

Difficulties arising from the practical application of waste legislation and proposals for solutions



Introduction

The FIC is an organization which brings together the largest Romanian companies with foreign capital and, since its foundation in 1997, it has been an important player in the dialogue between the private sector and the authorities and decision makers. The FIC brings together a number of sectors of activity in its membership: energy, trade, beverage producers, recyclers, tobacco, construction, financial services and others, which contribute to the definition of aligned and common positions adopted and presented by the FIC Environmental Working Group. Our association attaches particular importance to environmental protection and regulation, contributing position papers and proposed amendments to various pieces of legislation under public consultation.

One of the FIC's priority issues is waste management, for which Romania continues to rank last in the European Union in terms of waste collection, recycling and recovery. FIC members regularly analyse the whole waste management system in an attempt to identify the main bottlenecks and propose solutions and recommendations that are aligned with European practices.

Environmental protection in general, and waste management issues in particular, have been one of the main priorities of the FIC's members, as reflected in the FIC's biennial reports over the last 10 years (see [White Book 2013](#), [White Book 2015](#), [White Book 2017](#), [White Book 2019](#) and [White Book 2021](#)).

The FIC has consistently stressed the need to ensure a clear, coherent, predictable and equitable framework for waste management to enable all actors to take the necessary actions to comply with the legal requirements in this area. This is the only way to ensure a paradigm shift in waste management and the achievement of European targets.

In this respect, the FIC has been constantly involved for several years in the waste management debate, including making proposals for amendments to draft legislation published in the decision-making transparency procedures and participating in the debates organised by various authorities on the subject, in order to support the national authorities' efforts to define and implement the necessary rules. However, the current legal framework continues to need clarification and improvement.

Summary

In order to further contribute to the improvement of the legal framework in this field, during May - June 2022 the FIC started consultations with representatives of the various actors involved in waste management, in an attempt to document the main current problems affecting efficiency in this field and to formulate proposals for pragmatic solutions to remedy them.

The consultations included working sessions with:

The Romanian Association for Packaging and Environment (ARAM), Brewers of Romania, the National Association for Soft Drinks (ANBR), the Association of Large Retail Networks in Romania (AMRCR);

The Federation of Intercommunity Development Associations (FADI);

The OIREP Packaging Association;

Ecotic, Environ, the National Battery Recycling System (NBRS), ARCwaste, Reverse Logistics Group (RLG) Romania;

RER Group;

Coalition for the Circular Economy, ECOTECA, Green PC Packaging, Romcarbon;

The National Union of Road Hauliers in Romania (UNTRR);

The Employers' Association of the Cement and Other Mineral Construction Products Industry in Romania (CIROM);

European Bank for Reconstruction and Development, World Bank, European Investment Bank.

This paper presents the conclusions of these consultations, reflecting some of the main issues raised by participants in the working sessions and the FIC's proposals for concrete solutions to address them. Please note that given the scope of work of the international financial institutions (European Investment Bank and World Bank), this paper does not fully reflect the views of these organisations.

As detailed below, we believe that the appropriate legislative and administrative authorities need to consider a rethinking/repositioning of the waste management rules taking into account (also) the following concrete needs reported by several actors involved in the waste management stream, from the generator to the operator which recovers or finally disposes of the waste:

1 Difficulties are constantly reported due to the lack of access to information on the behaviour of authorised waste management companies and the permits they hold, in a context where there is a legal obligation to work only with authorised operators. If information on this behaviour is not accessible, it is not possible to ensure a rapid response to measures or findings by the authorities (e.g. if an environmental operating permit has been suspended).

2 The practical difficulties in achieving municipal waste recycling targets, due to insufficient/inadequate bio-waste management, are well known. It can be argued that, in the absence of clear regulations, it is de facto impossible to put compost on the market, which discourages the development of composting solutions.

3 There is a need to increase the amount of recyclable waste collected separately from municipal waste in order to achieve the targets for preparing municipal waste for reuse and recycling.

4 There are practical difficulties with the economic instrument "Pay as you throw". As it is an instrument that encourages waste management per stream and positively influences the effort to achieve municipal waste reuse and recycling readiness targets, it is imperative to ensure easy and efficient implementation of the instrument.

5 There are practical problems that make it difficult to make arrangements for extended producer responsibility for textile waste, even though Romania will soon have to provide a dedicated stream for this type of waste.

6 There are practical difficulties in achieving recycling rates for waste portable batteries and accumulators due to the small amount of waste available for collection.

7 There are no treatment facilities for batteries other than alkaline and zinc carbon batteries.

8

There are difficulties in managing waste electrical and electronic equipment.

9

Measures are needed to stimulate the development of processing/production infrastructure for recycled aggregates to ensure better management of construction and demolition waste.

10

In practice, there may be misinterpretations of the need for an environmental operating permit for waste take-over activities under legal obligations. An example of this is the activities of companies in the retail industry which take-over non-hazardous waste from final consumers (e.g. in fulfilment of legal obligations to take back packaging) and transport it to companies which are authorised to carry out one or more waste management activity.

