or is required to dispose of under the provisions of national law in force, with the exception of radioactive, mining and agricultural waste, animal carcasses, waste waters, gaseous effluents and waste covered by specific Community rules;

Whereas, in order to ensure the protection of the environment, provision should be made for a system of permits for undertakings which treat, store or tip waste on behalf of third parties, for a supervisory system for undertakings which dispose of their own waste and for those which collect the waste of others, and for a plan embracing the essential factors to be taken into consideration in respect of the various waste disposal operations;

Whereas that proportion of the costs not covered by the proceeds of treating the waste must be defrayed in accordance with the "polluter pays" principle,

HAS ADOPTED THIS DIRECTIVE:

Article 1

For the purposes of this Directive: (a) "waste" means any substance or object which the holder disposes of or is required to dispose of pursuant to the provisions of national law in force; (1)OJ No C 32, 11.2.1975, p. 36. (2)OJ No C 16, 23.1.1975, p. 12. (3)OJ No C 112, 20.12.1973, p. 3.

(b) "disposal" means: - the collection, sorting, transport and treatment of waste as well as its storage and tipping above or under ground,
- the transformation operations necessary for its re-use, recovery or recycling.

Article 2

1. Without prejudice to this Directive, Member States may adopt specific rules for particular categories of waste.

2. The following shall be excluded from the scope of this Directive: (a) radioactive waste;

(b) waste resulting from prospecting, extraction, treatment and storage of mineral resources and the working of quarries;

(c) animal carcasses and the following agricultural waste : faecal matter and other substances used in farming;

(d) waste waters, with the exception of waste in liquid form;

(e) gaseous effluents emitted into the atmosphere;

(f) waste covered by specific Community rules.

Article 3

1. Member States shall take appropriate steps to encourage the prevention, recycling and processing of waste, the extraction of raw materials and possibly of energy therefrom and any other process for the re-use of waste.

2. They shall inform the Commission in good time of any draft rules to such effect and, in particular, of any draft rule concerning: (a) the use of products which might be a source of technical difficulties as regards disposal or lead to excessive disposal costs;

(b) the encouragement of: - the reduction in the quantities of certain waste,

- the treatment of waste for its recycling and re-use,

- the recovery of raw materials and/or the production of energy from certain waste;

(c) the use of certain natural resources, including energy resources, in applications where they may be replaced by recovered materials.

Article 4

Member States shall take the necessary measures to ensure that waste is disposed of without endangering human health and without harming the environment, and in particular: - without risk to water, air, soil and plants and animals,

- without causing a nuisance through noise or odours,

- without adversely affecting the countryside or places of special interest.

Article 5

Member States shall establish or designate the competent authority or authorities to be responsible, in a given zone, for the planning, organization, authorization and supervision of waste disposal operations.

Article 6

The competent authority or authorities referred to in Article 5 shall be required to draw up as soon as possible one or several plans relating to, in particular: - the type and quantity of waste to be disposed of,

- general technical requirements,
- suitable disposal sites,
- any special arrangements for particular wastes.

The plan or plans may, for example, cover: - the natural or legal persons empowered to carry out the disposal of waste,

- the estimated costs of the disposal operations,
- appropriate measures to encourage rationalization, of the collection, sorting and treatment of waste.

Article 7

Member States shall take the necessary measures to ensure that any holder of waste:

- has it handled by a private or public waste collector or by a disposal undertaking,
- or disposes of it himself in accordance with the measures taken pursuant to Article 4.

Article 8

In order to comply with the measures taken pursuant to Article 4 any installation or undertaking treating, storing or tipping waste on behalf of third parties must obtain a permit from the competent authority referred to in Article 5, relating in particular to:

- the type and quantity of waste to be treated,
- general technical requirements,
- precautions to be taken,
- the information to be made available at the request of the competent authority concerning the origin, destination and treatment of waste and the type and quantity of such waste.

Article 9

The installations and undertakings referred to in Article 8 shall be periodically inspected by the competent authority referred to in Article 5 to ensure, in particular, that the conditions of the permit are being fulfilled.

Article 10

Undertakings transporting, collecting, storing, tipping or treating their own waste and those which collect or transport waste on behalf of third parties shall be subject to supervision by the competent authority referred to in Article 5.

Article 11

In accordance with the "polluter pays" principle, the cost of disposing of waste, less any proceeds derived from treating the waste, shall be borne by: - the holder who has waste handled by a waste collector or by an undertaking referred to in Article 8;

- and/or the previous holders or the producer of the product from which the waste came.

Article 12

Every three years, Member States shall draw up a situation report on waste disposal in their respective countries and shall forward it to the Commission. To this effect, the installations or undertakings referred to in Articles 8 and 10 must supply the competent authority referred to in Article 5 with the particulars on the disposal of waste. The Commission shall circulate this report to the other Member States.

The Commission shall report every three years to the Council and to the European Parliament on the application of this Directive.

Article 13

Member States shall bring into force the measures needed in order to comply with this Directive within 24 months of its notification and shall forthwith inform the Commission thereof.

Article 14

Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

Article 15

This Directive is addressed to the Member States.

Done at Brussels, 15 July 1975.

For the Council

The President

M. RUMOR