

A State and Tendencies in Romanian Environment Law on Waste Management from a EU perspective

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Legislative framework

- According to a EC Staff Working Document, **the EU legislation is generally correctly transposed in Romanian legislation**

(The EU Environmental Implementation Review Country Report – ROMANIA, <http://eur-lex.europa.eu/legal-content/EN>)

- **The Landfill Directive** (Council Directive 1999/31/EC) – **transposed**:
- Emergency Government Ordinance (EGO) no. 78/2000 on the regime of waste, abolished by **Act no. 211/2011 on the regime of waste** (amended in 2016, by EGO no. 68/2016);
- **Government Decision** (GD) no. 349/2005 on the **storage of waste** – amended by GD no. 1292/2010
- Order no. 775/2006 on the approval of the List of Isolated Localities capable of storing municipal wastes in existing landfills that are exempted from the compliance with certain provisions of GD no. 349/2005 on the storage of waste
- Order no. 95/2005 on the acceptance criteria and the preliminary procedures for the acceptance of waste at landfills and the national lists of waste accepted per each landfill class, amended by Order no. 3838/2012
- GD no. 445/2009 on impact assessment of certain public and private environment related projects, amended by GD no. 17/2012

(http://www.mmediu.ro/beta/wp-content/uploads/2013/08/2013-08-13_Managementul_deseurilor.pdf)

- **The Waste Framework Directive (Directive 2008/98/EC) – transposed**
- **Act no. 211/2001 on the regime of waste** (amended in 2016)
- **GD no. 856/2002** for the approval of the waste lists;
- **GD no. 128/2002** on the waste incineration, amended by **GD no. 268/2005** and **GD nr. 427/2010**;
- **GD no. 445/2009** on impact assessment of certain public and private projects on the environment, amended by **GD no. 17/2012**
- **GD no. 210/2007** on the amendment and supplementation of several regulations transposing the environmental protection acquis
- (http://www.mmediu.ro/beta/wp-content/uploads/2013/08/2013-08-13_Managementul_deseurilor.pdf)

- **The Packaging Directive (Directive 94/62/EC) - transposed :**
- **Act no. 249/2015 on the management of packaging waste (amended by EGO no. 38/2016);**
- **GD no. 621/2005 on the management of packages and package waste, amended by GD no. 1872/2006 and GD no. 247/2011;**
- **Act no. 211/2001 on the regime of waste;**
- **GD no. 1470/2004 on the Approval of the National Waste Management Strategy and of the National waste Management Plan, amended by GD no. 358/2007**

- **There are other acts and regulations that reflect the environmental requirements agreed at EU level, adopted prior to Romania's accession to the EU, subsequently amended in order to comply with the European standards on environment protection:**
- **EGO no. 195/2005 on environment protection (last amended in April 2016);**
- **Act no. 101/2006 on the municipal sanitation services (republished in 2016);**
- **Act no. 51/2006 on the community public services;**
- **EGO no. 196 of 2005 on the Environmental Fund (last amended in June 2017).**

- **Act no. 211/2011 on the regime of waste = a major step forward**
- **priority waste management hierarchy** (art. 4)
- **extended producer responsibility (EPR)** (art. 12)
- **mandatory character of selective waste collection** for large producers of waste
- **selective waste collection** (for paper, metal, plastic and glass (art. 17 (1)) and bio-waste (art. 31))
- **targets to be reached by the end of 2020** in terms of re-use and: paper, metal, plastic and glass - a minimum of overall 50 % by weight (art. 17 (2)) and other material recovery (of non-hazardous construction and demolition waste) - a minimum of 70 % by weight (art. 17 (3))
- **polluter pays principle** (art. 21)
- **pay as you throw principle** (introduced EGO 68/2016)
- **basic waste management principles from the Directive** (art. 20)
- **responsibility for waste management** (art. 22-23)
- **drafting of waste management plans** (art. 37-41) and **waste prevention programmes** (art. 42)
- **participation of the public** to the elaboration of the WMP and WPP (art. 46).
- **authorities involved in the field of waste management and their respective attributions and responsibilities** (art. 50-59)
- **penalties for non-compliance** with its provisions (administrative and criminal liability) (art. 61-63)

- **GD 349/2005 on the storage of waste:**

- the amount of stored biodegradable municipal waste shall be reduced to 35% of the total amount by 2020.
- **Deadline: all non-compliant landfills – to be closed by July 2017**
- Waste storage allowed only if the waste is previously subjected to feasible technical treatment.

