



Plenary sitting

A9-0311/2023

27.10.2023

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REPORT

on the proposal for a directive of the European Parliament and of the Council
amending Directive 2012/19/EU on waste electrical and electronic equipment
(WEEE)
(COM(2023)0063 – C9-0016/2023 – 2023/0025(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Anna Zalewska

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ***■*** symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	5
EXPLANATORY STATEMENT	11
PROCEDURE – COMMITTEE RESPONSIBLE	13
FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE	14

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council amending Directive 2012/19/EU on waste electrical and electronic equipment (WEEE) (COM(2023)0063 – C9-0016/2023 – 2023/0025(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2023)0063),
 - having regard to Article 294(2) and Article 192(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0016/2023),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 22 March 2023¹,
 - after consulting the Committee of the Regions,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety (A9-0311/2023),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) *The Court also concluded that EU*

¹ OJ C 184, 25.5.2023, p. 102.

law must be interpreted as meaning that the fact that a Member State adopted legislation contrary to an EU directive prior to the adoption of that directive does not constitute, in itself, a breach of EU law, since the achievement of the result prescribed by the directive cannot be regarded as seriously compromised before the directive forms part of the EU legal order.

Amendment 2

Proposal for a directive Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) In order to maintain the principle of legal certainty in the future revisions of Directive 2012/19/EU, it is important to pay particular attention to preventing the adoption of any provisions that could potentially have unjustified retroactive effects. It is necessary to give clarity and predictability to EEE producers with regard to the operating conditions that were in effect when their products were placed on the market. That approach helps to avoid the risk of incurring unpredictable costs associated with future WEEE management. Furthermore, such revisions should respect the waste hierarchy as laid down in Article 4 of Directive 2008/98/EC.

Amendment 3

Proposal for a directive Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) Unsound treatment of waste photovoltaic panels and open scope WEEE leads to significant adverse

impacts on health and the environment. The proper treatment of photovoltaic panels and maximising the recovery of waste from photovoltaic panels at the end of their lifetime should therefore be ensured. Without prejudice to the changes to the financial obligations necessary to cover collection and treatment of waste photovoltaic panels placed on the market before 13 August 2012 and of waste from all open scope EEE placed on the market before 15 August 2018 introduced by this Directive, Member States should ensure the environmentally sound management of related WEEE. Member States may encourage producers, through their individual or collective extended producers responsibility schemes to properly collect and treat the related historical WEEE of photovoltaic panels and open scope EEE.

Amendment 4

Proposal for a directive Recital 10 b (new)

Text proposed by the Commission

Amendment

(10b) When revising Directive 2012/19/EU, and addressing its shortcomings, it is crucial to ensure that the costs of managing WEEE are not disproportionately transferred to consumers or citizens. This includes taking into consideration the ‘polluter pays’ principle, addressing potential provisions pertaining to WEEE collection targets and adherence to the waste hierarchy as laid down in Article 4 of Directive 2008/98/EC.

Amendment 5

Proposal for a directive Article 1 – paragraph 1 – point -1 (new)

(-1) The following Article 2a is added:

Article 2a

1. No later than [31 December 2026], the Commission shall assess the need for a revision of this Directive and, where appropriate, present a legislative proposal in that respect, accompanied by a thorough socio-economic and environmental impact assessment.

2. In the impact assessment, the Commission shall in particular assess the following:

(a) provisions which specifically ensure that the principle of legal certainty is adhered to and that there is no provision that could entail unjustified retroactive effect in any Member State;

(b) provisions to ensure the implementation of the waste hierarchy as laid down in Article 4 of Directive 2008/98/EC;

(c) provisions to ensure that citizens and consumers are not burdened with disproportionate costs, in line with the polluter pays principle;

(d) provisions ensuring full implementation and enforcement of this Directive, in particular with regard to adequate collection targets, as well as preventing illegal trade of WEEE;

(e) creating a new ‘photovoltaic panels’ category under this Directive with the aim to disassociate photovoltaic panels from the existing WEEE category 4, ‘large equipment’, as referred to in Annexes III and IV, and calculating the collection targets on the basis of waste photovoltaic panels available for collection based on their projected lifetime, rather than on the quantity of

products placed on the market;

(f) establishing a mechanism to ensure that in case of failure or liquidation of the producer, the future costs of collection, treatment, recovery and environmentally sound disposal of waste from photovoltaic panels from both private households and users other than private households will be covered financially.