11

Co-processing in cement plants should be recognised as including both recycling and energy recovery, as both types of operations are carried out in cement plants. The fact that co-processing is currently only recognised as recovery also affects Romania's targets, as no quantities recycled in co-processing are counted as recycled.

12

There is a need to complete the legal framework on end-of-waste status and to address the technical aspects of waste recycling.

13

There is a lack of legal regulation of the possibility and the appropriate procedure for taking back for recovery some waste already subject to disposal (e.g. ash and slag waste) by landfilling in landfills for which the closure procedure has been followed, although such a possibility would be in line with the goals of the circular economy and would avoid the use of other resources.

14

There are legislative gaps as well as uneven practical interpretations of the obligations laid down in the legislation on the reduction of the environmental impact of certain plastic products (SUP). These lead in practice to the impossibility of application/ununiform application of legal requirements and to dysfunctions, including of a commercial nature.

15

Contributions to the Environmental Fund in relation to the achievement of targets/ obligations in primary environmental legislation should be targeted on the activity specific to each type of taxpayer and be set in accordance with the principle of equality in tax matters, i.e. be proportionate, fair and reasonable.

16

There is a lack of legislative correlation, as well as a lack of regulation on how to calculate the 2% contribution on the revenues from the sale of waste.

17

There are difficulties resulting from the existence of several IT systems for reporting information relevant to waste management. A unification of the existing systems would ensure better traceability in the field and prevent duplication of reporting efforts by waste operators.

18

There is a lack of regulation of the possibility and the appropriate procedure for the revision of the form for the approval of the transport of hazardous waste.



1

Difficulties due to lack of access to information on authorised waste management companies and their permits

BACKGROUND Legal entities which are in possession of packaging waste (from trade and industry or similarly from households) are required to hand over the quantities of packaging waste generated to "authorised collectors" in accordance with Article 20(2). (4) (b), para. (7) index 1 (b), para. (7) index 2 letter a) of Law no. 249/2015.¹

In order to ensure proper access to up-to-date and accurate information and to ensure better traceability and proper waste management, there is a need for an up-to-date list of all authorised waste management companies and the operating permits they hold, which is publicly accessible and can be verified prior to contracting.

PROPOSED SOLUTIONS

- a) Regulation of the obligation for the National Agency for the Protection of the Environment (ANPM)/ Environmental Protection Agencies (APMs) to adopt and publish, on their own websites, the updated list of all authorized waste management companies and the environmental operating permits / integrated environmental operating permits held by them, as well as the decisions on the annual authorisations issued, in compliance with the provisions of GD 878/2005.²
- b) Regulating the requirement for waste management companies to publish, on their website, information on the waste management activity for which they hold an environmental operating permit/integrated environmental operating permit, the number and date of the permit held and information on the annual authorisation decisions obtained.

1 Law No 249/2015 on the way packaging and packaging waste is managed ("**Law No 249/2015**")
2 GD No 878/2005 on public access to environmental information ("**GD 878/2005**")



2

Practical difficulties in achieving municipal waste recycling targets due to insufficient/inadequate bio-waste management. Impossibility of marketing compost.

BACKGROUND Biowaste represents the largest amount of municipal waste generated by the population.

Its proper management would contribute to achieving municipal waste recycling targets.

However, bio-waste is currently not collected to a sufficient/adequate extent, in particular due to the failure to comply with the requirement to collect separately (currently) the wet fraction (residual waste) and the dry fraction of at least three types of recyclable waste (metal and plastic, glass, paper and cardboard) by sanitation operators/local administrative units (UATs) and citizens.

At the same time, there is currently no compost quality certification body in Romania to enable compost to be placed on the market, as required by law, although there is demand and a developing market for compost.

Difficulties on this issue also result from the fact that the Technical Rules on composting and anaerobic digestion activity provided for by Law No 181/2020³ have not been adopted. These Technical Rules should have been adopted, according to the law, within 6 months of the entry into force of Law No 181/2020, i.e. in January 2021.

PROPOSED SOLUTION

The swift adoption of the Technical Rules on composting and anaerobic digestion activity provided for by Law 181/2020. In this respect, the provisions of Regulation 2019/1009,⁴ which regulates requirements for compost and composting in the context of EU fertiliser products, e.g. the stability criteria that compost must contain and the criteria that composting facilities must meet, may also be taken into account.

³ Act No 181/2020 on the management of compostable non-hazardous waste (**“Act No 181/2020”**)

⁴ Regulation (EU) 2019/1009 of the European Parliament and of the Council of 5 June 2019 laying down rules on the making available on the market of EU fertiliser products, amending Regulations (EC) No 1069/2009 and (EC) No 1107/2009 and repealing Regulation (EC) No 2003/2003 (**“Regulation 2019/1009”**)



3

The need to increase the amount of recyclable waste collected separately from municipal waste in order to achieve the targets for preparing municipal waste for reuse and recycling

