



23.2.2018

PROVISIONAL AGREEMENT RESULTING FROM INTERINSTITUTIONAL NEGOTIATIONS

Subject: Proposal for a directive of the European Parliament and of the Council amending Directives 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(2015)0593 – C8 0383/2015 – 2015/0272(COD))

The interinstitutional negotiations on the aforementioned proposal for a directive have led to a compromise. In accordance with Rule 69f(4) of the Rules of Procedure, the provisional agreement, reproduced below, is submitted as a whole to the Committee on the Environment, Public Health and Food Safety for decision by way of a single vote.

DIRECTIVE (EU) 2018/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of

amending Directives 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

(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 Committee¹,
Having regard to the opinion of the Committee of the Regions²,
Acting in accordance with the ordinary legislative procedure³,

¹ OJ C , , p. .

² OJ C , , p. .

³ *Position of the European Parliament of ... (not yet published in the Official Journal) and decision of the Council of...*

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 and rational utilisation of natural resources and promoting a more circular economy.
- (2) To reduce regulatory burden on small establishments or undertakings, simplification of the permitting and registration requirements for small establishments or undertakings should be introduced.
- (3) Implementation reports prepared by Member States every three years have not proved to be an effective tool for verifying compliance and ensuring correct implementation, and are generating unnecessary administrative burden. It is therefore appropriate to repeal provisions obliging Member States to produce such reports and for compliance monitoring purposes use exclusively the data which Member States report every year to the Commission.
- (4) Data reported by Member States are essential for the Commission to assess compliance with waste legislation across the 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.

- (5) Reliable reporting of data concerning waste management is paramount to efficient implementation and to ensuring comparability of data among a level playing field between Member States. Therefore, when preparing the reports on compliance with the targets set out in **Directives 2000/53/EC¹, 2006/66/EC² and 2012/19/EC³ of the European Parliament and of the Council**, Member States should be required to use the most recent rules developed by the Commission and the national **competent authorities of the Member States responsible for implementing those Directives**.
- (5a) *The waste hierarchy laid down in Directive 2008/98/EC of the European Parliament and of the Council⁴ applies as an order of priority in Union waste prevention and management law. When complying with the objective of this Directive, Member States should take the necessary measures to take the waste hierarchy priorities into account and ensure the practical implementation of those priorities.*
- (5b) *In the context of the Union's commitment to making the transition towards a circular economy, Directives 2000/53/EC, 2006/66/EC and 2012/19/EU should be reviewed and, if necessary, amended, taking account of their implementation and giving consideration, inter alia, to the feasibility of setting targets for specific materials contained in the relevant waste streams. During the review of Directive 2000/53/EC, attention should also be paid to the problem of end-of-life vehicles that are not accounted for, including the shipment of used vehicles suspected of being end-of-life vehicles, and to the application of the Correspondents' Guidelines No 9 on shipments of end-of-life vehicles. During the review of Directive 2006/66/EC, the technical development of new types of batteries that do not use hazardous substances should also be taken into account.*

¹ *Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles (OJ L 269, 21.10.2000, p. 34).*

² *Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC (OJ L 266, 26.9.2006, p. 1).*

³ *Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE) (OJ L 197, 24.7.2012, p. 38).*

⁴ *Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).*

(6a) *In order to amend and supplement Directive 2000/53/EC and to amend Directive 2012/19/EU, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of adapting Annexes I and II to Directive 2000/53/EC and Annexes IV, VII, VIII and IX to Directive 2012/19/EU to technical and scientific progress, in respect of supplementing Directive 2000/53/EC by establishing minimum requirements for the certificate of destruction and by establishing standards for coding vehicle components and materials. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making¹. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.*

¹ ***Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission of 13 April 2016 on Better Law-Making (OJ L 123, 12.5.2016, p. 1).***

- (6b) *In order to ensure uniform conditions for the implementation of Directive 2000/53/EC in respect of the detailed rules necessary to control compliance of Member States with the targets for reuse and recovery of vehicle components and laying down the format for reporting data on such reuse and recovery and of Directive 2012/19/EU in respect of laying down the format for reporting data concerning the implementation of the requirement to collect data on the quantities and categories of EEE placed on the Member States' markets, collected through all routes, prepared for re-use, recycled and recovered within the Member State, and on separately collected WEEE exported, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹.*
- (7) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents², 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.

¹ *Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).*

² *OJ C 369, 17.12.2011, p. 14.*

(8) Since the objectives of this Directive, namely to improve the management of waste 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 or 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.

