

No more time to waste for complying with the WFD 2020 targets in Greece and Cyprus:

A legal perspective

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“Good waste management is a building block of the circular economy and helps prevent waste from having a negative impact on the environment and health. Proper implementation of the EU's waste legislation will speed up the transition to a circular economy. Local actors have a crucial role in waste management and their involvement in policy development and implementation, as well as support for their activities, is necessary to ensure compliance with EU legislation”.¹

According to Article 37 of the Waste Framework Directive (WFD or Directive),² every three years, Member States had to inform the Commission of the implementation of the Directive by submitting electronically a sectoral report. Based on this obligation, the European Commission (Commission) published in 2018 its latest review of how well EU waste rules were applied at national level at that time. In parallel to its review, the Commission, published early warning reports for 14 Member States at risk of missing, one of the most important, if not the most important, target set by the original WFD, in its Article 11, that of 50% preparation for re-use and recycling for municipal waste (including paper, metal, plastic and glass) by 2020. Two of these 14 early warning reports concerned Greece³ and Cyprus⁴ accordingly. More specifically, in 2016, the municipal waste recycling rate (including composting) reported to Eurostat, regarding both Greece and Cyprus was 17 %, while their landfilling rate was 82 % and 75 % accordingly.⁵

The aim of this paper is twofold. Initially this paper aims to bring forward, as well as discuss in detail, the key findings brought forward by the Commission for both member states, according to which they were considered at risk of missing the 2020 target of 50 % preparation for re-use and recycling of municipal waste, as it actually happened. Additionally, it aims to present the possible actions proposed by this EU institution, at the time, specifically for these two member states, that could help to improve separate collection as well as their overall performance including *inter alia* economic incentives, EU funding and technical support to municipalities, in order to be able to reach even late the said target.

Secondly and most importantly, this paper aims to explore the current situation in these two member states from a legal perspective, almost one year after the 2020 target of 50 % preparation for re-use and recycling of municipal waste deadline and assess to which extent they have taken into consideration, in practice the Commission's proposals. In detail, it aims to assess to which extent Greece and Cyprus have proceeded to any new legislative measures or national policies or to the practical implementation of existing ones, and whether their national waste management status has already started to improve. For example one can refer and comment, for Greece, on the “Circular Economy Levy” (CEL), an environmental levy, that has replaced the landfill tax, (Law 4042/2012, Article 43), that although introduced in 2012, was never implemented according to the initial plan, and was one of the issues highlighted by the Commission. Similarly, for Cyprus, one can comment on the still non-introduction of a landfill tax,

¹ Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the implementation of EU waste legislation, including the early warning report for Member States at risk of missing the 2020 preparation for re-use/recycling target on municipal waste, COM(2018) 656 final, p.1.

² Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives, OJ L 312/3. This Article has been replaced by a new article found in Directive (EU) 2018/851 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste, OJ L 150/109.

³ European Commission, Commission Staff Working Document: The early warning report for Greece, SWD (2018) 418 final.

⁴ European Commission, Commission Staff Working Document: The early warning report for Cyprus, SWD (2018) 415 final.

⁵ See Figure 1, European Environmental Agency, Municipal waste recycled and composted in each European country, Available at https://www.eea.europa.eu/data-and-maps/daviz/municipal-waste-recycled-and-composted-3#tab-chart_3

despite the Commission's proposal. Another example is the status of pay as you throw systems in both Greece and Cyprus that have only been implemented, up to now, in pilot programs, notwithstanding once again the 'Guardian of the Treaties' submissions.

