

## OPINION ON THE COMMISSION'S PROPOSAL FOR A CIRCULAR ECONOMY STRATEGY AND REVIEWED WASTE LEGISLATION

### Executive summary

- CEEP welcomes the European Commission's Circular Economy Strategy and the legislative proposals on waste for their holistic approach, taking into account the whole value chain. They are an important step towards a more circular economy in which resource efficiency becomes the key driver for both economic growth and environmental protection.
- CEEP agrees that waste prevention has rightly been placed at the top of the waste hierarchy. This includes in particular improved product design, influencing the whole product lifecycle and durability of a product and thus optimising its future reuse and recycling. EU legislation needs to be further adapted in order to support this ambition.
- CEEP supports the Commission's proposal to introduce clear definitions into waste legislation and welcomes that the definition of municipal waste is closely aligned with the one given by the European Waste Catalogue and the OECD. However, CEEP pleads that the definitions of both municipal waste and bio-waste should refer solely to their nature, property and composition, and not their quantity.
- CEEP underlines that the proposed recycling targets for municipal waste are very ambitious. Recycling measures should be further boosted in the European Union. This should be done as long as recovery of secondary raw material is less expensive and resource intensive than primary raw material extraction. It should also be kept in mind that primary and secondary raw materials need to be treated equally in a way that same environmental requirements should apply to both.
- CEEP welcomes the introduction of minimum requirements for Extended Producer Responsibility (EPR) schemes while leaving it in the remit of the Member States to decide on the use of this instrument. Nevertheless, more clarification is needed in order to avoid misinterpretations, in particular regarding cost recovery and the relation between organisations in charge of the implementation of EPR schemes and public waste management operators.
- CEEP asks for a quick landfill ban for biodegradable waste as well as for waste that can be recycled or thermally recovered. Such a ban needs to be introduced in all Member States as this would be the most effective way to support waste prevention, reuse, recycling and other efficient ways of recovery.

CEEP welcomes the European Commission's Circular Economy Strategy as well as the legislative proposals on waste published on 2 December 2015. CEEP supports the holistic and wide approach of the Strategy which takes into account all parts of the value chain. It is therefore in line with the Commission's principle of better regulation and sets the right direction for a more effective implementation by all Member States.

The Strategy and the legislative proposals on waste are an important step towards a more circular economy in which resource efficiency becomes the key driver for both economic growth and environmental protection in the European Union. CEEP embraces the Strategy as it represents an outstanding opportunity to realize the objective of a sustainable economy. It has the potential to show that economic rationality, environmental protection and social responsibility are not in contradiction with each other, but that, on the contrary, if well balanced, they reinforce each other. It underlines that it is not about choosing between the protection of the environment on the one hand, and growth and jobs on the other, but about achieving benefits in all these fields.

CEEP calls for a swift realisation of the Strategy and no further delay in implementing the legislative proposals on waste in order to quickly advance towards a real circular economy. In this context, the expertise of public services' providers is key to ensure the feasibility of the proposals and their effective implementation. Already today, CEEP members contribute actively to the move towards a more circular economy. By providing services in direct contact with citizens and enterprises all over Europe, our members play a central role in the implementation of these policies and initiatives in the sectors in which they are active, such as waste management, energy, housing, transport and water.

Based on CEEP members' concrete experience, CEEP would like to comment hereafter on some key proposals and suggest ways to further improve them in order to reach the goal of a circular economy.

## **Prevention of waste, optimisation of product cycles**

### **(Communication on Circular Economy Strategy)**

CEEP supports the Commission's ambition to address all parts of the value chain. This is indeed the pre-condition for a circular economy. In this context, CEEP highlights that waste prevention has rightly been placed at the top of the waste hierarchy. This includes in particular improved product design that influences the whole product lifecycle as well as the durability of a product and helps optimising its future reuse and recycling. EU legislation therefore needs to be further adapted in order to ensure higher recyclability and reparability of products. A review of the EcoDesign Directive and its work plan, as announced in the Strategy's Action Plan, should be advanced with great ambition through concrete steps in view of its preparation, the legislative process and its implementation. Furthermore, the European provisions on Ecolabelling should be adapted and simplified accordingly, in order to allow citizens to opt deliberately for resource-efficient products.

CEEP welcomes proposed initiatives to ease reuse (especially in the area of construction/deconstruction, building and public works), boost the emergence of a secondary raw material market and publish a communication on the potential of waste to energy (waste heat recovery).

For secondary raw materials, such as for instance recycled nutrients from waste water and

construction/deconstruction/public works, a general approach is needed. Currently, the use of diverging quality standards and approaches by Member States leads to different legal obligations for those materials, hampering the recycling of the latter. A general approach would remove the need to apply for separate approval of individual locations and cases. This should create a level playing field with harmonised criteria for secondary raw materials. Furthermore, the market for these secondary products should be stimulated through financial or legal incentives.

