

Batteries Directive

This briefing is one in a series of implementation appraisals produced by the European Parliamentary Research Service (EPRS) on the operation of existing EU legislation in practice. Each briefing focuses on a specific EU law that is likely to be amended or reviewed, as envisaged in the European Commission's annual work programme. Implementation appraisals aim at providing a succinct overview of publicly available material on the implementation, application and effectiveness to date of specific EU law, drawing on input from EU institutions and bodies, as well as external organisations. They are provided by the Ex-Post Evaluation Unit of EPRS to assist parliamentary committees in their consideration of new European Commission proposals, once tabled.

SUMMARY

Europe is experiencing rapidly growing demand for high performance, sustainably produced batteries, which are one of the key enablers of a clean energy transition. This makes it essential to build a competitive and sustainable battery manufacturing industry.

In order to rise to this challenge, the EU needs a regulatory framework fit for purpose. However, the Commission's 2019 ex-post evaluation of the implementation of the Batteries Directive, the main legal act regulating batteries and accumulators at EU level, showed that its current design and implementation suffer from deficiencies that make it impossible for this piece of EU law to respond adequately to new policy challenges.

Some of the most pertinent shortcomings of the directive relate to its incapacity to incorporate technical innovation, problems with certain definitions, the performance of Member States as regards the collection of waste batteries, and insufficient recovery of materials from used batteries.

The Commission is therefore planning to submit either a proposal for a revision of the Batteries Directive or a proposal for a completely new legal act in the form of a regulation.

1. Background

This briefing examines the implementation of the Batteries Directive (BD)¹ in light of the upcoming European Commission proposal to modify the directive or prepare a proposal for a completely new regulation, to repeal the directive. The Commission proposal, to be accompanied by an impact assessment, is expected in the fourth quarter of 2020.² It comes in the context of speedily growing demand for high performance clean batteries, which are among the key enablers of a clean energy transition. Europe is in particular need of a competitive and sustainable battery manufacturing industry.³ The Commission has launched initiatives aimed at creating a favourable ecosystem that would allow the batteries sector to rise to this challenge, for example in 2017 setting up the [European Batteries Alliance](#), which operates as a cooperation platform for the industry, interested Member States and the European Investment Bank. However, the Commission must also ensure that the EU's legal framework, regulating all stages of the life cycle of batteries – from the extraction of raw materials, and the production of battery cells to the collection of waste batteries, their recycling and recovery of materials – is fit to respond to the competitiveness and sustainability challenge.

As will be explained in this briefing, the current text of the Batteries Directive and its implementation suffer from deficiencies that makes it impossible for this piece of EU law to respond adequately to these policy challenges. The planned revision of the directive (or its repeal and replacement by a regulation) aims therefore at ensuring that the EU regulatory framework can create 'a competitive, circular, sustainable and safe value chain for all batteries placed on the EU market'.⁴ The initiative thus follows on from the Commission's [European Green Deal](#)⁵ and related initiatives such as the [circular economy action plan](#)⁶ and the [new industrial strategy](#),⁷ as well as from the Commission's dedicated [strategic action plan on Batteries](#).⁸ Furthermore, with the revision of the directive, the Commission plans to address certain environmental, health and social impacts that are projected to increase in the context of the growing demand for batteries, key technological enablers of a decarbonised EU economy and society; namely:

- environmental and health risks from the hazardous substances used in batteries;
- the greenhouse emissions released in the battery production process;
- the use of resources for the manufacturing of batteries and the challenge of ensuring that batteries (and relevant components) are part of the circular economy for longer, and
- the responsible provision of resources for the production of batteries marketed in the EU.

The Batteries Directive: An overview of current legislation, transposition and review clauses

The directive was adopted in 2006. Its objectives relate to the environment and the internal market. As regards the internal market, the directive aims at ensuring its smooth functioning and avoiding distortions of competition. When it comes to the environment, the directive aims at ensuring its protection and preservation as well as improving its quality. The directive has the specific objectives of minimising the negative impact of batteries and waste batteries on the environment, maximising the separate collection of waste batteries, minimising the disposal of batteries as mixed municipal waste and achieving a high level of material recovery. Furthermore, the directive aims at improving the environmental performance of both batteries themselves and the activities of all economic operators involved in the life cycle of batteries (producers, distributors and end-users), while also lowering the amount of dangerous substances contained in batteries.

