



European Economic and Social Committee

NAT/618
Shipments of waste

Brussels, 10 December 2013

OPINION

of the

European Economic and Social Committee

on the

**Proposal for a Regulation of the European Parliament and of the Council amending Regulation
(EC) No 1013/2006 on shipments of waste
COM(2013) 516 final - 2013/0239 (COD)**

Rapporteur-General: **Stéphane Buffetaut**

On 27 September and 8 October 2013, respectively, the Council and the European Parliament decided to consult the European Economic and Social Committee, under Articles 192 and 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1013/2006 on shipments of waste
COM(2013) 516 final - 2013/0239 (COD).

On 17 September 2013, the Bureau of the European Economic and Social Committee instructed the Section for Agriculture, Rural Development and the Environment to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr Buffetaut as rapporteur-general at its 494th plenary session, held on 10 and 11 December 2013 (meeting of 10 December), and adopted the following opinion by 121 votes in favour with 1 abstention.

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1. **Conclusions**

- 1.1 The proposed amendment to the regulation, which is fully justified in principle, should make it possible to tackle the practice of illegal waste shipments and their sub-standard treatment more effectively. In laying down a clear and uniform framework for carrying out checks, the new legislation actually provides methodological support for the Member States and should encourage them to carry out more effective checks, especially as the plans will be re-examined each year and adapted if needed.
- 1.2 As regards exports, the fact that the competent authorities are authorised to request proof that the transfer meets legal requirements in terms of methods, technologies and standards of waste treatment used by recovery facilities in the countries of destination should make it possible to tackle illegal exports more effectively, which, unfortunately, are known to have fallen into the hands of organised crime.
- 1.3 The introduction of effective and uniform checks should also make it possible to deal with situations of unfair competition in which ultimately the businesses which respect the rules and act honestly and transparently are at a disadvantage compared to those which disregard their legal obligations, circumventing them or deliberately infringing them.

1.4 Both for reasons of protecting public health and the environment, and for reasons of maintaining healthy competition in the sector and tackling Mafia-like practices, better organisation of check plans is desirable. Nevertheless, it should be borne in mind that taking additional practical measures inevitably generates costs and requires the Member States to define public spending priorities.

2. **Background**

2.1 Eight years after its implementation, the Commission wishes to improve the operative part of Regulation No 1013/2006 by drawing conclusions from the experience acquired. It wishes to make amendments aimed at, on the one hand, simplifying procedures and, on the other, making controls more effective in order to prevent illegal shipments of hazardous waste in particular.

2.2 The regulation's aim was to incorporate OECD rules and provisions from the Basel convention on waste shipments into Community law, to address the difficulties of implementing the 1993 regulation, to promote harmonisation of rules at international level on cross-border waste shipments and to simplify and clarify the text.

2.3 While the question of conformity of European legislation with international conventions has been settled, improvements still need to be made with regard to inspections, with priority given to hazardous waste and waste which is illegally sent for dumping or treated in a sub-standard way. In practice, it is question of ensuring that checks are targeted more effectively at the most problematic waste.

2.4 It should be pointed out that within the EU, all shipments of waste for recovery will be entitled to free movement. For non-hazardous waste, such shipments are not subject to any prior notification and only have to fulfil general information provisions. Shipments of hazardous waste for recovery and shipments of waste for disposal are subject to prior written notification and consent.

2.5 The implementation of this legislation assumes that its application will be monitored. It is therefore expected that Member States will have to organise inspections of businesses in line with the framework-directive on waste, as well as checks on shipments, whether these be by road, in ports or by any other means of transport. The checks may also be carried out at the end of the chain in recovery or disposal facilities.

2.6 The Member States carry out these checks in the way they consider appropriate. The regulation on the shipment of waste does not specify any particular way of carrying them out. In practice, the latitude given to the Member States has given rise to major disparities among them. Some countries have put in place effective mechanisms, others much less, mainly because they do not have adequate resources to do so. This situation has resulted in exporters

of illegal waste choosing to send their waste from those Member States whose control systems are inadequate.

- 2.7 It goes without saying that the most serious problems of illegal waste concern hazardous waste as well as waste sent for dumping or treated inadequately without respecting current rules. The consequences can be serious for both human health and the environment.
- 2.8 Another undesirable consequence of the scale of illegal shipments is that broad discrepancies between the way in which the Member States carry out checks is distorting competition. For example, businesses which respect the legislation are put at a disadvantage to the benefit of those which can operate in countries where implementation of rules is rarely or poorly checked.
- 2.9 The Commission is proposing to review the regulation in order to tackle these illegal and hazardous actions. The review is aimed at supporting and guiding the Member States' inspections in order to better target the high-risk waste streams.

3. **Content of the proposal**

- 3.1 The Commission adds a definition of the 're-use' of products that are not waste and wishes to be empowered to adopt delegated acts concerning technical and organisational requirements for data and information interchange, but the essence of the proposal lies in the amendment to Article 50 of the regulation.
- 3.2 The aim of these amendments is to:
- 3.2.1 encourage the Member States to organise checks on businesses and to introduce spot checks on shipments, but also to put in place recovery and disposal procedures;
- 3.2.2 ensure that the Member States draw up plans for inspections of shipments, including inspections of establishments, undertakings and transport (road, railway transport, ports).
- 3.3 The Commission sets out the various key elements of these plans and lists seven points which the Member States must adhere to and take into account.
- 3.4 These include the strategy pursued, referring to the resources used, the risk assessment of waste streams, the priorities defined, information on the numbers and types of planned inspections concerning waste sites and transport, assignment of tasks to each authority involved, means of cooperation between different authorities and an assessment of the need for training of inspectors. The plans are to be reviewed annually.
- 3.5 It also introduces provisions on the adequate protection of waste shipments and the implementation of recovery operations in accordance with the legislation.

4. **General comments**

- 4.1 The situation described by the Commission, the scale of illegal shipments and disparities in checks and the implementation of the legislation, justify the intention to take steps to tackle these illegal shipments and reduce the ensuing health and environmental risks, and to deal with the unfavourable situation facing businesses which apply the rules correctly.
- 4.2 However, it is essential that the new legislation does not take the form of purely formal administrative measures in order to comply with newly issued rules, without taking any practical steps, something which will require the use of new financial resources - a sensitive exercise for impecunious Member States confronted with the need to rectify public spending.
- 4.3 The planned procedures must therefore be simple in order to encourage those Member States, which do not do so correctly today, to introduce or even improve the necessary checks. The fear of being brought before the Court of Justice for failing to meet treaty obligations could possibly act as an incentive for Member States which are faltering, as could measures taken by ordinary people with a legitimate interest to act.

Brussels, 10 December 2013.

The President
of the
European Economic and Social Committee

Henri Malosse
