



## **Sustainable Consumption and Production – Bio-waste Directive: the journey so far**

**30 July 2010**

**Summary:** Management of bio-waste remains one of the priorities of EU waste policy, with all parties convinced that there are significant potential benefits to improving its management. There is however some disagreement as to how to achieve this. The European Commission is of the view that existing legislation is capable of driving improvements and the Parliament, Council and Spanish, Belgian and Hungarian Presidencies have all called for a separate bio-waste Directive. The debate continues with the Commission trenchant in their position and the other institutions limited by their inability to require the Commission to produce a separate Directive; the outcome is uncertain. What seems clear is that promoting mandatory separate collection of bio-waste, setting quality standards and continued diversion of bio-waste from landfill will continue to be key objectives; how this will be achieved remains to be seen.

### ***Background***

Improving the management of bio-waste is one of the priorities of EU waste legislation. Bio-waste accounts for 30-45 per cent of Europe's municipal solid waste and the volume is rising across the EU. The main environmental risk is the methane produced from the landfilling of bio-waste; methane is a very potent greenhouse gas. Bio-waste also poses a risk to water bodies, contributing to eutrophication and threatening human and environmental health. Poor management of bio-waste also represents a waste of resources as it can be used to produce energy and improve soil quality.

### ***History of bio-waste policy and legislation***

The EU has long realised the risks and opportunities presented by bio-waste. The 6<sup>th</sup> Environment Action Programme (6EAP) in 2002 called for a legislative response to improve bio-waste management<sup>1</sup>.

This focus was sustained in the 2005 Thematic Strategy on Waste Prevention and Recycling<sup>2</sup> which called for action on bio-waste, though it did not promote separate bio-waste legislation. This decision brought some criticism at the time<sup>3</sup>.

The revised Waste Framework Directive<sup>4</sup> which stemmed from the Thematic Strategy calls upon the Commission to undertake a review of the management of bio-waste. The resulting Green Paper<sup>5</sup> produced on December 2008 detailed the European situation and was used to promote debate on whether existing legislation was effective, and if not what could be done to improve it. The results of this process would be published in a Communication in late 2009.

Before the Communication was published, in June 2009 the upcoming holders of the rotating EU Presidency (Spain, Belgium and Hungary) called on the Commission to propose a stand alone bio-waste Directive<sup>6</sup>. An Environment Council meeting later that month supported this call and asked the Commission to table a Directive if ‘appropriate’<sup>7</sup>.

The justification behind these calls was that more needed to be done to realise the benefits of proper management of bio-waste, including reduced carbon emissions and the creation of high quality soil conditioner. It was felt these benefits could be achieved by making separate collection of bio-waste mandatory.

The next significant stage in this process was the publication of the Commission Communication on the future of bio-waste policy<sup>8</sup> (see IEEP Analysis Briefing: 28 May 2010). The Communication concluded that there were no gaps in EU policy and that Member States could make significant improvements based on the existing regulatory framework. Furthermore, retaining the current system would also allow Member States to choose the best option, thus respecting the principle of subsidiarity. Generally the Communication argued that the focus should be on ‘rigorous enforcement of the targets on diverting bio-waste away from landfills’<sup>9</sup>. This could be seen as somewhat of a snub to the Council and upcoming Presidencies, as well as suggesting that Member States are not achieving the potential of existing regulatory instruments.

The Commission’s view seems explicit, but a month later the European Parliament again urged the Commission to draw up a proposal for a specific Directive, considering the:

- Establishment of mandatory separate collection;
- Recycling of bio-waste; and
- Quality-based classification for different types of compost.

It is interesting to note that the tools and actions being proposed throughout this debate have remained fairly constant. This would suggest that they have not been successfully implemented or are not as effective as hoped.

The need for a separate Directive was linked to achieving existing renewable energy and recycling targets and the goals of the EU 2020 strategy, specifically ‘resource efficiency’<sup>10</sup>. The Parliament seemingly admonished the Commission for not having produced legislation that was discussed eight years ago in the 6EAP; MEPs stated that they expected a proposal by the end of the year.

### *Analysis*

The crux of this issue is crystallised in the findings of a recent Commission commissioned report which suggests that benefits of €1.5-7 billion are possible between 2013-2020 from the improved management of bio-waste<sup>11</sup>. The question being wrestled over is how best to do this.

Those advocating a new Directive suggest that it would aid simplification and be an example of ‘excellent lawmaking’ as it would pull all aspects of bio-waste into a single Directive<sup>12</sup>. The response is that a single Directive could give a ‘strong political signal’ but that modifying the Waste Framework Directive may be a ‘simpler solution’<sup>13</sup>.

Looking at other priority wastes such as batteries or packaging there is a clear trend for separate legislation, but the Commission remains firm that increased enforcement and modifications to existing legislation is sufficient. The Presidencies, Council of Ministers and Parliament continue to apply pressure, but are not able to formally oblige the Commission to act.

It is difficult to determine who is right in this matter; the legislative landscape is undoubtedly cluttered, but producing a single piece of legislation is not as neat a solution as it may seem given that bio-waste aspects of other legislation (such as the Sewage Sludge and Waste Framework Directives) would remain. At the same time, modifying the Waste Framework Directive could be a complex task which could run the risk of opening the flood gates for changes to other aspects of the Directive.

It may not matter who is right. What seems certain is that any future action will include the core objectives of mandatory separate collection, setting some type of quality standard and continued diversion of bio-waste from landfill. These policies should be welcomed as they are likely to reduce the pollution risk of waste management as well as maximising resource recovery. The only question remaining is how this will be achieved.

### ***Future developments***

It is likely that the Commission will respond to the Parliament's request for a proposal for a Directive in the summer of 2010. The Commission is then expected to deliver a proposed Directive for bio-waste by the end of 2010.

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