BACKGROUND OGEO No 92/2021 stipulates that the UATs (local administrative units)/ADIs (Intercommunity Development Associations) are now required to achieve a level of readiness for reuse and recycling of at least 50% of the total mass generated, as a minimum for paper, metal, plastic and glass waste from household waste or, where appropriate, from other sources, to the extent that these waste streams are similar to waste from households. The UATs/ADIs are also required to achieve a minimum level of preparedness for reuse and recycling of 55% of municipal waste by 2025. According to Eurostat, Romania's recycling rate for municipal waste was only 13.7% in 2020 (the most recent year for which data are available) (https://ec.europa.eu/eurostat/databrowser/view/sdg_11_60/default/table?lang=en). Although GEO 74/2018⁵ regulated economic instruments (e.g. the "Pay as you throw", contribution to the circular economy) and obligations for sanitation operators (e.g. minimum performance indicators) in order to stimulate an increase in the recycling of municipal waste, their implementation is still low. For example, according to the explanatory memorandum to the recently adopted GEO 133/2022,⁶ as at May 2022, the provisions of GEO 74/2018 had been implemented in only 45.90% of the UATs which provide sanitation services. The explanatory memorandum also states that the low level of implementation at national level of the provisions of GEO 74/2018 (the amendments and additions made to Law No. 211/2011 by GEO 74/2018 are currently taken over in GEO No. 92/2021) is mainly due to the non-inclusion of the contribution for the circular economy in the separate tariffs for separate collection of municipal waste and the non-imposition of sanitation fees for operators which do not conclude contracts with sanitation operators.

In this context, GEO 133/2022 included a series of measures aimed at increasing the recycling rate of municipal waste (e.g. in order to operationalise the economic instrument contribution for the circular economy, the expenses for the contribution for the circular economy are not included in the cost itemised statement of the tariff and are shown separately, together with the tariff, in the invoice issued by the operator, corresponding to

⁵ Emergency Ordinance No 74/2018 amending and supplementing Law No 211/2011 on the waste regime, Law No 249/2015 on the management of packaging and packaging waste and Government Emergency Ordinance No 196/2005 on the Environment Fund ("GEO 74/2016")

⁶ Emergency Ordinance No 133/2022 amending and supplementing Government Emergency Ordinance No 92/2021 on the waste regime and the Local Sanitation Service Act No 101/2006 ("GEO 133/2022")

the quantity resulting from the application of the performance indicators, if the users pay the countervalue of the sanitation service through the tariff). However, the newly adopted provisions are not yet fully correlated with the provisions of Law 249/2005, which creates uncertainty and may generate (at least in the short and medium term) an effect contrary to the intended increase in the recycling of municipal waste.

**PROPOSED
SOLUTIONS**

- a) Increasing the accessibility of separate collection to the population by increasing the number of collection containers and collection points.
- b) Educating the population about separate collection.
- c) Encouraging compliance by users of sanitation services with separate collection, by imposing penalties on users who do not collect municipal waste separately on the streams collected by sanitation operators and by implementing and enforcing the economic instrument " Pay as you throw".
- d) Ensuring the financing of the municipal waste management system by charging users who do not conclude contracts with sanitation operators.
- e) Stricter control of the implementation of the obligations of the UAT/ADI to include performance indicators for sanitation services in the management delegation contracts;
- f) Implementation, after real debate and within a reasonable timeframe with all stakeholders (ministries, OIREPs, producers), of a national coordination mechanism (clearing house type) for the system of collective fulfilment of extended producer responsibility obligations by producers of packaged products.
- g) Introduction of the precondition that, in order to approve the sanitation tariffs for plastic, paper, metal and glass waste from separately collected municipal waste, the National Regulatory Authority for Community Public Utilities Services (ANRSC) and the OIREPs must be asked to give their approval, the latter being the actors responsible for bearing the net costs for packaging waste calculated on the basis of these tariffs.
- h) Regulating the requirement for the ANRSC to develop methodological rules for the calculation of net costs.
- i) Establishment of voluntary collection centres, which should also accept waste electrical equipment.



4

Practical difficulties with the economic instrument “Pay as you throw”

BACKGROUND In contracts delegating the management of the sanitation service, tariffs differ according to the costs of the fractions (lei/tonne), while the final consumers bear costs in different ways, as a fee paid to the local administrative unit or as a tariff paid directly to the sanitation operator. In practice, the citizen is often not charged any kind of fee by the local authority or by the sanitation operator.

The economic instrument “Pay as you throw” would be easiest to implement if it were based on the given element of collection volume and frequency. From the information available from the sanitation sector, we understand that basing the implementation of this economic instrument on the weight element is not feasible for “door-to-door” collection, as weighing waste from house to house proves impossible on a large scale, because the weighing equipment becomes unbalanced. Moreover, in the case of condominiums, this tool is not yet operational.

The weight-based “Pay as you throw” system can only become operational if the digitised waste collection islands funded by the NERP are put into operation.

We also consider useful the regulation of the economic instrument “Pay as you throw” in Law 101/2006 on the sanitation service of municipalities, following the recent amendments made by GEO 133/2022. We also welcome the regulation in Law 101/2006 of the obligation of ANRSC to develop and publish recommendations on the operationalisation of this instrument. However, we note that the obligation to implement the “Pay as you throw” tool at local level is not coupled with the imposition of an implementation deadline, which means that the local administrative units still do not have a sufficient incentive to regulate it or to make the sanitation operator apply it in the contracts it concludes with the users of the sanitation service, although Law no. 249/2015 (which also previously imposed this obligation) also provides for a penalty in the case of non-compliance.