- **Act no. 249/2015 on the management of packaging waste:**

- recovery or incineration, in waste incineration plants with energy recovery, of at least 60% of the weight of packaging waste;
- recycling of minimum 55% of the total weight of packaging materials contained in packaging waste, with achieving minimum recycling values for each type of material contained in packaging waste (60% for glass; 60% paper / cardboard; 50% for metal; 15% for wood; 22.5% for plastics)

- **Act no. 101/2006 on municipal sanitation services:**
- **local authorities - responsible for the control and application of strategies regarding the localities' sanitation services, in accordance with the relevant legislation in force**
- **transparency, competition, efficiency, environment and human health protection, public participation**
- **local authorities have exclusive competencies with regard to the settlement, the organization and the coordination of the sanitation services, being exclusively responsible for the municipal waste management**
- **main responsibilities: ensuring the separate collection of waste; establishing, adjusting or modifying the taxes / tariffs proposed by the sanitation operators, in accordance with the regulations in force, mediating contractual conflicts in between operators and beneficiaries, monitoring and controlling the way in which the service is performed**
- **if operators are in breach of their contractual obligations, local authorities may request the withdrawal of the functioning authorization, the imposition of penalties or the termination of the contract.**

Drawbacks in current legislation

- **EGO 196/2005 on the Environmental Fund** – a **landfill tax** was established - a tax collected from landfill landowners/administrators for waste disposal
- An **amendment** introduced by **EGO 48/2017** - provides that the landfill tax provided for in EGO no. 196/2005 on the Environment Fund, shall be **suspended until 1 January 2019**
- Postponing the dumping tax – a real drawback –in the context in which landfilling is preferred in Romania, because it represents a cheaper as compared with that for the separate collection & sorting of waste
- The tax should have been applied since 2014, but in December 2013 it was postponed until 2017 - when the tax should have been **80 RON (17.7 EUR/ton)**.
- Hopefully, it will be enforced starting with 2019.

Implementation = a real challenge, as indicated by the following facts:

- **Fact no. 1:**

- Romania's performance is characterized by extremely **low recycling (6%), high landfilling (72%)** rates
- At national level, sanitation services were provided for about 82% of the population.
- **Existing landfills** are very often **substandard** ones
- Relatively **few localities** have implemented a **selective waste collection** system.
- IWMS (integrated waste management systems) – implemented in only 34 counties (out of 41)
- (http://ec.europa.eu/environment/eir/country-reports/index_en.htm, [http://www.innovasjon Norge.no/globalassets/norway-grants/romania/in market study romanian waste sector.pdf](http://www.innovasjon Norge.no/globalassets/norway-grants/romania/in_market_study_romanian_waste_sector.pdf))

- **Fact no. 2:**

- The Ministry of Environment published **the first version of the NWMP and the NWPP** on 28th of April 2017, **a day after the EC had announced that it referred Romania to the Court** of Justice for failing to review and adopt its national WMP and WPP.
- This revision should have taken place at the latest by the end of 2013 (the NWMP adopted in 2004 was valid until 2013)
- Infringement no. 20152153, 27/04/2017, Compliance with the requirements of Articles 28 - 30 of Directive 2008/98/EC on waste, Referral to Court, Art. 258 TFEU).

(http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm)

Implementation – a real challenge (2)

- **Fact no. 3:**
- a press release from 15 **February 2017** - the **EC is taking Romania to the CJEU for failure to close and rehabilitate 68 illegal landfills** (Infringement procedure no. 20122007, Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste, Referral to Court Art. 258 TFEU)
- The referral to the Court took place in the context in which, despite earlier warnings from the Commission, Romania has failed to take measures against 68 non-compliant landfills.
- Some progress was made, but for 68 landfills the necessary cleaning and closure measures had not been completed by December 2016.
(http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm)

Implementation – a real challenge (3)

- **Fact no. 4: studies revealing inefficient municipal waste management**
- *the lack of performance indicators for the activities related to the sanitation service in the ongoing contracts;*
- *the lack of methodologies to assess the performance of waste treatment installations;*
- *the ambiguity regarding the responsibility for municipal packaging waste management;*
- *the lack of guidelines regarding the implementation of the legislation;*
- *the reduced technical and institutional capacity of local authorities to monitor the current sanitation contracts;*
- *the low desire of local authorities to apply penalties to the population in case of failure to comply with the requirements imposed in the sanitation regulations regarding the separate collection of waste*
- *deficiencies concerning efficient economic instruments meant to promote recycling (landfill tax, PAYT, penalties paid by local authorities and packaging manufacturers for failure to meet the objectives)*

(http://www.innovasjon Norge.no/globalassets/norway-grants/romania/in_market_study_romanian_waste_sector.pdf)

Fact no. 5 - the landfill of Măldărești (Vâlcea)

