

22 November 2023, Brussels

FEAD position on the proposal for a targeted revision of the EU Waste Framework Directive: textile waste and food waste

FEAD is fully committed to the objectives of the European Green Deal and the Circular Economy Action Plan as essential tools for providing the adequate stimuli to our economy while pushing forward EU Climate goals through the circular economy.

As stated by the Commission's proposal, the textiles and food sectors represent top resource intensive sectors causing significant negative environmental externalities, where financing and technological gaps impede progress towards the transition to a circular economy and decarbonisation. These two sectors are the first and the fourth most resource intensive sectors respectively and have not yet fully adhered to the EU waste management hierarchy. Stimulating, for example, better sorting of textile waste for reuse and recycling across the EU is essential to create a circular economy for this sector and to limit its negative environmental impacts. It should be stated though, that the Waste Framework Directive (WFD) itself is not the most appropriate instrument to regulate single waste streams, and that separate pieces of legislation have been used before for packaging, end-of-life vehicles, or waste electrical and electronic equipment (WEEE).

The Waste Framework Directive sets the basic concepts and definitions related to waste management, including definitions of waste, recycling and recovery, and is so the framework and fundamental law for the entire waste management industry. This means that revisions must be carefully scrutinised, prepared and considered. This will not happen for all changes proposed by the European Parliament that go beyond the framework defined by the Commission's proposal. These have not been subject to an impact assessment and therefore their effects cannot be estimated. **Therefore, FEAD strongly advocates for sticking to a targeted revision as proposed by the Commission.**

An in-depth revision of the WFD is needed to foster and strengthen the role of the circular economy as a key pillar and driver of the Green Deal and the achievement of the EU's climate targets. However, considering also the limited time available, **opening now the discussions to the overall WFD will not only result in decisions that have not been previously assessed, but also risk reaching any agreement at all, including on textiles and food waste.**

Having said this, **while supporting the overall objective of the proposed revision** to reduce the environmental and climate impact of the textile and food sectors, **FEAD has identified several critical points that need to be considered to assure its effectiveness.**

I. Textile waste

1. Waste status and one-bin approach

FEAD strongly supports that all *used and waste textiles, textile-related and footwear products that are separately collected are considered waste upon collection*, until they have undergone a sorting operation by a trained sorting for re-use and recycling operator.

As a matter of fact, the definition of waste englobes ‘any substance, material or object which the holder *discards or intends or is required to discard*’. Once discarded, the waste products can be managed, meaning, prepared to be re-used, recycled, or disposed, in line with the waste hierarchy and the waste legislation. The Impact Assessment Report to the targeted revision of the WFD has identified that currently *Member States and regional authorities do not apply in a harmonised way the definition of ‘textile waste’ and ‘used textiles’ to similar separate collection approaches and materials or products*. FEAD is convinced that a clear regulation allows for proper application of the legal requirements for waste management. This ensures the environmentally sound and qualitative management of waste textiles without grey zones, where waste textiles are handled as second-hand goods (non-waste) avoiding traceability and proper management of the waste.

Therefore, **all discarded textiles should be collected together as waste, through the separate collection systems to be established, in the same container, without distinguishing containers for ‘used’ textiles and containers for ‘waste’ textiles**. Implementation of differentiated collections for re-usable textiles and non-reusable textiles has shown unsatisfactory results. The burden of correct sorting should not be put on citizens and, as reflected in the report from the Association of Cities and Regions for sustainable Resource management (ACR+), ‘considering the communication efforts required by parallel systems, as well as the associated additional collection costs, the effectiveness of such systems is questionable’¹. A quality check performed by a trained professional will always be necessary to determine whether discarded textiles are still re-useable.

2. Distinction waste and second-hand goods

Textile waste is still falsely labelled as second-hand goods. FEAD therefore supported the initiative to establish rules to distinguish between used goods and waste under the Waste Shipment Regulation, to ensure safe and sound management of the waste. FEAD thus also supports the introduction of information and documentation requirements for shipments of used textiles as proposed under Art. 22d paragraphs 8 and 9 WFD. **It is essential that controls foreseen under paragraph 7 are dedicated to the enforcement of waste legislation when waste products are falsely declared as used goods** (paragraph 10).