For situations where the economic instrument is implemented, coercive instruments (e.g. systematic controls by the National Environmental Guard) are needed to encourage compliance with legal requirements in this area.

**PROPOSED
SOLUTIONS**

The following are proposed as tools to better implement the „Pay as you throw“ instrument:

- a) Imposing by law deadlines by which local regulations on the implementation of the economic instrument “Pay as you throw” must be adopted;
- b) Monitoring the degree of implementation of the “Pay as you throw” instrument and ensuring the mechanisms by which local public administration authorities manage to operationalise this instrument, by including in the specifications and in the contracts for the delegation of the management of the sanitation service, reasoned, separate tariffs for activities concerning the management of separately collected waste, or other interdependent instruments, such as eco-modulation;
- c) Allocating waste collection areas for the smallest possible spaces;
- d) The local authorities should keep an inventory of all pre-collection volumes with the related required collection frequency (access to the UATs via the database on the tax side);
- e) The relevant authorities and local police should exercise their powers to control and apply the penalties provided by law for violations of the legal requirements in this field;
- f) Ensuring the financing of the municipal waste management system by charging users who do not conclude contracts with waste operators.



5

Practical difficulties hindering measures for extended producer responsibility for textile waste

BACKGROUND According to GEO 92/2021, waste producers and waste holders are required to introduce separate collection of textile waste by 1 January 2025 and local public authorities, including the Municipality of Bucharest, are required to offer the population the possibility to dispose of textile waste free of charge.

However, at present in Romania there is insufficient regulation of textile waste collection and related obligations and there is only one large textile waste recycler, which creates practical difficulties for the further management of separately collected textile waste.

PROPOSED SOLUTIONS

- a) Regulation of the collection of textile waste, e.g. at the points of sale of retailers selling textiles, and the related obligations of producers and holders of such waste which are required to collect separately;
- b) Investments in textile waste recycling / recovery;
- c) Educating end-consumers and waste producers and holders on separate collection of textile waste with a view to increasing collection rates and encouraging responsible behaviour by the appropriate authorities on separate collection of textile waste, e.g. by carrying out educational activities through national media campaigns.



6

Practical difficulties in achieving recycling rates for waste portable batteries and accumulators due to the limited amount of waste available for collection

BACKGROUND There is a very low rate of proper management of waste portable batteries and accumulators by end-users. The main problem is that waste portable batteries and accumulators are not handed in by end-users separately at collection points, but are disposed of together with municipal waste. Thus, waste portable batteries and accumulators are not available for collection for recycling.

By way of example, the percentage of waste batteries collected through collection points located in retailers' sales structures, i.e. from end consumers, is very low. This may also be due to insufficient education of end-users on how to deal with waste batteries.

Such actions to educate final consumers are necessary, but they must be carried out from the budget of the relevant public authorities. Collection organisations cannot carry out such end-user education actions from their own budget, as they already incur significant costs to buy lead-acid battery waste for recycling, as waste generators/collectors organise tenders in order to obtain the highest possible price from collection organisations.

PROPOSED SOLUTIONS

- a) Educating end consumers and retailers on separate collection of waste batteries in order to increase collection rates and encourage responsible behaviour by relevant authorities on separate collection of waste batteries. Such educational activities can take the form of, for example, national media campaigns.
- b) Checking and penalising final consumers for failing to separately collect waste batteries and disposing of them with municipal waste. Considering the possibility of involving the local police in carrying out control activities with regard to compliance with existing legislation in this field, thus ensuring the necessary human resources to implement these activities.
- c) Legal regulation of the obligation for distributors of portable batteries and

accumulators to collect waste portable batteries and accumulators, for example, following and adapting the existing legal framework for waste electrical and electronic equipment. In this respect, it is not sufficient to have a legal provision requiring producers or collection organisations acting on their behalf to require distributors to take back waste portable batteries or accumulators free of charge when they supply new portable batteries or accumulators.

- d) Appropriate training of environmental authorities' staff on the specific issues of waste portable batteries and accumulators.



7

There are no treatment facilities for batteries other than alkaline and zinc carbon batteries

BACKGROUND The lack of treatment plants for other waste batteries than alkaline and zinc carbon batteries leads to possible risks in relation to external transport of waste batteries and prevents the extraction of valuable material in Romania (e.g. lithium).

PROPOSED SOLUTION Realization / financing of investments for the creation of waste batteries treatment facilities in Romania, for example, through the adoption and implementation of the Specific Guidelines on the rules and conditions applicable to financing from European funds related to the National Recovery and Resilience Plan, under the call for projects PNRR/2022/C3/I1.D, for sub-investment I1.D "Construction of waste recycling facilities in order to achieve the recycling targets of the circular economy package"⁷

⁷ <http://www.mmediu.ro/articol/proiect-de-o-m-privind-aprobarea-ghidului-specific-privind-regulile-si-conditiile-aplicabile-finantarii-din-fondurile-europene-afere-nte-planul-national-de-redresare-si-rezilienta-in-cadrul-apelului-de-proiecte-pnrr-2022-c3-i1-d-pentru-subinvestitia-i1-d-co/5506>



8

Difficulties in managing waste electrical and electronic equipment (WEEE)

BACKGROUND Relevant companies have identified a number of difficulties with the management of WEEE, for example:

- not enough WEEE is available to reach the target of 65% of the average quantity placed on the market in the last 3 years. Reaching this target is proving difficult in most EU Member States. According to the latest Eurostat data, almost all Member States missed the target in 2019, and a large proportion of them collected less than 50% of the quantities placed on the market, including the countries with the 3 largest economies in the EU (Germany, France and Italy).
- the non-compliant classification of WEEE as iron waste artificially reduces the amount of WEEE that can be used to achieve the targets.