The directive envisaged the above objectives being achieved by the implementation of several measures, mainly at Member State level. These measures included the establishment of collection schemes, the treatment and recycling of all collected batteries, the promotion and use of new recycling technologies, adequate product labelling, the application of extended producer responsibility, etc.

The directive classifies batteries in three types depending on their use. In general terms, these three types are portable, industrial and automotive.

The deadline for transposition of the directive by Member States was 26 September 2008. A 2018 external study⁹ requested by the Commission noted that Member States had transposed the directive into national law, including its four amendments. The study did not mention problems with delays in the transposition or the quality of the transposition measures.

According to Article 23(1) of the text of the directive currently in force, the Commission must draw up a report on the implementation of the directive and its impact on the environment and the functioning of the internal market. The Commission published the report with a certain delay, namely on 4 April 2019 instead of by 31 December 2018, as required by the directive. The report was underpinned, not least, by the findings of a Commission ex-post evaluation conducted between 2016 and 2017.

The sections below give an overview of findings on the implementation of the directive in the context of its upcoming revision.

2. EU-level reports, evaluations and studies

European Commission reports and studies

This section outlines the main findings of the evaluation and implementation reports submitted by the Commission in 2019. The presentation starts with the evaluation report, which broadly underpins the conclusions of the implementation report.

European Commission ex-post evaluation on the Batteries Directive (April 2019)

The Commission's ex-post evaluation¹⁰ was supported by the findings of an [external study](#)¹¹ completed in October 2018, various consultation activities collecting feedback from relevant stakeholders and the general public,¹² and the results of the 2014 ex-post evaluation ([fitness check](#))¹³ of five waste stream directives, which covered certain aspects of the Batteries Directive.

In line with the Commission's [Better Regulation Guidelines](#),¹⁴ the staff working document presents findings on the implementation of the directive set against the following evaluation criteria: relevance, coherence, effectiveness, efficiency and EU added value.

The Commission found that the directive's primary objectives continue to be **relevant**, especially in the context of a growing market for batteries, the presence of hazardous substances in battery components and the share of waste batteries that are not properly managed. The approaches aimed at reducing hazardous components and improving management of waste batteries were assessed as suitable. However, the Commission considered that new and stronger complementary measures were needed to deal with the growing volume of waste batteries, expected to increase further in the coming years. Furthermore, the directive contained no provisions on sorting or other pre-recycling stages of waste batteries.

Another shortcoming of the directive in terms of relevance was that it could not adequately incorporate technical innovation. For example, lithium-based batteries fall within the scope of the directive but are not addressed specifically by its provisions. Another example of the inadequacy of the current directive was that there were no target rates for recycled content (for cobalt for example).

The external study (prepared in support of the Commission evaluation) found that although the Batteries Directive included provisions on research and development for new recycling technologies, it did not support their application, in particular because it did not support the achievement of higher recycling efficiency than the minimum requirement. Another important finding of the external study was that the directive did not provide any criteria (such as amount, hazardous substances, economic relevance) to be used to determine when new battery types should be addressed separately, when separate reporting was required and when a separate recycling efficiency should be applied.

Last but not least, in the context of relevance, the directive did not contain provisions on 'preparation for re-use' and 're-use' of batteries even though, according to the external study, there is consensus among stakeholders that these processes should be included in the scope of the directive. The study found that this legal gap constituted a barrier to the environmentally and economically desired re-use of batteries for other than the intended purpose when placed on the market (this could be, for example, the case of batteries from e-vehicles that are used as energy storage by households). Furthermore, it is unclear under the current text of the directive who should take producer-responsibility for reused batteries and how re-used batteries should be reported.

One of the Commission's main conclusions as regards **effectiveness** was that the implementation of the directive helped to achieve the objectives of reducing the use of hazardous substances in batteries and preventing waste portable batteries from being landfilled or incinerated. However, the

Commission also declared that what had been achieved was not enough. The collection of waste batteries was a particular problem in the implementation of the directive. As regards portable waste batteries, only half of Member States (EU-28) had achieved the 2016 collection target of 45 %, while more than half of all waste portable batteries were not collected, of which around 35 000 tonnes enter municipal waste streams annually, resulting in environmental harm and loss of resources. According to the evaluation report, this poor result was also due to deficiencies of the directive itself. Problems with the methodology for collection, assessment and reporting of data on waste portable battery collection rates were also identified.