Amendment 6

Proposal for a directive

Article 1 – paragraph 1 – point 2 a (new)

Directive 2012/19/EU

Article 13 – paragraph 1 – subparagraph 2

Present text

For historical waste being replaced by new equivalent products or by new products fulfilling the same function, ***the financing of the costs*** shall be provided for by producers of those products when supplying them. Member States may, as an alternative, provide that users other than private households also be made, partly or totally, responsible for this financing.

Amendment

(2a) in Article 13(1), the second subparagraph is replaced by the following:

***"The financing of the costs from historical WEEE ('historical waste'), resulting from EEE referred to in Article 2(1), point (a), other than photovoltaic panels, which is* being replaced by new equivalent products or by new products fulfilling the same function, shall be provided for by producers of those products when supplying them. Member States may, as an alternative, provide that users other than private households also be made, partly or totally, responsible for this financing."**

(02012L0019)

Amendment 7

Proposal for a directive

Article 1 – paragraph 1 – point 2 b (new)

Directive 2012/19/EU

Article 13 – paragraph 1 – subparagraph 3

Present text

For other historical waste, the financing of the costs shall be provided for by the users other than private households.

Amendment

(2 b) in Article 13(1), the third subparagraph is replaced by the following:

"For other historical waste **resulting from EEE referred to in Article 2(1), point (a), other than photovoltaic panels**, the financing of the costs shall be provided for by the users other than private households."

(02012L0019)

Amendment 8

**Proposal for a directive
Article 2 – paragraph 1 – subparagraph 1**

Text proposed by the Commission

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [**one year** after the entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

Amendment

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [**18 months** after the entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

EXPLANATORY STATEMENT

The Parliament's Rapporteur, Mrs. Anna Zalewska MEP, intends to ensure that the targeted revision of the waste electrical and electronic equipment (WEEE) directive implements the Judgment of the Court of Case C-181/20 into the existing WEEE directive fully and accurately, nothing more, nothing less. As such, the Rapporteur has strived to make the Draft Report as concise and to-the-point as possible.

The Commission's proposal for the targeted revision of the WEEE directive to implement the Court ruling is generally well-prepared, and the provisions do properly address the matter at hand. As such, the Rapporteur's amendments in the Draft Report aim to mostly do two things:

(1) **provide more clarity** to the changes, where it would be useful, as the matter is not immediately obvious, as well as provide changes to other parts of the existing WEEE directive to **ensure consistency and coherence**;

(2) highlight the need to respect the principle of legal certainty and introduce provisions which would ensure the **prevention of future instances of unjustified retroactivity**, particularly in the anticipating upcoming overall revision of the WEEE directive.

Before the adoption of the current WEEE directive i.e. Directive 2012/19/EU of 4 July 2012, the rules concerning the environmentally sound disposal of WEEE had been covered by the general waste directive i.e. Directive 2008/98/EC. The role of Directive 2008/98/EC in this context is explained in Recital 4. Hence, clarification would be pertinent in a new preceding recital, namely introducing the waste directive, and specifically its Articles 8 and 14, which concern the Extended Producer Responsibility (EPR) as well as the costs.

With regard to the changes to Article 12 of the WEEE directive, **the Rapporteur has opted to keep the Commission's proposal of changes to Article 12 and to make no additional changes to Article 12. The Commission's proposal is clear and properly implements the changes needed as required by the Court ruling.** It would follow the same logic that the Court ruling had followed in its evaluation of Article 13, and this ensures the more complete and full implementation of the ruling.