PROPOSED SOLUTIONS

- a) Amending the legislation to establish a penalty of 4 lei/kg for organisations implementing extended producer responsibility obligations and for individual producers for not achieving a collection target of 50% of the average quantities placed on the market in the last 3 years, instead of 65%. This will ensure that the current level of performance is maintained and improved, while setting a more realistic target in line with the level of development of the collection infrastructure and the lower consumption of EEE in the past.
- b) Introducing registration, reporting and compliance management obligations for all actors collecting WEEE.
- c) Carrying out control actions on how companies, which are authorised to collect WEEE, classify WEEE and apply the penalties provided for in the legislation when WEEE is not classified in accordance with the legislation.

- d) Verification of compliance by the relevant companies with the minimum storage and treatment requirements of GEO 5/2015, in the context of the environmental permit or annual authorisation process, as well as in the framework of controls carried out by the National Environmental Guard ("GNM").
- e) Adoption and implementation by relevant authorities of methodologies for the enforcement of existing legislation, together with the establishment of a national coordination mechanism (clearing house) to ensure coordination and control of WEEE management.
- f) Considering the possibility of involving the local police in enforcement activities with regard to compliance with existing WEEE legislation, thus ensuring the necessary human resources.



9

Measures are needed to stimulate the development of processing/production infrastructure for recycled aggregates to ensure better management of waste from construction and demolition activities

BACKGROUND Measures are needed to stimulate the development of infrastructure for processing/production of recycled aggregates.

PROPOSED SOLUTIONS

- a) Regulating a legal obligation to use a significant percentage (e.g. 3%-5%, depending on the type of construction) of waste from construction and demolition activities in state public works in public procurement procedures for design and construction works. An example of such a practice can be found in Bulgaria, where:
 - the contracting entity in public procurement procedures for design and construction works is required by law to include among the criteria for the selection of the contractor, as well as in works contracts, a requirement on the use of recycled construction materials and
 - the percentage of construction and demolition waste to be included in the various types of construction works is determined.
- b) However, all the preparation operations in order to obtain recycled aggregates that ensure the quality required for their use generate high costs. In order to make the use of recycled materials in construction work cost-effective (without increasing the cost of the work) and to make the system workable, financial incentives need to be given to operators processing construction and demolition waste so that the cost of recycled aggregates is below the cost of natural aggregates.

- c) At the same time, although GEO no. 92/2021 requires the holder of a construction/ demolition permit to have a waste management plan for construction and/or demolition activities, we propose that the issuance of the construction/demolition permit should be conditional on the submission of the construction and demolition waste management plan, and that local administrative authorities should be required to publish (e.g. on their own websites) a list of companies which are authorised to take back waste, indicating the locality/county and the type of waste for which those companies are authorised, as well as obligations to monitor and control compliance with the management plan.

- d) Furthermore, as there is no secondary legislation at national level to guide local government authorities/permit holders in this regard, we propose that a national guide should be prepared on construction and demolition waste management, which would contain guidance for them, e.g. a model of the content to be reflected in the waste management plan, with different waste management alternatives depending on the type of waste.

In addition, to prevent unauthorised disposal of construction waste, firm measures should be introduced to reinforce discipline in the management of this waste.



10

In practice, there may be misinterpretations to the effect that companies in the retail industry which take back non-hazardous waste from final consumers (e.g. in fulfilment of a legal obligation) and transport it to companies which are authorised to carry out one or more waste management activity, require an environmental permit.

BACKGROUND At present, waste legislation does not include a legal provision expressly stating that the take-back and transport of non-hazardous waste from final consumers by companies in the retail industry does not require authorisation from an environmental point of view.

CAEN (NACE) code 3811 'Collection of non-hazardous waste', or another CAEN code for which, according to the law, authorisation from the point of view of environmental protection would be required, do not apply to these activities.

CAEN code 3811 includes:

- collection of non-hazardous solid waste (rubbish) within local areas, such as collection of waste from households and businesses using bins, skips, containers etc., which may include mixed recyclables
- collection of recyclable materials
- collection of rubbish in bins in public places
- collection of waste from construction and demolition activities
- collection and disposal of waste such as dust and debris
- collection of waste from spinning mills
- the operation of non-hazardous waste transfer installations

With regard to packaging waste, Law 249/2015 provides that companies which sell packaged products to final consumers in medium and large sales structures and which take back packaging from final consumers in the course of their activities are not considered collectors within the meaning of GEO 50/2019.

