

South East Europe Conference on Waste and Recycling - 13 April 2011
Reflections on European Waste Management

Thank you for inviting me to this important conference: it is an honour to be here and a pleasure to be on my first visit to Bulgaria.

In this presentation I want to give the background to the EU's involvement with waste policy, in order to see how we got here, what lessons we have learned and what the future holds, particularly for those countries which have joined the EU after its main law-making effort in this policy sector has been completed.

First let's look at how we got here. Environmental policy was not high on the list of priorities of the founders of the European Economic Community. Early proposals on this front had to be based on the preamble of the Rome Treaty which stated the participants' commitment to "improving living and working conditions". It was not until the early 1970s that the EU took one of its decisive steps and decided to diversify from the CAP and Common Market issues into environmental policy. Federalists wanted to widen the range of issues that were seen as appropriate for common European solutions. Environmentalists pointed out that environmental problems know no frontiers. Certain problems were becoming apparent, particularly the export of dangerous waste, and illegal dumping by one country across the frontier into another.

As a consequence of the programme that began in 1975 with the first waste framework directive, the EU now has a wide spectrum of measures in force. Some have major implications for national waste management practices in many Member States (the landfill directive is a good example of this). Some employ the idea of producer responsibility (as with the electronic waste, packaging waste, end of life vehicles and the batteries directives). Some revisit old ground with new definitions (as in the waste framework directive). Some are designed to deal with particular pollution problems (CFCs; waste incineration). One – the waste shipments regulation – tries to ensure that the EU does not simply export its nastier wastes to third countries for disposal there.

In 2005, the European Commission tried to take stock and map out the future through a “thematic strategy” on waste and recycling. This put the future emphasis on the lifecycle approach, on materials based legislation, on prevention – and contained a preference in the future for the adoption of general criteria and standards rather than big new directives. I think it is to be expected that as the EU continues to enlarge we will see a reluctance to agree highly detailed measures of the style that was current in the 1980s and 1990s: it is simply going to be too difficult to get agreement on a text, and a nightmare to ensure good implementation.

What is happening at the moment? First the Commission is doing all it can to ensure that the waste laws in place are properly implemented by those that sign up to them. This is difficult because the Commission has no right of access or entry in order to be able find out what is actually happening in any member state; it has to rely on evidence produced by Member States themselves, or not produced if they want to cover up what they are not doing. From this we see the great importance to the Commission of environmental non-governmental organisations as a source of inside information, and the importance also simply of complaints from individual citizens. Outside observers might conclude that the best equipped organisation to obtain and make sense of information about Member States' performance in relation to these waste directives is the European Environment Agency in Copenhagen. After all, the EU does have agencies with powers of entry and inspection in other fields, notably on competition policy and food and veterinary matters. It is a matter of some regret to me that when the EEA was set up (and perhaps in order to get it set up) the Commission insisted that it would not have powers of verification. So a gap in the chain of supervision exists.

It is true that the Commission has been much more active in recent years in pursuing defaulting countries to the European Court of Justice but this may only result in fining a country whose poverty was the reason for non-compliance in the first place. Last year saw the publication of the final report by the Milieu consultancy for the Commission on the feasibility of a European Waste implementation agency. It was a very modest proposal - the agency could carry out training of Member State officials and help monitor waste prevention plans. But the agency would not carry out direct inspections: these would be operated by another "specific European body possibly hosted by the European Commission". As far as I know the proposal has made no progress, mainly because the Member States don't want to set up any

more agencies, least of all one which might, one day, get involved in internal inspections on their territory.

Although the Commission will continue to pursue defaulting countries I think it has concluded that the best route to better implementation lies in ensuring that new legislation takes full account of the likely cost of implementation BEFORE it is agreed. It is a surprising fact that none of the very important waste laws put in place in the last 20 years was the subject of impact assessment. This has now changed and the Commission has an Impact Assessment Board which ensures (or should ensure) that Impact Assessments are properly carried out in advance of publication. It will be very important that the European Parliament puts in place something very similar since its amendments can affect draft legislation very radically.

One thing for all interested parties outside government to watch in future will be the way in which future waste legislation delegates all the detail to internal committees of the Council, chaired by the Commission, to decide. From a democratic point of view this is a very bad development. It gives great power to the Commission because Member States can only block its decisions by unanimity, and it has created a big headache for the European Parliament because MEPs want to oversee such decision taking very actively but are wary of being overwhelmed by the sheer volume of comitology decisions that they should try to supervise.

Many had expected that in the next few years the Commission would return to the Thematic Strategy on waste and recycling, perhaps with the aim of increasing the number of recycling targets. But the most important new initiative we have now is the drive to ensure that Europe is resource efficient, as expressed in the Communication published in January of this year. Resource efficiency will be the new prism through which we will have to judge the need for new proposals and their emphasis. It has clear implications for the waste sector - for example the Communication points out that "increasing recycling rates will reduce the pressure on demand for primary raw materials, help to reuse valuable materials which would otherwise be wasted and reduce energy consumption and greenhouse gas emissions from extraction and processing".

So far so good but these rather stratospheric programmes in the end have to come down to action on the ground and that is where the fun - as you know well - starts.