In this, the **remaining two sub-paragraphs of Article 13** (paragraph 1 of Article 13) should also be modified for consistency. In this, the Rapporteur's amendment specifies that the provisions of costs for historical WEEE specifically is for WEEE as in Article 2 paragraph (1) point (a) but not including photovoltaic panels.

Article 2 paragraph (1) point (a), as in the existing WEEE directive, covers EEE **from 13 August 2012 to 14 August 2018**, which is the subject transitional period. The type of EEE are elaborated in Annex I and Annex II of the existing WEEE directive.

Indeed, **photovoltaic panels were the only new EEE added to the scope between 2002 and 2012**, as of application of the current WEEE Directive as it entered into force on 13 August 2012. Comparing the original scopes of application of both directives, which can be done by comparing Annex IB of the original / former WEEE Directive from 2002, and Annex II of the

current WEEE Directive, it can be observed that photovoltaic panels are the only new category of equipment that appeared on the list between 2002 and 2012.

The existing WEEE Directive, specifically Article 2 paragraph 1 point (b), maintains that, the “open scope EEE”, as of **15 August 2018**, should apply (with certain exceptions) to all EEE. Hence, as of 15 August 2018, instead of applying only to EEE listed in Annex II, the WEEE Directive started applying to all EEE as an all-encompassing category, in the same way it did for photovoltaic panels, using the cut-off date of ‘placing on the market after 13 August 2005’. Therefore, the Commission’s proposal **appropriately corrects this retroactivity**, and the Rapporteur **further clarifies and ensures consistency** in this amendment in Article 13.

A general update of the WEEE directive is anticipated in the coming years, independently of this targeted revision of specifically implement the Court ruling. Having functioned since 2002, the WEEE directive is generally seen to be harmonious and well functioning, with the exception of the retroactivity matter at hand. As such, it would be useful - especially in the pursuit of highlighting the principle of legal certainty - to provide a more specific time frame for the revision, which would be shortly after the transposition of the targeted revision of the WEEE directive that implements the Court ruling.

The Rapporteur has tentatively put in by the end of 2025, as this would be compatible with the period needed for the transposition time by Member States as laid out in Article 2 paragraph 1. The period of transposition for Member States to bring about the implementation of the targeted directive revision in national law and all the administrative processes needs to be practically implementable. As such, the Rapporteur has tentatively extended the transposition period for Member States from one year to two years. This is needed to ensure the complete and full transposition of the targeted amendment to the WEEE directive, addressing any potential retroactivity.

In the update, it needs to be emphasised that ensuring predictability and clarity is vital so that future scenarios of unjustified retroactivity are avoided - that is, besides the fact that the Judgement of the Court is from the Grand Chamber, which signals a degree of importance placed on this in future EU law-making practises. Furthermore, the key notion of avoiding the transfer of burdens and costs onto citizens and consumers, an overarching priority for the Rapporteur, have been explicitly included in the amendments of introducing these provisions.

References to Article 14 and Article 15, which pertain to the European Standard EN 50419:2022, have been left unchanged from the Commission proposal in the Draft Report.

At the time of writing the Draft Report, no further changes have been deemed necessary by the Rapporteur to the Commission proposal.