The external study noted that the effectiveness of the collection of waste industrial batteries remained unclear because the directive did not create a reporting obligation for this type of waste battery. Furthermore, the directive lacked specific and sufficient provisions on the collection and return of waste industrial batteries and lithium-ion batteries, which the study qualified as an issue of particularly 'high concern', especially in the light of the expected increase in the use of lithium-ion batteries for e-mobility, including by private end-users. The unclear situation regarding collection of waste industrial batteries and reporting was thus a key area for improvement of the directive.

As regards the recycling of collected waste batteries, the results were more positive with recycling efficiency targets generally reached. However, the external study supporting the Commission evaluation noted shortcomings. In particular, issues such as the absence of monitoring and certification of recycling, problems with data availability from recyclers in other countries (inside and outside the EU) and the accounting of slags for recycling not being harmonised between Member States pointed to a need to revise the current methodological approach for recycling efficiency with the aim of securing a level playing field for recyclers.

Another important conclusion in terms of effectiveness was that material recovery had not been successful for most materials, with the exception of lead and cadmium. According to the Commission, the current recycling requirements were not appropriate to promote a high level of recycling and recovery from waste batteries and accumulators.

The Commission assessed the implementation of 'extended producer responsibility',¹⁵ which materialised through collective producer schemes in many Member States, as a success of the directive. However, the Commission noted that end-users of batteries did not always have adequate information about how and where they should collect waste batteries. The Commission thus considered that the directive should better define Member States' obligations to raise awareness. Furthermore, it should promote more up-to-date means of communication with end-users, which would increase the collection rates for waste batteries. The external study pointed to the fact that where campaigns were run, a temporary increase in collection was observed.

Another shortcoming that reduced the effectiveness of the directive's implementation was that it lacked an adequate system to inform end-users of the quality (performance) of the batteries placed on the market. On consumer choice, the external study noted that end-users did not receive sufficient information to make an informed purchase for better battery performance. The study thus recommended that the Batteries Directive be revised so as to allow consumers to assess the performance of primary and rechargeable batteries.

In terms of **efficiency**, the Commission concluded that although compliance with the directive raised the battery production and recycling costs, there was a broad consensus among stakeholders (including from the relevant industries) that these costs were outweighed by current and future gains. As regards enforcement by national authorities, the directive entailed complex procedures which in certain cases might create significant enforcement costs. Notably though, the authorities competent did not consider that implementing the directive resulted in unnecessary red tape.

The Commission checked the **coherence** of the directive in two dimensions – external and internal. As regards external coherence, i.e. checking the directive's provisions against other pieces of EU legislation, the evaluation spotted inconsistencies. For example, the external study supporting the

Commission evaluation noted that, while the Waste Framework Directive¹⁶ used the terms 're-use' and 'preparing for re-use', those terms were not defined in the Batteries Directive, generating legal uncertainty for those compliant under the Batteries Directive as regards their responsibilities related to 'extended producer responsibility' and to the reporting of re-used batteries. The Commission thus highlighted, among others, stakeholders' views that the provisions on batteries should be concentrated in a smaller number of legislative acts than at present and that the relationship between those acts should be clearly indicated.

In terms of internal coherence, i.e. a check inside the provisions of the directive itself, the external study found that the Batteries Directive also featured incoherencies. For example, the distinction between portable and industrial batteries was not consistent. Thus batteries for e-bikes or photovoltaic systems in private households were, by definition, industrial batteries although they were used by private individuals. This distinction was becoming more important as an increasing number of industrial batteries were used in appliances by private end-users. As a consequence, the responsibility to provide infrastructure for the collection of these batteries as well as the associated economic burden was not clearly allocated to the respective producers.

According to the Commission, the issue with the incoherent classification of batteries and the lack of detail in the definition of certain exemptions relating to the obligations on removability or labelling could distort the internal market. Furthermore, as a problem with internal coherence, the Commission noted that the version of the directive currently in force set targets only for separate collection of portable waste batteries and for recycling efficiencies of certain types of collected waste batteries, while other aspects (such as for example the separate collection of industrial and automotive batteries) were not quantified in targets. This was a particular coherence problem because the absence of quantified targets, and the respective absence of an obligation to reporting on their achievement, made it very difficult to assess Member States' performance as already indicated under effectiveness above.

Finally, the Commission confirmed the **EU added value** of the directive. In particular, stakeholders agreed that conditions for the sale, collection and recycling of batteries should continue to be defined at EU level as opposed to being regulated at Member State level. The ex-post evaluation noted stakeholders' views that the directive was the major driver of harmonisation of the batteries market and thus of the good functioning of the single market for batteries.