3. Exclusion of microenterprises

While FEAD understands the importance of alleviating the administrative burden and impact on small companies, we do not support an exclusion of microenterprises of the definition of

¹ Recommendations and good practices for local used textiles management. See here: https://www.acrplus.org/images/technical-reports/2023_ACR_Recommendations_Good_Practices_Used_Textiles.pdf

producer of textile, and from the extended producer responsibility (EPR), as they represent a big majority of the industry (representing around 88% of the companies of the sector according to the Impact Assessment). This exemption would mean that the EPR obligations only apply to a minority of around 12% of the companies. **Such exclusions have not been implemented in other EU-level Extended Producer Responsibility schemes like packaging, WEEE, or end-of-life vehicles. As an alternative, simplified procedures with reduced burden and impact, concerning for example registration, notification and reporting to Producers Responsibility Organisations, can be applied to microenterprises.**

4. Collection and recycling market issues

Market distortions, competition issues and priority access to materials must be avoided (e.g., due to dominant market positions of PROs, promotion of ‘social enterprises’ or closed loop recycling targets) because they compromise the quality and safety of the waste management process. **The free functioning of markets and free and fair competition for waste and recyclates is key to an efficient and comprehensive circular economy, as it enables and stimulates further innovation in both production processes and the subsequent management of the waste.**

a. Collection market – A level playing field for market actors guarantees an environmentally sound management of the waste

FEAD warns the EU legislator against **the promotion of specific enterprises** (‘social enterprises’) **in the collection and waste management obligations. It distorts the market**, creates barriers to enter for other businesses, hampers innovation, and puts at risk efficiency and accountability. Advocating for preferential treatment of social enterprises in this sector is not the most equitable or efficient approach and could hinder high quality treatment of textile waste.

If ‘social enterprises’ are not subject to the same strict EU environmental legislation as any other waste management operator (e.g. permitting or registration requirements), this jeopardises traceability and the environmentally sound and qualitative management of the waste textiles (including its sustainable treatment in line with the waste hierarchy and the traceability of exports to third countries).

There should be clear and harmonised understanding on the legal regulation, roles, and obligations of the stakeholders to avoid unregulated movements of materials and loss of traceability. To ensure a level playing field and the environmentally sound management of textile waste, only authorised operators under EU waste legislation can be allowed to treat waste. Therefore, **FEAD stresses the need to safeguard the role of professional waste actors in the collection and sorting process.**

b. Recycling market – A free market ensures competition and allows innovation

i. Mandatory EPR and PRO designation

FEAD supports creating EPR schemes for textiles from private households to incentivise needed investments in textile recycling facilities and stimulate a recycling market.

In addition, **FEAD also strongly supports the Commission's proposal to make the designation of a PRO mandatory.** Previous experience with packaging, where producers could decide to join a PRO, or fulfil their obligations individually, has shown bad results due to a high rate of non-compliance. This is also acknowledged in the Impact Assessment accompanying the revision, according to which specifically 'in the context of textiles, with such a broad range of possible producers and the majority being SMEs it is appropriate to make membership of a PRO mandatory'.

ii. No market distortions

Nevertheless, **Member States must ensure that PROs do not gain a dominant position or even a monopoly.** If they do have a dominant or monopoly position, **Member States must ensure that PROs do not abuse this position** vis-à-vis market participants, and in particular waste management companies, for example by depressing the prices of disposal services and recyclates or by including abusive clauses in contracts leading to market distortions, competition issues and priority access to materials for certain market participants. **If PROs are incentivised by the WFD revision to take ownership of the textile waste, and waste management operators become mere service providers, it will stifle innovation, and hinder any increase in quality and efficiency.** This can be particularly problematic for textile recycling, where big investments are currently needed to develop it at scale, and therefore needs strong incentives to build up capacities. **Fair market access through joint ventures or other types of participation of waste operators to the PROs ensures efficient and qualitative treatment of waste textiles.**