## **Definition of municipal waste, bio-waste and waste status**

(Directive on waste, Art. 3, 5)

CEEP supports the Commission's proposal to introduce clear definitions into waste legislation (by products, end of waste status, backfilling etc.). In this context, CEEP welcomes that the definition of municipal waste is closely aligned with the definition in the European Waste Catalogue and the definition of the OECD from 2012. CEEP also stresses the importance to keep the 'by product' definition in view to harmonise and facilitate exchanges between Member States. In that perspective, the launching of platforms of exchange is very welcome.

However, CEEP pleads to change the Commission's proposals as regards the quantity criterion in the definition of municipal waste in Article 3, point 1a(b) and to take out the reference to 'quantity'. It is inconsistent with the OECD/Eurostat definition of municipal waste, with which the definition in the Directive is supposed to be harmonized. The OECD/Eurostat definition of municipal waste includes no quantity criterion and specifically refers to commerce, trade, business and other institutions as sources of municipal waste, and should be strictly adhered to. Furthermore, a quantity criterion would have a deep impact on existing, environmentally sound and efficient public waste management systems. Waste collection systems incur mostly fixed costs for infrastructure. By allowing other sources of municipal waste to opt out from collection schemes on the basis of quantity, these fixed costs would be distributed among a smaller number of remaining payers and therefore lead to higher costs for consumers and households. Furthermore, it would lead to a considerable reorganisation of responsibilities for collection as well as to increased red tape, without however helping to introduce any clear added value, for example in view of the statistical recording or steering of material flows. Most importantly, a quantity criterion would exclude waste streams from the provisions of the Circular Economy Strategy, particularly from the scope of the Directive on waste and its recycling targets. This would lead to a significant reduction of the overall recycling efforts of the European waste management sector.

Therefore, the definition of municipal waste and bio-waste should refer solely to its nature, property and composition, and not its quantity. Indeed, in parallel to the definition of municipal waste, bio-waste too should not be defined with reference to quantity. In order to ensure optimal recycling results, organic waste material such as bio plastics, which are not suitable for the production of high quality compost, should not be covered by the definition of bio-waste, but should remain part of municipal waste.

Regarding the definition of 'end-of-waste', it should be noted that the waste status of nutrients and materials recovered from waste water as well as from construction/deconstruction/public works materials makes it very difficult to recycle and valorise them. This could be resolved by establishing European 'end-of-waste' criteria for secondary raw materials including criteria which should mainly focus on the final product quality.

## Recycling targets

(Directive on waste, Art. 11; Directive on packaging and packaging waste, Art. 6)

The proposed recycling targets for municipal waste are ambitious, and we'd like to recall that not every type of municipal waste is recyclable. The limits of recycling are reached when the recovery of secondary raw material is more expensive and resource intensive than primary raw material extraction. Therefore, minimum requirements should only apply to those waste materials for which recycling is ecologically and economically convenient. The most efficient and environmentally friendly treatment technology for non-recyclable municipal waste, is thermal treatment in combined heat and power (CHP) plants. Therefore, this technology should be supported.

It is necessary to not only define quantity targets but also quality standards for ecologically sound recycling. Quality standards for recycling could avoid a shift from high quality recycling products to low-grade recycling applications. For example, the separation of different kinds of low-grade plastics with high impurities from mixed municipal waste streams lead to a lower value material. This kind of material has a great difficulty of closing the recycling loop.

Furthermore, recycling targets should take into consideration the market for secondary raw materials (supply and demand) in order to avoid artificial oversupply. CEEP also wishes to stress that attention should be paid to not complexify the reporting obligations in general.

## Optimisation of the method to determine recycling targets

(Directive on waste, Art. 11a; Directive on packaging and packaging waste, Art. 6a)

In principle, CEEP welcomes that the proposal to define the weight of the municipal waste recycled as the weight of the input waste entering the final recycling process. It represents an effective compromise between calculation methods that are based on either the collection quantity or the output of the recycling process. The proposed calculation method makes it possible for procedural steps that are usually part of the sorting process (such as the removal of impurities or the separation of different types of plastic) to be moved to the final recycling process in order to reach the targets more easily. In this context, the provisions in Article 3, point 17a are not sufficiently clear.

Having the objective of functioning markets for secondary raw materials in mind, it is however essential to have information on recycling results that are as reliable as possible. Otherwise, it would not be possible to implement universally applicable detailed regulations for all processes and materials. Metals, glass, minerals and other materials that are recovered from combustion of waste, should be included in the calculation of the quantity of recycled materials.

## Need for further clarification on Extended Producer Responsibility (EPR)

(Directive on waste, Art. 8, 8a)

CEEP welcomes the introduction of minimum requirements for Extended Producer Responsibility schemes while leaving it in the remit of the Member States to decide on the use of this instrument. Nevertheless, Article 8a of the Directive on waste needs to be clarified in order to avoid misinterpretations, in particular regarding cost recovery and the relation between organisations in charge of the implementation of EPR schemes and public waste management operators.

It should be made clear that Member States have the possibility to design mandatory collection schemes. EPR schemes should also work against littering, both through initiatives on EcoDesign, as well as cover the costs related to littering from their materials.