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Amending Directive 2012/19/EU on waste electrical and electronic equipment (WEEE)
References	COM(2023)0063 – C9-0016/2023 – 2023/0025(COD)
Date submitted to Parliament	7.2.2023
Committee responsible Date announced in plenary	ENVI 13.2.2023
Rapporteurs Date appointed	Anna Zalewska 11.4.2023
Discussed in committee	18.7.2023
Date adopted	24.10.2023
Result of final vote	+: 82 –: 0 0: 2
Members present for the final vote	João Albuquerque, Catherine Amalric, Mathilde Androuët, Maria Arena, Traian Băsescu, Alexander Bernhuber, Malin Björk, Michael Bloss, Delara Burkhardt, Pascal Canfin, Sara Cerdas, Mohammed Chahim, Nathalie Colin-Oesterlé, Maria Angela Danzi, Esther de Lange, Christian Doleschal, Bas Eickhout, Cyrus Engerer, Pietro Fiocchi, Hélène Fritzon, Malte Gallée, Gianna Gancia, Andreas Glueck, Teuvo Hakkarainen, Anja Hazekamp, Martin Hojsik, Pär Holmgren, Jan Huitema, Karin Karlsbro, Petros Kokkalis, Ewa Kopacz, Joanna Kopcińska, Peter Liese, Sylvia Limmer, Javi López, César Luena, Marian-Jean Marinescu, Lydie Massard, Liudas Mažylis, Marina Measure, Dolors Montserrat, Alessandra Moretti, Ljudmila Novak, Grace O’Sullivan, Nikos Papandreou, Jutta Paulus, Francesca Peppucci, Stanislav Polčák, Jessica Polfjård, Erik Poulsen, Frédérique Ries, Silvia Sardone, Christine Schneider, Ivan Vilibor Sinčić, Maria Spyraiki, Nils Torvalds, Edina Tóth, Achille Variati, Alexandr Vondra, Mick Wallace, Pernille Weiss, Emma Wiesner, Michal Wiezik, Tiemo Wölken, Anna Zalewska
Substitutes present for the final vote	Mercedes Bresso, Christophe Clergeau, Jens Gieseke, Martin Häusling, Stelios Kympouropoulos, Massimiliano Salini, Christel Schaldemose, Annalisa Tardino, Róza Thun und Hohenstein, Grzegorz Tobiszowski, Marie Toussaint, Nikolaj Villumsen, Sarah Wiener
Substitutes under Rule 209(7) present for the final vote	Marie Dauchy, Carlo Fidanza, Georg Mayer, Maria Noichl, Philippe Olivier, Rob Rooken
Date tabled	27.10.2023

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

82	+
ECR	Carlo Fidanza, Pietro Fiocchi, Joanna Kopcińska, Grzegorz Tobiszowski, Alexandr Vondra, Anna Zalewska
ID	Mathilde Androuët, Marie Dauchy, Gianna Gancia, Sylvia Limmer, Georg Mayer, Philippe Olivier, Silvia Sardone, Annalisa Tardino
NI	Maria Angela Danzi, Ivan Vilibor Sinčić, Edina Tóth
PPE	Traian Băsescu, Alexander Bernhuber, Nathalie Colin-Oesterlé, Christian Doleschal, Jens Gieseke, Ewa Kopacz, Stelios Kypourouopoulos, Esther de Lange, Peter Liese, Marian-Jean Marinescu, Liudas Mažylis, Dolors Montserrat, Ljudmila Novak, Francesca Peppucci, Stanislav Polčák, Jessica Polfjård, Massimiliano Salini, Christine Schneider, Maria Spyra, Pernille Weiss
Renew	Catherine Amalric, Pascal Canfin, Andreas Glueck, Martin Hojsík, Jan Huitema, Karin Karlsbro, Erik Poulsen, Frédérique Ries, Róza Thun und Hohenstein, Nils Torvalds, Emma Wiesner, Michal Wiezik
S&D	João Albuquerque, Maria Arena, Mercedes Bresso, Delara Burkhardt, Sara Cerdas, Mohammed Chahim, Christophe Clergeau, Cyrus Engerer, Hélène Fritzon, Javi López, César Luena, Alessandra Moretti, Maria Noichl, Nikos Papandreou, Christel Schaldemose, Achille Variati, Tiemo Wölken
The Left	Malin Björk, Anja Hazekamp, Petros Kokkalis, Marina Mesure, Nikolaj Villumsen, Mick Wallace
Verts/ALE	Michael Bloss, Bas Eickhout, Malte Gallée, Martin Häusling, Pär Holmgren, Lydie Massard, Grace O'Sullivan, Jutta Paulus, Marie Toussaint, Sarah Wiener

2	0
ECR	Teuvo Hakkarainen, Rob Rooken

Key to symbols:

+ : in favour

- : against

0 : abstention