iii. Strengthen demand for recyclates

In addition, EPR schemes **must be accompanied by regulatory tools to foster the development of a true, strong demand for textile recyclates,** or they will otherwise only foster separate collection and sorting, without closing the loop. **FEAD has continuously advocated to stimulate demand through the introduction of recycled content targets in new products,** which should be done for textiles under the corresponding Delegated Act to the Ecodesign Regulation (ESPR). The ESPR should also ensure that only long-lasting, recyclable, and hazard-free textile products are placed on the EU market.

iv. Establish collection and recycling targets

Collection and recycling targets should be included in the Waste Framework Directive revision. Article 11(6) WFD already includes a mandate to the Commission to consider the introduction of preparing for re-use and recycling targets for textile waste by 31 December 2024. Considering the end of the legislative cycle mid-2024 and this targeted revision of the Directive for textile waste, this revision seemed the most appropriate moment to fulfil the mandate of Article 11(6) WFD. Such **targets must be realistic and introduced with a phased approach based on reliable data** to be provided by the PROs as well as based on the experience of existing targets and EPR systems in different Member States.

As a minimum, there should be a revision clause, enabling the establishments of targets, for example, within 2 years after the entry into force of the ongoing revision.

5. Waste management requirements

FEAD supports sorting requirements that follow the waste hierarchy. From a business perspective, re-useable clothing will always be prioritized before recycling, as the revenues from these items cover the recycling costs.

Nevertheless, when it comes to recycling, FEAD stresses that **the requirements shall remain technology neutral**, as it is the definition of recycling itself. Big investments are needed in sorting capacities to handle the amounts of textile waste expected from 2025. The decisions on the concrete sorting technologies for recycling should not be imposed based on technological progress but should be decided by the operator based on the existing market outlets. **What the industry needs to build up the needed capacities is a clear framework with incentives to invest and to pull demand.**

6. Calculation of the separate collection rate

The proposed method of calculating the separate collection rate is unreliable. A calculation method similar to those specified in other post-consumer waste legislation should be considered. For example, the ones for batteries or WEEE.

II. Food waste

1. Waste prevention/reduction

FEAD would like to reiterate that measures to improve waste prevention should be based on “upstream” approach, instead of an “end-of-pipe” thinking. For example, data collection is always very important when there is a specific objective to reach.

The imposition of specific targets for citizens must necessarily be accompanied by training and information campaigns to raise awareness of waste generation and management issues. In this way, important results can be achieved in the long term.

Studies into the various pay-as-you-throw (PAYT) schemes have found that they have resulted in a reduction of overall waste generated, and in particular lower rates of residual waste. However, PAYT schemes are not easy to implement. In addition, not all schemes perform in the same way, and their impact depends also on the system that was in place prior to the PAYT implementation. Schemes based solely on bin capacity do not bring the same level of benefits as those based on weight or frequency of collection.

2. Food waste vs waste of food/wasted food

According to the definition in the WFD, ‘food waste’ means all food as defined in Article 2 of Regulation (EC) No 178/2002 of the European Parliament and of the Council that has become waste. This includes as much the food waste after food preparation for consumption (e.g., shells or bones) as the wasted food that has not been consumed. **The WFD should make a differentiation of both cases and target the prevention/reduction**

of wasted food. The national prevention plans should also promote a better (more centralised) organisation of the collection points for food waste.

FEAD is the European Waste Management Association, representing the private waste and resource management industry across Europe, including 18 national waste management federations and 3,000 waste management companies. Private waste management companies operate in 60% of municipal waste markets in Europe and in 75% of industrial and commercial waste. This means more than 320,000 local jobs, fuelling €5 billion of investments into the economy every year. For more information, please contact:

FEAD Secretariat

info@fead.be