A contrary practical interpretation would lead to major difficulties for companies in the retail industry, including significant costs and other risks (including reputational risks) arising from possible penalties imposed by relevant authorities (e.g. GNM) for carrying out activities without an environmental operating permit.

**PROPOSED
SOLUTION**

Amendment of waste legislation to include an express legal provision that no environmental operating permit is required for the collection and transport by retailers of non-hazardous waste collected from the public.



11

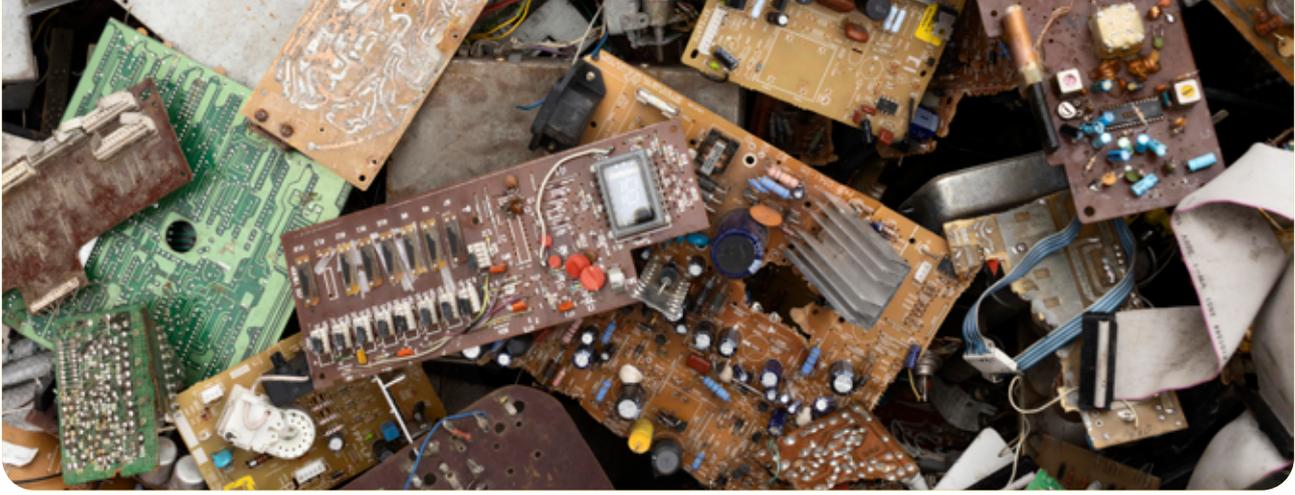
Co-processing in cement plants should be recognised as including both recycling and energy recovery.

BACKGROUND Currently, co-processing in cement plants of waste with energy content is categorised as an energy recovery operation (R1). In reality, it includes 2 simultaneous recovery operations: (i) recycling - recovery of mineral content (recycling - R4 or R5 as appropriate); and (ii) energy recovery - recovery of energy content (R1).

Recognition of these 2 separate operations would lead to an increase in the quantities of waste reported as recycled at national level, by including the quantities entering the process of recovery of the mineral content of the waste as part of co-processing in cement plants.

PROPOSED SOLUTIONS

- a) establishing an index on the co-processing process, also taking into account the ISO standard being worked on to determine a recyclability index showing how much of the waste input to co-processing is recycled and how much is recovered;
- b) modification of the SIM/SIATD to allow 2 waste operations to be reflected in the same technological process;
- c) development of a national guide on the recognition of the dual value-added nature of the co-processing process and its reflection in (integrated) environmental permits for cement plants.



12

End of waste status and waste recycling issues

BACKGROUND Apart from the general provisions of GEO 92/2021 on the end of waste status, there are no other national provisions regulating the conditions and criteria to be met for the acceptance of an item of waste for recycling and for the end of waste status.

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- PROPOSED SOLUTIONS**
- a) Clarifying the conditions under which waste status ceases and adopting binding national criteria for the end of waste status;
 - b) Establishing precise standards for the technologies used for recycling and express criteria that must be met for waste to be accepted for recycling and for recycling to be considered appropriate. Such criteria should be taken into account both in the environmental permitting procedure and in the annual review of environmental permits, as well as in the control activity carried out by relevant authorities.



13

Lack of legal regulation of the possibility and appropriate procedure for taking back for recovery waste already subject to disposal by landfill in landfills for which the closure procedure has been followed

BACKGROUND The operation of taking back for recovery waste already disposed of (e.g. ash and slag waste) is not part of the operations specifically regulated by the national or European waste management frameworks in force. Thus, for example, OG No 2/2021⁸ does not regulate the possibility and the procedure to be followed in order to open a closed landfill for the take-back of waste for recovery.