European Commission report on the implementation and impacts of the Batteries Directive on the environment and the functioning of the internal market (April 2019)

As already mentioned, the [report](#)¹⁷ was prepared in accordance with the requirement of Article 23 of the Batteries Directive, as revised in 2018. The Commission's findings were based on three main sources: the ex-post evaluation (whose results were presented above), and [Eurostat data](#) on collection rates and recycling efficiency,¹⁸ and Member States' reports under Article 22 of the Batteries Directive (text applicable before its 2018 amendment) covering the period from 26 September 2012 until 26 September 2015,¹⁹ summarised by an [external study](#)²⁰ prepared at the Commission's request. The report outlines the findings of the ex-post evaluation discussed above and, therefore, the focus here will be placed on the impacts from the implementation of the Batteries Directive on the environment and the functioning of the internal market.

The **environmental impacts** of the implementation of the directive were considered in the context of chemicals used in the production of batteries, collection and recycling of waste batteries, and recovery of valuable materials. As regards chemicals used in batteries, the Commission found that the directive had helped the reduction of lead and cadmium but had failed with respect to other hazardous substances. Furthermore, according to the report, the directive encouraged the development of batteries containing smaller quantities of dangerous substances. However, it did not specify the criteria to identify the substances concerned (including heavy metals) or the type of

management measures that could be adopted. The report, therefore, suggested that these issues could be more appropriately addressed by other legal instruments.

As regards collection of waste batteries, data reported by Member States showed that measures for the collection, treatment and recycling of waste batteries had been taken at national level following the transposition of the directive into national law. Most Member States had met or exceeded the 25 % target for 2012 for the collection of waste portable batteries. However, as already mentioned, only 14 Member States had met the 45 % target for 2016. Consequently, tens of thousands of tonnes of waste portable batteries had entered municipal waste streams, resulting in negative environmental impacts and a loss of resources. The Commission considered that this undermined the achievement of the directive's objectives on environmental protection. Furthermore, the Commission noted that the directive's provisions on the collection of the different types of batteries were too diverse; namely there was a target set up for the collection of portable batteries, but no target for industrial and automotive batteries.

As regards the recycling of batteries, the vast majority of collected waste batteries were recycled in line with the directive's requirements. If batteries were not recycled, this was mainly due to the lack of specialised recycling facilities. Material recovery was assessed as problematic and, according to the Commission, the relevant objective of the directive had not been met. The Commission found that in the light of technical progress and practical experience gained, it could be concluded that the current minimum collection targets for waste portable batteries and the minimum recycling requirements were not appropriate, and recommended therefore that further targets for collection and recycling be considered.

As regards **impacts on the internal market**, the Commission considered that the implementation of the directive had contributed significantly to its smooth functioning compared to the situation when individual requirements at national level existed. The economic impact on the various related manufacturing and recycling industries was also found to be positive. The report noted specifically that the implementation of the directive had helped to lower the reliance of the EU on imports of raw materials, including critical ones. However, as already discussed by the findings of the evaluation report presented above, these positive effects were limited to lead and cadmium because they were the only materials for which efficiency targets had been established by the directive. Furthermore, the Commission highlighted again the need for certain definitions of the directive to be defined in greater detail and clarity. Elements having a negative impact on the functioning of the internal market included, for example, the criteria for granting exemptions to removability or labelling obligations, the obligations for collecting waste industrial batteries, and the consideration of slag as a finished recycled product, etc.

It is of note that the external study, which underpinned the Commission implementation report, made an overview of key findings from the review of the national implementation report for the 2012-2015 period submitted by each Member State (EU-28). The study also outlined the important changes (per Member State) as compared to the previous reporting cycle (2009-2012).

Finally, Article 23 of the Batteries Directive (text currently in force) envisaged the possibility for the Commission to accompany its report, if necessary, with a proposal for a revision of the directive. In April 2019, when the report was published, the Commission did not submit a proposal for a revision of the Directive. However, the Commission's intention to explore a revision of the rules was evident by the fact that, already in 2019, it requested two studies²¹ from external experts with the aim of collecting evidence on the ex-ante impact assessment aspects of a potential revision.