(8a) *Directives 2000/53/EC, 2006/66/EC and 2012/19/EU should therefore be amended accordingly.*

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendment of Directive 2000/53/EC

Directive 2000/53/EC is amended as follows:

1) In Article 4(2), point (b) is replaced by the following:

“(b) The Commission is empowered to adopt delegated acts in accordance with Article 9a, amending Annex II on a regular basis to adapt it to technical and scientific progress, in order to:

- (i) as necessary, establish maximum concentration values up to which the existence of the substances referred to in point (a) of this paragraph in specific materials and components of vehicles is to be tolerated;***
- (ii) exempt certain materials and components of vehicles from point (a) of this paragraph if the use of the substances referred to in that point is unavoidable;***
- (iii) delete materials and components of vehicles from Annex II if the use of the substances referred to in point (a) of this paragraph is avoidable;***
- (iv) under points (i) and (ii) designate those materials and components of vehicles that can be stripped before further treatment and require them to be labelled or made identifiable by other appropriate means.***

The Commission shall adopt a separate delegated act in respect of each substance, material or component concerned, respectively, by points (i) to (iv).”;

2) *In Article 5, paragraph 5 is replaced by the following:*

"5. Member States shall take the necessary measures to ensure that their competent authorities mutually recognise and accept the certificates of destruction issued in other Member States in accordance with paragraph 3 of this Article. The Commission is empowered to adopt delegated acts in accordance with Article 9a in order to supplement this Directive by establishing minimum requirements for the certificate of destruction."

3) *Article 6 is amended as follows:*

a) *Paragraph 1 is replaced by the following:*

"1. Member States shall take the necessary measures to ensure that all end-of-life vehicles are stored (even temporarily) and treated in accordance with the waste hierarchy and the general requirements laid down in Article 4 of Directive 2008/98/EC of the European Parliament and of the Council, and in compliance with the minimum technical requirements set out in Annex I to this Directive, without prejudice to national regulations on health and environment.*

* *Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3)."*

- b) *Paragraph 6 is replaced by the following:*
- "6. The Commission is empowered to adopt delegated acts in accordance with Article 9a amending Annex I to adapt it to technical and scientific progress.";*
- 4) *In Article 7(2), the third subparagraph is replaced by the following:*
- "The Commission may adopt implementing acts concerning the detailed rules necessary to control compliance of Member States with the targets set out in the first subparagraph. When preparing such rules, the Commission shall take into account all relevant factors, inter alia, the availability of data and the issue of exports and imports of end-of-life vehicles. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).";*
- 5) *In Article 8, paragraph 2 is replaced by the following:*
- "2. The Commission is empowered to adopt delegated acts in accordance with Article 9a, in order to supplement this Directive by establishing the standards referred to in paragraph 1 of this Article. When preparing such standards, the Commission shall take account of the work going on in this area in the relevant international forums. The Commission shall contribute to this work as appropriate.";*
- 6) Article 9 is amended as follows:
- 1) paragraph 1 is deleted;

2) the following paragraphs are inserted:

- “1a. Member States shall report the data concerning the implementation of Article 7(2) for each calendar year to the Commission. They shall report this data electronically within 18 months of the end of the reporting year for which the data are collected. The data shall be reported in the format established by the Commission in accordance with paragraph 1d *of this Article*. The first report shall *start in the first full calendar year after the adoption of the implementing act that establishes the format, in accordance with paragraph 1d of this Article, and it shall* cover the data for *that reporting period* █ .
- 1b. The data reported by the Member State in accordance with *paragraph 1a* shall be accompanied by a quality check report.
- 1c. The Commission shall review the data reported in accordance with *paragraph 1a* and publish a report on the results of its review. The report shall assess █ the organisation of the data collection, the sources of data and the methodology used in Member States as well as the completeness, reliability, timeliness and consistency of that data. The assessment may include specific recommendations for improvement. The report shall be drawn up every *four* years.
- 1d. The Commission shall adopt implementing acts laying down the format for reporting the data referred to in paragraph 1a *of this Article*. Those implementing acts shall be adopted in accordance with the *examination* procedure referred to in Article 11(2).”;

7) *The following Article is inserted:*

"Article 9a

Exercise of the delegation

1. *The power to adopt delegated acts is conferred to the Commission subject to the conditions laid down in this Article.*
2. *The power to adopt delegated acts referred to in Article 4(2)(b), Article 5(5), Article 6(6) and Article 8(2) shall be conferred on the Commission for a period of 5 years from [date of entry into force of the amending Directive]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the 5 year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.*
3. *The delegation of power referred to in Article 4(2)(b), Article 5(5), Article 6(6) and Article 8(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.*
4. *Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.*

5. *As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.*
6. *A delegated act adopted pursuant to Article 4(2)(b), Article 5(5), Article 6(6) and Article 8(2) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.”;*
- 8) *The following Article is inserted:*
“Article 10a
Review
By 31 December 2020 the Commission shall review this Directive, and to this end, shall submit a report to the European Parliament and the Council, accompanied, if appropriate, by a legislative proposal.”;

9) *Article 11 is replaced by the following:*

“Article 11

Committee procedure

1. *The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council*.*

2. *Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.*

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.'*

* *Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).”*

Article 2

Amendment of Directive 2006/66/EC

Directive 2006/66/EC is amended as follows:

-1) In Article 10, paragraph 3 is replaced by the following:

“3. Member States shall monitor collection rates on a yearly basis according to the scheme set out in Annex I to this Directive. Without prejudice to Regulation (EC) No 2150/2002 of the European Parliament and of the Council*, Member States shall electronically transmit reports to the Commission within eighteen months of the end of the reporting year for which the data are collected. Reports shall indicate how they obtained the data necessary to calculate the collection rate.