- a **non-compliant landfill**, authorized to function until July 2017
- a real **danger** for the environment: illegal landfilling, more waste disposed than allowed by the functioning authorization, bad odors, infested waters - numerous complaints from the population
- NEG inspections - carried out at the landfill, subsequent correction measures - envisaged and sanctions imposed (most of the fines were contested in courts, thus delaying the solution) – the situation did not change
- two of the most important decision-making and control **authorities** (NEG and NEPA) **passing responsibility on each other**
- **local authorities** = allegedly **unable to solve the situation**, resorting to other local or central authorities for solution (police forces, prefect)



Fact no. 5 -the landfill of Măldărești (2)

- **Vâlcea** County already has an **ecological landfill** – at Fețeni (a 11.000.000 EUR investment) – currently **not being used** - it was designed to receive only waste previously subjected to treatment
- A war between two powerful, rival waste management operators (both owned by persons charged with tax evasion): one building a sorting station of its own in order to meet the project conditions, the other one (winner of a tender procedure organized by local authorities), being compelled to transport waste to Bucharest
- **2.500 tons of waste carried along 170 km away, on a daily basis** → important costs for the local authorities
- July 2017 – a public consultation was (finally) called upon by the prefect “in order to find legal solutions for the future management of the waste collected in Vâlcea”.
- <https://www.voceavalcii.ro>; <http://stirileprotv.ro/stiri/actualitate/gunoaie-plimbate-sute-de-km-pana-la-groapa-neconforma-de-la-maldaresti-cine-administreaza-dezastrul-mi-a-mancat-zilele.html>

“Breaking-news” on Măldărești

- 28 August 2017 - the **state of emergency** was declared in Măldărești - the landfill has been on **fire** for a week – eight localities are affected in an area of 30 kilometers
- according to a press release, several measures have been imposed: fire extinction activities; covering the landfill with soil, upon consultation with specialists; initiating legal proceedings meant to compel the landfill administrator to comply with the obligations incumbent upon him; initiating a GD project for the allocation of the sums of money necessary to the fire extinction; resorting to police intervention in order to prevent further landfilling; permanently monitoring the affected area
- suspicion that **hazardous waste might have been disposed there** over time – the landfill administrator likely to be charged with environmental crime → intervention of intelligence services is called upon to clarify the situation
- The Minister of Environment visit at the long due for closure landfill - to check on the “too many self-ignitions” allegedly taking place

Too little, too late?

- <https://psnews.ro/update-alerta-in-valcea-incendiu-puternic-cu-fum-toxic-se-cere-interventia-sri-186553/>



Fact no. 6 - The Pata Rât landfill (Cluj)

- the **landfill was opened in 1973** and designed to store 3.5 million tons of municipal waste in an area of approximately 9 ha, for a period of 30 years
- it was **used 7 years** more and supported approx. 10 million tons of municipal and industrial waste, without selection or pretreatment (see Environmental Equity through Negotiation: A Case Study on Urban Landfills and the Roma Community, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4924048>)
- **In 2010, an IWMS was set up**, with EU funds, involving the building of an ecological landfill (supposed to be ready by 2012) and the cleaning and closure of the old one
- companies hired to build the new landfill stole the funds and performed non-qualitative works → **the works were suspended** → the local authorities had to return the money to the EU (13.000.000 RON).
- Now, **the works are now being resumed**, as well as the long overdue closing of the old landfill (whose cost amounts to 25.000.000 RON).

Fact no. 6 – The Pata Rât landfill, Cluj County



- A press investigation reveals that even if the landfill should have been closed in 2009, **waste continued to be disposed here until 2015 (despite the alleged inspections of the authorities)**.
- In the last 20 years, near Cluj (the city with the greatest economic growth in Romania), **a community of almost 2000 people finds its only source of livelihood in this landfill**, contributing to an “informal” waste selection.

Fact no. 8 – Mestecăniș, Bucovina

- a **beautiful landscape in a highly touristic area – destroyed** because local authorities have decided to dig an ecological landfill on the top of a **mountain** (a 6.000.000 EUR investment)
- several other locations have been proposed instead (more hidden, isolated places), but local authorities preferred Mestecăniș
- an inhabitant (a producer of honey) sued the local authorities → the court annulled the decision by which the piece of land allotted for the landfill was ceased, but the court decision has been ignored
- Besides Mestecăniș, **Suceava IWMS also has another landfill, at Moara, extending on a 30 ha surface - not operational for a long time**, due to some problems appeared at the tender procedure for the designation of the waste management operator
- **meanwhile, waste was deposited in 5 temporary landfills**, situated among cereal plantations - 350.000 m³ disposed in the last 5 years, which **should now be removed and transported in the ecological landfills**
- the costs are huge (16.000.000 EUR) → authorities now seek to cover the temporary landfills as they are, where they are (the covering “as such” costs only 6.000.000 EUR) (stirileprotv.ro/stiri/actualitate/tara-gunoaielor-partea-a-iii-a-mestecanis.html)

What kind of approach - optimism or pessimism?