European Commission report on the implementation of the strategic action plan on batteries (April 2019)

The above two Commission reports on the implementation of the Batteries Directive and its evaluation were published together in April 2019. Part of the same package was a [report](#)²² on the implementation of the strategic action plan on batteries adopted by the Commission in 2018 in the

context of the third 'Europe on the move' mobility package. The plan aimed at creating an 'ecosystem' in Europe, fostering the building of competitive, sustainable and innovative strategic battery value chains. Even though the Commission 2019 report on the implementation of the plan was not specifically designed to evaluate the implementation of the Batteries Directive and its impacts, its most relevant findings relating to the revision of the directive are presented below.

The report stated that the aim of turning Europe into a global leader in sustainable battery production must be underpinned primarily by a robust legal framework complemented by harmonised EU standards. The legal requirements on the marketing of batteries inside the EU and on the relevant manufacturing processes would impact the development and deployment of battery technologies and their influence on public health, safety, climate and the environment.

The Commission thus identified the Batteries Directive (together with the Eco-design Directive) as a key legal act, which could include future regulatory requirements addressing battery characteristics such as safety, connectivity, performance, durability, bi-directionality, re-usability and recyclability, resource efficiency, or even life-cycle impacts such as 'carbon footprint'. Furthermore, these regulatory requirements would need to be supplemented by broader requirements on the value chain in the areas of responsible sourcing, transport and storage, and waste collection and recycling.

In addition to the Commission reports presented above, further information, also relevant to the batteries sector at large, can be found on the Commission website.²³

3. European Parliament position / MEPs' questions

Resolutions of the European Parliament

The European Parliament has expressed its views repeatedly on the development of the batteries sector. In the current legislative term, the [resolution](#)²⁴ on a comprehensive European approach to energy storage, adopted in July 2020, contains statements directly relevant to the revision of the directive. In particular, Parliament called on the Commission to propose ambitious collection and recycling targets for batteries based on critical metal fractions when revising the Batteries Directive and after conducting an impact assessment.

Furthermore, while Parliament acknowledged the potential for used electric vehicle batteries to be reused for energy storage in private homes or in larger battery units, it expressed concern that the current classification of used batteries as waste in the Batteries Directive, independently of reuse, could act as a barrier to such reuse. In a context broader than the implementation of the directive, the resolution stressed the EU's very low lithium-ion battery manufacturing capacity and reliance on production sourced outside Europe with limited transparency.

In addition, in its January 2020 [resolution](#)²⁵ on the European Green Deal, Parliament endorsed the Commission's plans for legislative proposals to ensure a safe, circular and sustainable battery value chain for all batteries. Parliament expects the Commission proposal to include at the very least measures on ecodesign, targets for reuse and recycling, and sustainable, as well as socially responsible sourcing.

Written questions

Since the beginning of the current legislative term, no written question directly related to the implementation of the Batteries Directive has been submitted by Members of the European Parliament. However, MEPs have submitted 25 written questions²⁶ on batteries in general. These questions cover aspects such as: the availability of raw materials for the production of batteries (including the EU dependence on imports); the mining of materials used in battery production (including outside Europe and related environmental, labour and other ethical problems); the use of batteries in electric vehicles and their potential to reduce CO₂ emissions; the management of waste batteries (including the illegal landfill disposal of waste batteries); the recycling of lead-acid batteries by non-standard methods, the replacing and reusing of batteries, etc. The questions (and

relevant Commission answers) that relate most closely to the scope of the Batteries Directive, its implementation and expected revision are presented below.

Written question by Esther de Lange (EPP, Netherlands), 10 March 2020

This written question was put in the context of the Commission's new circular economy action plan. The Member asked whether the Commission was aware of the potential for software encryption for batteries and, because of that, the restrictions with regard to repair and reuse that producers imposed on consumers. Furthermore, the Member asked about the way the Commission was intending to include arrangements in its circular economy plans for promoting the free maintenance of battery-powered devices, including the provision of technical information to facilitate this process. Finally, the Commission was asked whether there was scope to give more encouragement to the repair and reuse of batteries in mobile phones but also in batteries and software for electric bicycles, battery-powered tools or other battery-driven equipment.

Answer given by Virginijus Sinkevičius on behalf of the European Commission, 27 June 2020

In its answer, the Commission noted that Article 11 of the Batteries Directive required that portable batteries be designed to be readily removable. However, the Commission admitted that the evaluation of the directive (already discussed in this briefing) had shown that this provision was not complied with sufficiently. In addition, in its present form, it did not require batteries to be 'replaceable'. Following the Commission's assessment, this negatively impacted the collection and recycling performance of batteries, and contributed to shortening the lifetime of certain appliances. In the context of the circular economy action plan, the Commission confirmed its intention to come up with a new regulatory framework for batteries in 2020.