However, such an operation should be allowed and regulated through an appropriate procedure, in compliance with legal requirements, including among others the following aspects:

- waste hierarchy,⁹ according to which waste recovery operations take precedence over disposal operations;
- EU waste objectives and policies, which aim to turn waste into a resource;¹⁰
- the provisions of the National Waste Management Strategy,¹¹ which encourages the use of existing waste as raw material in industrial processes;
- Circular economy principles and the provisions of the National Strategy on the Circular Economy,¹² which encourages the substitution of new raw materials by secondary (recycled/recovered) ones and which exemplifies the opportunity offered by the

⁸ Ordinance No 2/2021 on waste disposal (“OG No 2/2021”)

⁹ According to Emergency Ordinance No 50/2019 amending and supplementing Government Emergency Ordinance No 196/2005 on the Environment Fund and amending and supplementing Law No 249/2015 on the management of packaging and packaging waste (“GEO No 50/2019”)

¹⁰ Roadmap to a Resource Efficient Europe COM(2011) 571 accessed at: https://www.eea.europa.eu/policy-documents/com-2011-571-roadmap-to_on_19.07.2022

¹¹ The National Waste Management Strategy 2014-2020 currently under review, in which chapter 4 states that: “**Irreducing the consumption of natural resources, recycling the raw materials contained in products that become waste, and energy recovery must be the vectors of a major change towards a sustainable way of life. To this end, the strategy focuses on encouraging the expansion and development of recycling capacities and the use of waste in the production process for material or energy recovery. The economic potential offered by the price of the raw material contained in waste compared to that obtained from the exploitation of natural resources must be taken into account and, in this respect, Romania must adopt policies to develop recycling/valorisation capacities and encourage the use of raw materials contained in waste. Thus, recovery facilities must give priority to waste generated on national territory, respecting the principle of proximity and self-sufficiency.**”

¹² Decision No 1172/2022 approving the National Strategy on the Circular Economy.

cement industry to increase the use of secondary raw materials and, as a result, to increase the recycled content of products, mentioning that cement plants are also suitable for processing industrial waste deposited in landfills, such as fly ash or slag.

PROPOSED SOLUTION Updating the legislation on landfills to cover the possibility and the appropriate procedure for taking back for recovery waste already subject to disposal by landfilling in landfills for which the closure procedure has been followed.



14

Uneven practical interpretations of the obligations under the legislation on reducing the environmental impact of certain plastic products

BACKGROUND In practice, the provisions of the legislation on reducing the environmental impact of certain plastic products are interpreted and complied with differently by the companies to whom these legal provisions apply.

Thus, there is a major discrepancy in compliance between companies which place single-use plastic products on the market and those which retail such products, for example, in terms of applying a selling price for the single-use plastic products supplied or offering end consumers the choice of reusable alternatives, suitable and sustainable alternatives or plastic-free alternatives at the point of sale.

Thus, in practice, there are situations where companies retailing such products do not apply a selling price or offer as reusable alternatives plastic products marked as reusable.

PROPOSED SOLUTION Adoption of methodological rules to implement the legislation on reducing the environmental impact of certain plastic products and the stepping up enforcement actions and penalties for non-compliance.



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Contributions to the Environmental Fund in relation to the achievement of targets/obligations in primary environmental legislation must be targeted at the specific activity of each type of taxpayer and be set in accordance with the principle of equality in tax matters, i.e. be proportionate, fair and reasonable.

BACKGROUND In its current form (with the legislative changes from 2016 - 2021), the legislation sets out individual obligations for each actor involved in the waste management chain: producers, organisations implementing extended producer responsibility obligations (EPRROs/ OIREPs), collectors, waste disposal companies, recyclers/recovering agents, administrative/local units, ADIs, public authorities, etc. Until recently (until the adoption of GEO 125/2022¹³), this was coupled with the establishment of contributions to the Environmental Fund for each actor, respecting the principle of individual/own responsibility. This approach, in place until the adoption of GEO 125/2022, has led to a considerable improvement in transparency in the system and the achievement of the targets set at country level.

Like any system, it can be improved.

PROPOSED SOLUTION

- a) Maintaining the individual shared responsibility of each private and public actor during the entire life cycle of the product and returning to the regulation prior to the adoption of GEO 125/2022, which also established contributions to the Environmental Fund for operators carrying out collection/recovery/sanitation activities;
- b) Clearly defining the responsibility and role of each actor in the flow, completing the legal framework where necessary;

¹³ Emergency Ordinance No 125/2022 amending and supplementing Government Emergency Ordinance No 196/2005 on the Environmental Fund ("**GEO 125/2022**")

- c) Ensuring a clear framework for transparency in the system, including by reference to the SIATD, which also provides for ongoing and inclusive consultation;
- d) Maintaining the linkage of enforcement instruments (contributions to the Environmental Fund) with the individual responsibility of each actor;
- e) The exercising by public authorities (APM, GNM, AFM, local police, etc.) of the role of control and issuing penalties, according to their competences, supplemented by the strengthening/clarification of these competences and the simplification of the chain of coordinated intervention to eliminate dysfunctions in the system;
- f) Implementation and improvement of interdependent instruments such as eco-modulation, landfill discouragement tax (defined in national legislation as contribution to the circular economy), and Pay-As-You-Throw (PAYT) schemes;
- g) A temporary increase in the percentage of energy recovery for the calculation of the contribution from 10% to 25%.