- As revealed by a study citing EUROSTAT data, **4.895 million tons of municipal waste were generated at national level in 2015** in Romania.
- Sanitation services were provided for about 82% of the population
- Of the entire amount of generated municipal waste, around 87% was treated - **72% was landfilled**, 2 % co-incinerated, 6 % materially recycled, and 7 % composted.
- Since 2020 is knocking on the door with its 50% target, will Romania be able to triple the amount of waste it recycles in four years?
- Probably yes, but common effort has to be made (both central and local authorities should get involved in waste management more carefully; specialists should be consulted more often).
- (http://www.innovasjon Norge.no/globalassets/norway-grants/romania/in_market_study_romanian_waste_sector.pdf)

Steps forward... initiatives oriented on waste recovery and recycling

- **2013** - a voluntary agreement was signed in Romania between the ME and distribution and recycling companies, to develop tools for packaging waste prevention and improve recycling
- **SIGUREC service** was established - one of its activities involved offering **vouchers to clients in several supermarkets in Romania when bringing end-of-life home appliances or plastic packaging**
- The project is now implemented in 14 major cities in Romania and its deployment is estimated to continue progressively in other cities
- Benefits for both consumers (who deliver their end-of-life products and to be compensated for their action) and recyclers/producers (able to increase the collection and use of recyclable materials, thus increasing their potential gain from the sales of materials (or use for own production purposes)).
- (A framework for Member States to support business in improving its resource efficiency Final Report, http://ec.europa.eu/environment/enveco/resource_efficiency/pdf/business/RE_in_Business_Final_Report_111115.pdf)

Steps forward...

- The “**EveryCanCounts**” campaign – Alucro (a non-profit association, founded by Can-Pack Romania and the EAA (European Aluminum Association) in order to promote the collection-recycling system of aluminum cans on the local market - carried out **information campaigns** in order to determine the population to use these devices to recover the waste and avoid disposing of the aluminum cans in inappropriate places
- **21 intelligent collection devices of waste aluminum cans** were implemented in Auchan hypermarket network – in exchange for waste, the units issued discount **vouchers** that could be used in Auchan.
- **2015: Alucro collected about 21,500 kg of aluminum cans compared to 18,300 kg collected in 2014 (an increase of 3,200 kg).**

Steps forward...

- **ECOTIC (one of the most important local organizations which assumes the responsibilities of producers and importers of WEEE to achieve the annual targets for collection, reuse, recycling and recovery of WEEE) - managed to collect and recycle more than 12.500 tons of WEEE in 2015 (an increase of 13.6%) as compared to 2014 (11.000 tons).**
- **One of the most important factors that helped Ecotic achieve its objective was the awareness project called "Ecotic Caravan Life +" (a project co-funded by the European Union through "Life +" programme), a travelling exhibition around Romania aiming at highlighting the importance of collection and recycling of WEEE, trying to change people's behaviour towards this direction.**

Solutions?

- *Measures focused on **a change of mentality** - awareness campaigns involving both central and local authorities; educational projects*
- Fostering a more **conjugated approach of all actors involved in waste management**: the central authorities, the local authorities, the sanitation operators, the specialists, the businesses and the civil society
- Strengthening the **local public administrations' capacity to prepare and implement large investment projects involving EU funds**, in order to create the infrastructure necessary for the separate collection and recycling of municipal waste
- Enhancing the local authorities' accountability – that should be accountable not only for municipal waste management but also for the achievement of the recycling targets
- **Involving both the Ministry of Environment and the Ministry of Economy in waste management policies**, with a view to extract the maximum value of the waste.
- Stimulating investments in the field of selective collection, sorting and treatment stations
- **Establishing an appropriate landfill tax** - according to the specialists' scenario, if all Member States applied a dumping tax of at least 40 EUR/ton, the waste rerouted would increase in 2025 by 226% compared to 2008.
- Envisaging **financial measures in order to stimulate waste prevention and recycling** - applying **payment systems based on the quantity of waste produced**, establishing other types of incentives to promote recycling and reuse
- More **transparent tender procedures** for the designation of waste management / sanitation services operators, likely to end corruption in this area
- Increasing the number of planned and unplanned inspections by the NEG and other control authorities on all players involved in waste management and imposing more effective sanctions