More specifically, the Commission planned to introduce transparency requirements aimed at facilitating the reuse, repurposing and recycling of batteries. Such an approach would have to assess if and how information contained in battery management systems should be made accessible to end-users. Furthermore, in the context of the circular electronics initiative of the action plan, the Commission would explore measures for the maintenance of battery-powered devices. These measures would include eco-design criteria, such as energy efficiency, durability, reparability and upgradability. The Commission also confirmed its intention to work for the establishment of a new 'right to repair' and new related horizontal material rights for consumers.

Written question by Frédérique Ries (Renew, Belgium), 26 September 2019

This written question was put in the context of the European Battery Alliance launched by the EU in October 2017. One of its strategic objectives was to reduce the Union's dependence on lithium imports from third countries. More specifically, the Member asked whether the Commission was aware of any map of exploitable lithium reserves in Europe, and if not, whether it was intending to draw such a map. Furthermore, the Member asked what measures the Commission intended to take to reduce the Union's dependence on lithium imports, justifying the relevance of her question by the strategic role that electric batteries would play in vehicle fleet renewal and, more generally, in the decarbonisation of societies. Finally, the Commission was asked what industrial development strategy should be recommended to safeguard the economic viability of lithium extraction in the European Union in a highly competitive global market.

Answer given by Thierry Breton on behalf of the European Commission, 6 May 2020

In its answer, the Commission confirmed that the lithium reserves in Europe had been mapped in 2018. The map was regularly updated by collecting information from Member States on resources and reserves and mining projects. As regards the Union's dependence on imports of raw materials for the production of batteries, the Commission explained that the objective of the strategic action plan was to make better use of EU domestic primary and secondary resources and to ensure they were extracted and processed in an environmentally and socially responsible way. Furthermore, the Commission had launched a dialogue with Member States with the aim of establishing the fitness

of national policies on raw materials. In addition, the Commission was supporting research and innovation aimed at more efficient use of raw materials for batteries.

The Commission confirmed it was aware of several lithium extraction projects across Europe. It was supporting cooperation between key industry players, innovation and manufacturing, and was facilitating more effective use of existing funding and financing mechanisms. It was doing so with the aim of developing a European batteries ecosystem, including the raw materials dimension, and to this end was cooperating with the European Investment Bank and the Member States, and was developing partnerships across the regions where the batteries ecosystem was developing. The Commission concluded by quoting a few examples of European battery projects that had benefited from support from the European Fund for Strategic Investments and the InnovFin EU Finance for Innovators initiative (in particular through its Energy Demonstration Projects instrument).

4. Council of the EU

In October 2019, the Council adopted [conclusions](#)²⁷ entitled 'More circularity – Transition to a sustainable society'. The document addressed, among other subjects, the Commission evaluation of the Batteries Directive (already discussed in this briefing) and endorsed its key findings. It called for an urgent revision of the directive. According to national governments, the revision should focus on improving the definitions of different types of batteries, enhancing the separate collection and recycling of all types of batteries, stimulating replacement of single-use batteries with rechargeable ones and promoting reuse of batteries. Furthermore, the document noted that the revision of the directive should include all relevant battery materials and consider, in particular, specific requirements for lithium and cobalt as well as a mechanism allowing the adaptation of the directive to future changes in battery technology. Finally, the Council underlined the development of eco-design criteria for batteries as having the potential to support circularity.

5. European Court of Auditors

In a 2019 [briefing paper](#),²⁸ also published in April 2019, the European Court of Auditors (ECA) identified a problem in the design of the Batteries Directive. In particular, for the auditors, the directive required battery producers to cover the net costs for collecting and recycling waste batteries, which meant that producers had to pay a recycling fee to national collection schemes for the batteries that they put on the market. As already mentioned, used batteries from electrical vehicles can be re-used; the ECA gives as an example the assembly of used batteries into larger battery units dedicated to grid-management operations. According to the ECA assessment, the Battery Directive classes used batteries as waste, and thus both initial battery producers and companies that re-assemble used batteries can have to pay recycling fees, irrespective of whether the batteries are re-used in another context. The ECA acknowledged the fact that the Commission was in the process of identifying potential regulatory barriers to recycling of this kind, with a view to possibly revising the directive.