Finally, in Article 8a paragraph 4c, CEEP pleads for the replacement of the term „optimised costs“ by a better term, as “optimised costs“ is understood differently from one stakeholder to another. We still seek a term that addresses the obligation for EPR schemes to cover all costs the operators have and which gives the EPR schemes certainty that they cover only the costs necessary to reach the targets - and not more. We also want to point out that public waste management operators do not act on behalf of extended producer responsibility schemes, but according to their legal responsibilities. They merely cooperate with the EPR schemes because it is to the advantage of the EPR schemes to get hold of household waste and other waste collected by public waste management.

## **No landfill of recyclable and biodegradable waste**

(Art. 5, Directive on the landfill of waste)

As regards the Commission’s proposal for amendments to the directive on the landfill of waste, CEEP asks for a quick landfill ban for biodegradable waste as well as for waste that can be recycled or thermally recovered. Recycling processes always need to have priority in all the cases where they actually bring an ecological advantage, enable the production of high-quality goods and are economically viable, for instance when there is a demand from the manufacturing industry for secondary raw materials.

A landfill ban needs to be introduced in all EU Member States as this would be the most effective way to support waste prevention, reuse, recycling and other ways of recovery. Pure restrictions in quantity, as suggested in Article 5 of the directive on the landfill of waste, are not enough in order to realise this objective. Instead it is necessary to introduce additional qualitative requirements as well as enforcement possibilities in order to guarantee their implementation.

Already today, the reduction of landfill has helped to considerably reduce CO<sub>2</sub> emissions as landfill of untreated municipal waste, in particular of biodegradable waste, represents the main source of emissions in the waste management sector that are harmful to the climate. Moreover, such landfill bans in some Member States have already helped to stimulate the installation of new recycling capacities as well as of other possibilities of high quality recovery. The agreement of the 21st Conference of Parties (COP 21) in Paris underlines the need to reduce greenhouse-gas emissions from waste management. In order to achieve these objectives, landfilling of municipal waste should be enforced throughout Europe as soon as possible.

Furthermore, the directive should make sure that the proposed restriction of landfilling addresses municipal waste, without including waste arising from thermal treatment processes. Even thermally treated municipal waste (i.e. ashes, slags) must in most cases be landfilled, but does not have the same negative environmental impact as untreated municipal waste. Thermal treatment acts as an effective final sink for hazardous substances such as dioxin, furans and heavy metals, which are captured in the filters of incineration plants and thus separated from ashes and slags, so that their dissipation in the environment is prevented.

During the transition phase towards a swift exit from landfill in all EU Member States, it should be envisaged that treatment capacities in other Member States can be used, once the existing local treatment capacities are completely used, based on the proximity principle. This should be made possible through a clear and limited framework (for instance green deals), without hampering the development of waste facilities, and ensuring a common level playing field. The use of existing treatment capacities should be optimised, ensuring the stepping up of the waste hierarchy for waste otherwise destined to landfills. The saturation of existing treatment capacities also brings advantages, because in this way the plants can operate at their best performances also under environmental aspects. Once the local plants are operating at full capacity, it should be envisaged to use the existing European network, in order to avoid landfilling; this could mean a temporarily limited exception to the principle of self-sufficiency and proximity. Furthermore, the cross-border transport of such waste within the EU must not lead to ecological disadvantages. Therefore, existing leeway in the context of the EU regulation on shipments of waste should be used or amended accordingly.

In view of optimising the reuse of for instance construction/deconstruction wastes at local and regional level, taking into account existing or forecasted construction sites, CEEP believes longer temporary storage delays are needed before storage is considered as a landfill.

## **Delegated acts and reporting**

CEEP considers problematic the wide use of delegated acts as suggested in the Commission's proposal. In order to take into account the experience of all relevant stakeholders, the scope of comitology should be as limited as possible. CEEP suggests the introduction of a Forum of exchange, such as the one put in place by the Industrials Emissions Directive, in order to involve all stakeholders at an early stage of the decision making process.

CEEP welcomes the proposed simplification of reporting requirements of all six directives published together with the Circular Economy Strategy. This step increases quality, reduces costs and goes into the right direction to improve reporting by Member States which is considered as an important tool to verify the implementation and the enforcement of the waste legislation.

CEEP strongly believes that it is necessary that the waste legislation is correctly and entirely implemented and enforced throughout the 28 Member States. In this regard, reporting should provide reliable and realistic information, also concerning the performances of the waste management in the Member States, whilst particular attention is given to the effective achievement of the targets. In this view, CEEP welcomes the introduction of the Early Warning System for monitoring compliance with the targets, hoping it will help the Commission to anticipate implementation deficiencies and shortcomings in order to take more effective actions to counter them and to ensure a better and uniform enforcement of the waste legislation. This could play an important and effective role in fulfilling the gaps and differences existing between Member States' performances in waste management.

Finally, concerning reporting schemes a simplification of waste codification is needed as there are currently three different codes (codification included in the waste framework directive, codification in the regulation on shipments of waste, and codification in the regulation on waste statistics).