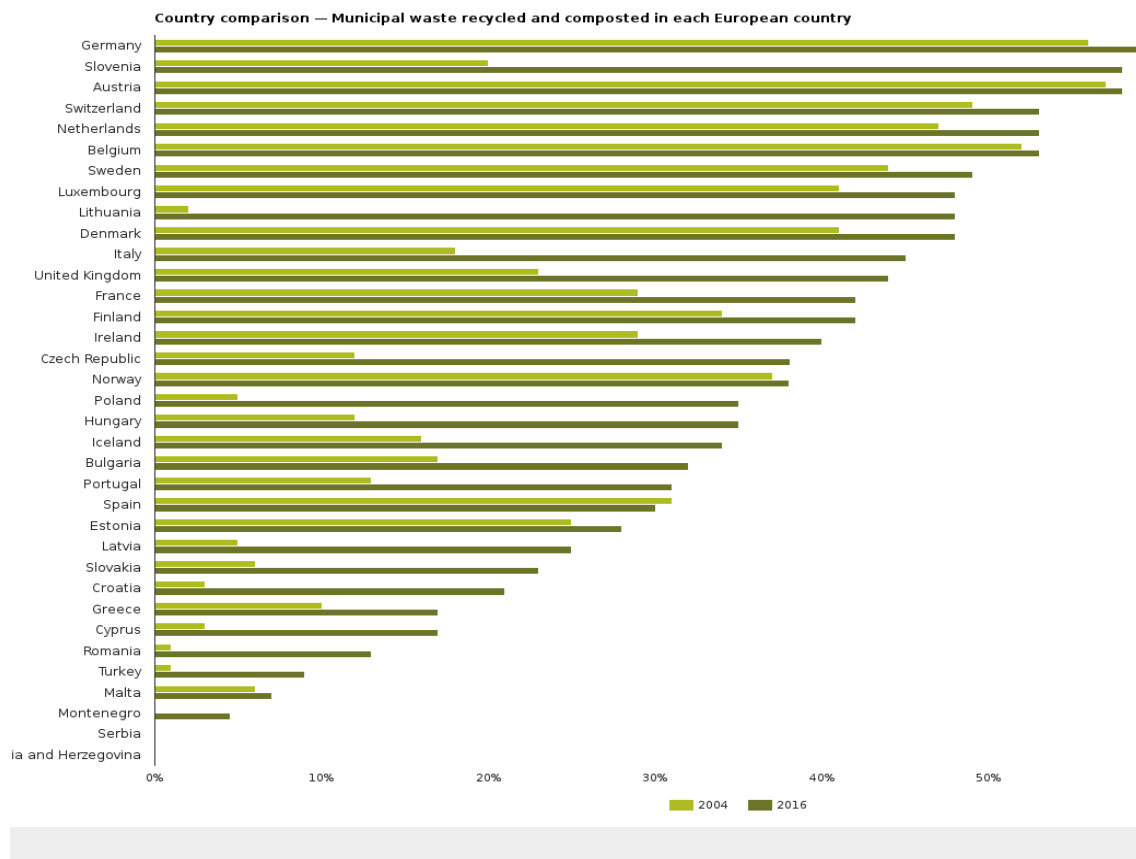


Figure 1

What is more important for one to remember is that the correct implementation and practical application of a directive is a Treaty obligation employed by all Member States, to which it is addressed. Furthermore the European Commission, has the right, according to Article 258 of the Treaty on the Functioning of the European Union to refer a member state to the Court of Justice of the European Union (CJEU) in case it has failed to fulfil such an obligation.

In order to reach its conclusions this paper will mainly follow a library based research methodology examining and commenting on primary and secondary legislation in the area of EU and national waste policy as well as various other secondary sources such as academic articles and books. Various discussions and interviews with local actors, at national level will furthermore be attempted. Special attention will additionally be drawn to statistical data from the European Environmental Agency website.

Based on the above analysis, this paper will conclude that although various actions have been taken at national level, regarding the improvement of the waste management status in both member states, changes are still minimal, compared to the Commission's proposals, slow in realization and full of impediments and as a result Greece and Cyprus are still nowhere near in achieving the 2020 WFD target of 50 % preparation for re-use and recycling of municipal waste. Yet there is no more time to waste! Apart from the possibility of being referred to the CJEU for noncompliance, what is more worrying is that such a waste of time increases the possibility, for both member states, of missing the next waste recycling targets adopted by the EU legislators, through Directive (EU) 2018/851.⁶

⁶ Supra n2.