The indicative timetable of ECA publications for the July 2020 to June 2021 period envisages the publication of a review on electronic waste for the second quarter of 2021. The review will assess whether the EU is achieving its e-waste and battery collection, treatment and recycling objectives.

6. European Economic and Social Committee

The European Economic and Social Committee addressed batteries in an opinion²⁹ of July 2019. It welcomed the Commission's report on the implementation and impact of the Batteries Directive as 'concise but very effective'. The Committee focused on the collection of conventional batteries, repeating the Commission's finding that more than half of such batteries are still not recycled, and thus considered that the Batteries Directive needed to be adapted, not least given the arrival of new batteries, such as those targeted by the Commission's strategic action plan on batteries.

7. European Commission consultation of stakeholders

As part of the evaluation of the implementation of the Batteries Directive and in line with its Better Regulation agenda, the Commission conducted several consultation activities. They included a programme of interviews with key stakeholders, a questionnaire sent to national administrations, a workshop of the Commission's expert group on waste (batteries), and a 12-week online public consultation open to those unable to take part in the previous three forms of targeted consultation.

According to the Commission, all relevant stakeholders provided input to the public consultation, and thus the results of the consultation activities could be considered as providing comprehensive and sufficient information on stakeholders' opinions and positions. The main findings based on the feedback received from the various stakeholders are summarised in an annex to the Commission evaluation report.³⁰

In the context of the need for a revision of the directive, the Commission has launched two consultations. The first took place from June to August 2019, when stakeholders were invited to comment on the Commission initiative on 'Sustainable batteries – EU requirements'. The second was open from May to July 2020, when stakeholders were given the opportunity to comment on the roadmap of the inception impact assessment for its initiative 'Modernising the EU's batteries legislation'. Each of the consultation activities received a lot of contributions from stakeholders. At the time of writing, the summary of results of these two consultation activities is not yet available.

ENDNOTES

- ¹ [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.
- ² Annex II to the adjusted [Commission work programme](#) for 2020 (item 9, p. 7).
- ³ Strategic action plan on batteries, Annex 2 to [COM\(2018\) 293 final](#), European Commission 2018.
- ⁴ *Ibid.*, p. 1.
- ⁵ Communication on the European Green Deal, [COM/2019/640 final](#), European Commission, December 2019.
- ⁶ Communication on a new circular economy action plan for a cleaner and more competitive Europe, [COM\(2020\) 98 final](#), European Commission, March 2020.
- ⁷ Communication on a new industrial strategy for Europe, [COM\(2020\) 102 final](#), European Commission, March 2020.
- ⁸ Strategic action plan on batteries, Annex 2 to [COM\(2018\) 293 final](#), European Commission 2018.
- ⁹ [Study](#) in support of the preparation of the Implementation report on Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulator, Final Report, Trinomics & Öko-Institut e.V, 2018.
- ¹⁰ Evaluation of the Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC, [SWD\(2019\) 1300 final](#), European Commission, 2019.
- ¹¹ [Study](#) in support of evaluation of the Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators, Final Report, Trinomics & Öko-Institut e.V, 2018.
- ¹² Annex D to [SWD\(2019\) 1300 final](#), pp. 77-86.
- ¹³ Ex-post evaluation of five waste stream directives accompanying the proposal for a directive of the European Parliament and of the Council reviewing the targets in Directives 2008/98/EC on waste, 94/62/EC on packaging and packaging waste, and 1999/31/EC on the landfill of waste, 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/EC on waste electrical and electronic equipment, [SWD/2014/0209 final](#), European Commission, 2019.
- ¹⁴ [Better Regulation: guidelines and toolbox](#), European Commission, 2017.
- ¹⁵ The 'extended producer responsibility' (EPR) scheme is defined by Article 3(21) of the Waste Framework Directive 2008/98/EC (WFD) as 'a set of measures taken by Member States to ensure that producers of products bear financial responsibility or financial and organisational responsibility for the management of the waste stage of a product's lifecycle'. Furthermore, Article 8(1) WFD stipulates that 'any natural or legal person who professionally develops, manufactures, processes, treats, sells or imports products (producer of the product) has extended producer responsibility'. The EPR is mandatory under several waste stream-specific EU legal acts, including under the Batteries Directive.