16

Lack of legislative correlation and lack of regulation on how to calculate the 2% contribution on revenues from the sale of waste

BACKGROUND The calculation methodology¹⁴ has not been updated in order to correlate with the amendment to Art. 9 para. (1) lit. a) of GEO no. 196/2015¹⁵ concerning the contribution of 2% of the revenue from the sale of waste under GEO no. 50/2019.

Thus, currently, the Calculation Methodology provides for the calculation of the contribution of 3% of the revenues from the sale of ferrous and non-ferrous scrap metal, this contribution being regulated by GEO No 196/2015 prior to the amendment made by GEO No 50/2019. As a result, there is currently no regulation on how to calculate the 2% contribution on the revenue from the sale of waste, which causes difficulties in waste sales flows among the companies involved.

- PROPOSED SOLUTIONS**
- a) In the short term, the amendment of the Calculation Methodology to regulate the calculation of the 2% contribution on the revenue from the sale of waste under Art. 9 para. (1) letter a) of GEO no. 196/2005.
 - b) In the longer term, reconsidering the need to impose this fee in the context of the implementation and operation of the Waste Information Tracking and Tracing System ("SIATD"), which will make it possible to track the operators involved in the waste management chain.

¹⁴ Methodology for the calculation of contributions, fees, penalties and other amounts due to the Environmental Fund of 18 December 2017, set out as an appendix to Order No 578/2006 approving the Methodology for the calculation of contributions and fees due to the Environmental Fund ("**Calculation Methodology**")

¹⁵ Emergency Ordinance No 196/2005 on the Environment Fund ("**GEO No 196/2005**")



17

Difficulties resulting from the existence of several IT systems for reporting relevant waste management information

BACKGROUND Romania faces a paradoxical situation in which similar reporting to two different authorities—the Environmental Fund Administration (AFM) and the National Agency for the Protection of the Environment (ANPM)—leads to different recycling results, which is evidenced by the reports on quantities of packaging placed on the market and recovered provided by the AFM and the Eurostat reports based on data provided by the ANPM. We consider that the existence of several IT reporting systems is justified only if each report has a different role and serves a specific purpose. Otherwise, we consider that the systems should be integrated, or at least some systems which integrate several types of data should be able to integrate data directly from other systems.

We understand that SIM and SIATD are two different systems, the former aiming to collect and report data according to the relevant European Directives on all streams, including emissions, oils, VOCs, IPPC, NON IEDs at generators, and the latter to ensure traceability of waste, and with the widening of the scope of SIATD to WEEE or tyres, the two will have more and more overlapping fields.

While understanding the need to compare data on the quantities of waste declared as recovered from producers' tax declarations to the AFM and the quantities of waste declared as recovered by companies authorised for this purpose, we nevertheless consider that the two systems converge on many points and can complement each other. At least as far as the COL-TRAT reporting in the SIM is concerned, it overlaps in many cases with the SIATD, but also with the ROAFM system.

PROPOSED SOLUTION The IT reporting systems of the competent waste management authorities (ANPM, AFM, GNM, MMAP) should be unified with the information which is required to be reported according to waste management legislation. Thus, the following systems should also be united:

- SIATD;
- SIM applications.



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Lack of regulation of the possibility and proper procedure for revising the form for the approval of the shipment of hazardous waste

BACKGROUND HG No 1061/2008¹⁶ does not regulate the possibility and the appropriate procedure for the revision of the form for the approval of the transport of hazardous waste.

Such a regulation is necessary, as in practice it is possible and common for situations to arise where, after the form has been approved and until the approval ceases to be valid, changes occur which make it necessary to revise its content.

Such situations may exist in particular when the approval to carry out the transport of hazardous waste is provided for several transports, in which case, according to GD 1061/2008, the validity of the approval is two years from the date of its being granted. During this period, there may be changes, for example, in the vehicle fleet or personnel of the transporter that may make it necessary to revise the form for the approval for the transport of hazardous waste, so that after the revision the form reflects updated information.

At present, due to the lack of such a regulation, the relevant authorities refuse to approve the revision/amendment of the originally approved and valid form. Thus, the only option available under the current regulation, if such changes occur, is to initiate a new procedure for the approval of a new form, which leads to delays in shipments and additional resources and costs.

PROPOSED SOLUTIONS Amendment of GD No 1061/2008 to regulate both the possibility of revising the form for the approval of the transport of hazardous waste and the procedure to be followed for its revision. In this respect, we propose that consideration should be given to regulating in the future the procedure for approval and revision of the form electronically, by means of an IT system, which would lead to a streamlining of the procedure and a reduction in the time and resources required.

¹⁶ Government Decision No 1061/2008 on the transport of hazardous and non-hazardous waste on the territory of Romania (“**HG No 1061/2008**”)

In addition, we also recommend regulating a mechanism to ensure traceability, from the waste generator, to the collector and transporter, to the operators providing temporary storage or pre-treatment, to the operators recovering or finally disposing of waste for all waste categories (e.g. by extending the AIDCP or by defining a complementary mechanism for waste streams not currently covered by the AIDCP).

Business remains a partner for the authorities to help identify and implement the most effective measures to increase the level of waste collection, recycling and recovery in a transparent way and to ensure the traceability of the whole waste management system.

Difficulties arising from the practical application of waste legislation and proposals for solutions