The two pieces of EU legislation that have had the greatest impact on waste policy in the last 20 years have been the landfill directive of 1999 and the waste framework directive of 2008. The landfill law started the move away from landfill, and had specific targets. The waste framework directive was greatly changed by the European Parliament so as to incorporate the waste hierarchy, and to set targets for recycling and for the prevention of waste. The 2020 target is for a recycling rate of 50% by weight "of at least paper, metal, plastic and glass from household and possibly other origins as far as these waste streams are similar to waste from households". The target for non-hazardous construction and demolition waste from the same date is 70%. I must underline that these targets were put there by MEPs, and agreed between the two institutions with great difficulty. The Council of Ministers eventually gave way when MEPs made it plain that without such targets they would be no directive.

What does all this mean, particularly for countries which are now grappling with the challenge of recent entry into the EU?

First the targets will be demanding and can only be reached with considerable effort. This is true for some of the states in Western Europe, as well as for Eastern Europe. Secondly the directive is the first time that Europe has addressed the issue of waste prevention and will give a big impetus to the concept of life cycle analysis. Thirdly the directive has raised the question of waste incineration and how far we should allow this process a place in the range of waste options we take up. Finally we must understand that the directive does not give specific directions as to which waste process must be used in order to achieve the targets. Those who resent developments such as compulsory recycling cannot blame Brussels; the method of implementation is decided by each Member State. It is true that the waste hierarchy must be applied but even there the waste framework directive creates a degree of flexibility with the words that: "when applying the waste hierarchy Member States shall take measures to encourage the options that deliver the best overall environmental outcome. This may require specific waste streams departing from the hierarchy where this is justified by life-cycle thinking on the overall impacts of the generation and management of such waste."

I have referred to the targets for recycling that the 2008 directive created. This was a move created to counterbalance the fact that the directive allows incineration with energy recovery above a certain level to be deemed a recovery process. Thus it takes its place in the waste

hierarchy above disposal, and not on a level with it. Some people clearly believe that giving this status to energy from waste is wrong because it will discourage and possibly drive out recycling. The European Parliament was very concerned on this front and added the recycling targets precisely to prevent this happening. The question now, under the resource efficiency heading, is whether we can get the right balance between energy from waste processes - which can be of varying kinds (incineration with energy recovery, anaerobic digestion, bio gas etc) and recycling. We want to get value from waste which cannot be recycled and we do not want to spend time, money and effort in recycling something which is very expensive to do. If we get it right we have modern clean energy from waste processes which offer an alternative to imported fuels, and we get successful recycling with assured destinations for the recyclate. The Confederation of European Waste to Energy plants reports that about 40% of EU incinerators satisfy the energy criteria that allow them to be classified as recovery plants. Apart from the benefit to the environment there are other consequences if an EfW plant satisfies the R1 energy efficiency formula in the 2008 directive. If it does do that, it can treat imported waste and by using its process to supply local cheap energy it may be able to give a better reputation to that process itself.

Already each waste option has its strong advocates - and strong opponents. But in the context of climate change and the promotion of sustainability we may have to take a more critical, carbon conscious, look at some waste management practices, including recycling. There are some rather uncomfortable questions that will need answering: for example, are we right to promote recycling policies without the guarantee of markets for the resulting materials? Is there any sense in installing new systems of collecting commingled recyclables, with no sorting by the householder, when we know that those who use this material object often to its being "contaminated" and find it unusable. Again, if some countries, like my own, now develop a sudden enthusiasm for anaerobic digestion, what do we do with all the resulting digestate? What do we think of mechanical and biological treatment plants? I know this is a sensitive subject in Bulgaria and to my mind it makes little sense to install expensive mechanical and biological treatment plants when ultimately most of the resulting product will have to be burned in a power plant – which seems a long and possibly unnecessary way to go before reaching the energy from waste destination. Given the carbon implications, and the cost, we cannot now afford to plunge ahead into the uncoded unknown as we might have done in the 1990s.

This brings me to the question of how new Member States should address waste proposals in the context of Cohesion spending. We know that the Commission wants to reform Cohesion policy, to apply certain conditions to the payment of EU funds and to concentrate on a limited number of priorities, of which waste infrastructure will be one. We also know that Member State governments from the contributor countries are very well aware of the hostility of their tax payers to contributing to a European Union budget which is unable to satisfy the Union's own auditors. This failure is not on the part of the Community institutions but on the part of the Member States who are either inept or corrupt (or both) in handling EU funds and keeping the EU audit office adequately informed.

So any country which wants to make a successful case for generous EU funding for environmental proposals needs to show that the money will be properly spent and that the projects put forward are innovative and in the spirit of current policies on sustainability, resource efficiency, and energy. This certainly means giving priority to recycling, where experience in many countries shows that it is possible to make rapid progress from a standing start. It also means examining energy from waste not in the negative spirit that it will kill recycling but as a process that can perfectly well exist alongside recycling, as it does in several EU countries. It means taking the right decisions in a timely fashion since the persistence of landfill is a real threat to the environment. Local leadership (as I witnessed in England) is needed to break the log jams which can arise in the endless debate that surrounds waste policy. New member states may feel it unfair that they have a lot of catching up to do. But they do have the advantage that the older member States have born the trouble and expense of finding how best to implement EU waste law and perhaps have some lessons they can pass on.

Waste policy is a complicated story - but it is also an optimistic one because we are at last getting to grips with our failure, down so many years, to realise that the earth's resources are finite, and that our use of them has been appallingly profligate.