-
- ¹⁶ [Directive 2008/98/EC](#) of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain directives.
- ¹⁷ Report on the implementation and the impact on the environment and the functioning of the internal market of Directive 2006/66/EC, [COM\(2019\) 166 final](#), European Commission, 2019.
- ¹⁸ Eurostat waste [database](#).
- ¹⁹ Until 2018, Article 22 of the directive obliged Member States to submit implementation reports to the Commission every three years. Two reporting cycles – 2009-2012 and 2012-2015 – were completed by Member States under Article 22 before it was eventually deleted by the 2018 amendment of the directive.
- ²⁰ [Study](#) in support of the preparation of the implementation report on Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulator, Final Report, Trinomics & Öko-Institut e.V, 2018.
- ²¹ Study to identify and assess the feasibility of measures to enhance the impact of Directive 2006/66/EC on the protection of environment, on the promotion of circular economy and on the smooth functioning of the internal market, and, Assessment of options to improve particular aspects of the EU regulatory framework on batteries. See more information on the two studies [here](#).
- ²² Report on the implementation of the Strategic Action Plan on Batteries: Building a strategic battery value chain in Europe, [COM\(2019\)176 final](#), European Commission, 2019.
- ²³ See the following Commission web pages: [Environment – Batteries and Accumulators](#), [EU Science Hub – Scientific support to EU Battery Alliance](#), [Internal market, Industry, Entrepreneurship and SMEs – European Batteries Alliance](#).
- ²⁴ [Resolution](#) of 10 July 2020 on a comprehensive approach to energy storage, European Parliament.
- ²⁵ [Resolution](#) of 15 January 2020 on the European Green Deal, European Parliament.
- ²⁶ This is the number of results shown when the European Parliament database of written questions for the 2019-2024 parliamentary term is being searched by the key words 'batteries' and 'battery' in the text of the written question as per 19 August 2020.
- ²⁷ [Conclusions](#) on 'More circularity – Transition to a sustainable society', Council of the European Union, 2019.
- ²⁸ EU support for energy storage, [Briefing paper](#), European Court of Auditors, 2019.
- ²⁹ [Opinion](#) on the Commission Strategic Action Plan on Batteries, European Economic and Social Committee, 2019.
- ³⁰ Annex D to [SWD\(2019\) 1300 final](#), pp 77-86.

Table – 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

<p>EP committee responsible at the time of adoption of the EU legislation:</p> <p>Committee on the Environment, Public Health and Food Safety (ENVI)</p>
<p>Date of adoption of original legislation in plenary:</p> <p>4 July 2006</p>
<p>Deadlines for transposition of legislation:</p> <p>According to Article 26 of the Directive, Member States had to transpose the Battery Directive into their legal systems by 26 September 2008. Article 27 of the directive allowed Member States to transpose the provisions set out in its Articles 8, 15 and 20 of the directive by means of agreements between the competent authorities and economic operators concerned, providing the objectives set out in the directive were achieved. Such agreements were to meet certain requirements laid down in Article 27 of the directive.</p>
<p>Planned dates for review:</p> <p>By 31 December 2018, the Commission was to draw up a report on the implementation of the directive and its impact on the environment and the functioning of the internal market (Article 23(1) of the directive). More specifically, the Commission's report was to include an evaluation of the appropriateness of certain measures, targets and requirements (Article 23(2) of the Directive). The Commission fulfilled this reporting obligation through its report COM(2019) 166 final, published on 9 April 2019 together with the Commission report (SWD(2019) 1300 final) on the evaluation of the directive and the Commission report (COM(2019)176 final) on the implementation of the strategic action plan on batteries.</p> <p>According to Article 23(3), if necessary, the Commission report was to be accompanied by proposals for revision of the relevant provisions of the directive.</p>
<p>Timeline for new amending legislative proposal:</p> <p>The legislative initiative aiming to revise the Batteries Directive or to repeal it by preparing a proposal for a regulation was announced in Annex II ('REFIT initiatives', item 9 on p. 7) of the adjusted Commission work programme for 2020. The European Commission intends to submit its proposal in the fourth quarter of 2020.</p>

DISCLAIMER AND COPYRIGHT

This document is prepared for, and addressed to, the Members and staff of the European Parliament as background material to assist them in their parliamentary work. The content of the document is the sole responsibility of its author(s) and any opinions expressed herein should not be taken to represent an official position of the Parliament.

Reproduction and translation for non-commercial purposes are authorised, provided the source is acknowledged and the European Parliament is given prior notice and sent a copy.

© European Union, 2020.

eprs@ep.europa.eu (contact)

www.eprs.ep.parl.union.eu (intranet)

www.europarl.europa.eu/thinktank (internet)

<http://epthinktank.eu> (blog)