*** *Regulation (EC) No 2150/2002 of the European Parliament and of the Council of 25 November 2002 on waste statistics (OJ L 332, 9.12.2002, p. 1).*”;**

-1a) In Article 12, paragraph 5 is replaced by the following:

“5. Member States shall report on the levels of recycling achieved in each calendar year concerned and whether the efficiencies referred to in Annex III, Part B have been met. They shall electronically submit the data to the Commission within eighteen months of the end of the reporting year for which the data are collected.”;

1) Article 22 is deleted;

2) Article 23 is amended as follows:

(a) paragraph 1 is replaced by the following:

“1. The Commission shall draw up a report on the implementation of this Directive and its impact on the environment and the functioning of the internal market by 31 December 2018 .”;

(b) in paragraph 2, the introductory part is replaced by the following:

“2. In its report, the Commission shall include an evaluation on the following aspects of this Directive:”;

2a) The following Article is inserted:

“Article 23a

Incentives for the application of the waste hierarchy

In order to contribute to the objectives laid down in this Directive, Member States may make use of economic instruments and other measures to provide incentives for the application of the waste hierarchy, such as those indicated in Annex IVa to Directive 2008/98/EC or other appropriate instruments and measures.”.

Article 3

Amendment of Directive 2012/19/EU

Directive 2012/19/EU is amended as follows:

1) Article 16 is amended as follows:

- (a) paragraph 5 is deleted;
- (b) the following paragraphs ■ are inserted:

- “5a. Member States shall report the data concerning the implementation of *paragraph 4* for each calendar year to the Commission. They shall report this data electronically within 18 months of the end of the reporting year for which the data are collected. The data shall be reported in the format established by the Commission in accordance with paragraph 5d. The first report shall ■ *start in the first full calendar year after the adoption of the implementing act that establishes the format, in accordance with paragraph 3, and it shall* cover the data for ■ *that reporting period.*
- 5b. The data reported by the Member State in accordance with *paragraph 5a* shall be accompanied by a quality check report.

- 5c. The Commission shall review the data reported in accordance with *paragraph 5a* and publish a report on the results of its review. The report shall ■ assess ■ the organisation of the data collection, the sources of data and the methodology used in Member States as well as the completeness, reliability, timeliness and consistency of that data. The assessment may include specific recommendations for improvement. The report shall be drawn up every *four* years.
- 5d. The Commission shall adopt implementing acts laying down the format for reporting *the data referred to in paragraph 5a of this Article*. Those implementing acts shall be adopted in accordance with the *examination* procedure referred to in Article 21(2).”

1a) The following Article is inserted:

"Article 16a

Incentives for the application of the waste hierarchy

In order to contribute to the objectives laid down in this Directive, Member States may make use of economic instruments and other measures to provide incentives for the application of the waste hierarchy, such as those indicated in Annex IVa to Directive 2008/98/EC or other appropriate instruments and measures."

1b) In Article 19, the first paragraph is replaced by the following:

“The Commission is empowered to adopt delegated acts in accordance with Article 20 of this Directive concerning the amendments necessary in order to adapt Annexes IV, VII, VIII and IX to this Directive to scientific and technical progress. The Commission shall adopt a separate delegated act in respect of each Annex to be amended. When amending Annex VII to this Directive, the exemptions granted under Directive 2011/65/EU of the European Parliament and of the Council* shall be taken into consideration.

*** *Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (OJ L 174, 1.7.2011, p. 88).*”.**

Article 4

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by ... [*insert date 24 months after the entry into force of this Directive*] .

They shall ***immediately inform*** the Commission ***thereof***.

When Member States adopt those ***measures***, they shall contain a reference to this Directive or ***shall*** be accompanied by such reference on the occasion of their official publication. ***The methods of making such reference shall be laid down by*** Member States .

2. Member States shall communicate to the Commission the text of the main ***measures*** of national law which they adopt in the field covered by this Directive. ***The Commission shall inform the other Member States thereof.***

Article 5

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 6

Addressees

This Directive is addressed to the Member States.

Done at ...,

For the European Parliament

The President

For the Council

The President
