

Waste Management in Greece

National Report

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I. Introduction

In recent years, waste management has proved to be one of Greece's most complicated environmental, political, legal and social problems. Greece has been condemned on numerous occasions by the European Court of Justice for failing to comply with the requirements of European Waste Management Law including a judgment under Article 228(2)(b) EC¹ and another judgment in which it was not disputed that there are, still today, more than one thousand unauthorised dumping sites in the country.²

In addition to the above, the absence of organised facilities, the widespread and fierce social opposition to the creation of legally authorised landfill sites, poorly drafted administrative procedures that will more than likely lead to condemnation by the courts and an imperfect and cumbersome legal framework in relation to waste management all

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¹ ECJ C-45/91 - Commission v Greece [1992] ECR I-2509 and ECJ C-387/97 - Commission v Greece [2000] ECR I-5047. See also Koufaki, "The imposition of a penalty as a measure of enforcement of ECJ Decisions (Couroupitos II Case)", in *Environment and Law* 2000, pp.189-197.

² ECJ, Case C-502/03 - Commission v Greece, nyr.

mean that this is one of the fields in which this country has one of the poorest records in its environmental policy.³

This article will develop along the following lines: Firstly, a brief, but necessary examination of the facts surrounding waste and basic waste management law provisions in Greece. Then, an overview of the transposition of Council Directive 75/442, as amended, (hereinafter “the Directive”)⁴ into national law is presented, focusing on the definition of its key provisions and, thirdly, the permit requirements provided for under national law will be examined including a reference to the nature of the waste management services. Finally, an outline of the national approach to recovery mechanisms will be presented.

II. Waste management in Greece: Facts and legal framework

Municipal waste in Greece is steadily increasing and the latest official data for 2001 estimated it at 4,559 thousand tons/year, whereas today it is estimated to have reached 5 million tons/year. Of the total waste generated in Greece it is estimated that some 8.8% is recovered while the remaining 91.2% is deposited of, legally or illegally. The 39 existing authorized and controlled landfill sites cover 53% of the population, while the remainder of the population is served by 1,453 unauthorised landfill sites currently in operation in Greece.⁵ On top of this, there are an additional 1,173 abandoned illegal waste tips.⁶

³ Giannakourou, *Waste management in Greece: Legal Issues and Institutional Challenges*, in Hlepas, N., K., Giannakourou, G., Oikonomou Th., *Waste Management*, Athens 2004, pp. 43-59.

⁴ OJ 1975 L 194/39 as amended by Council Directive 91/156/EEC, OJ 1991 L 78/32.

⁵ National Waste Management Planning, provided as Annex II to the 2003 Joint Ministerial Decision, section B.I, Skordilis, *Current Data-Institutions-National Waste Management Planning*, paper presented in *Waste Management in Greece*, Symposium Organised by the Greek German Chamber of

The records on the recovery of waste in Greece are relatively recent. In 2001, it was estimated that 21% of recoverable municipal waste, primarily packaging waste, was actually recovered⁷ and it is estimated that 1/3 of the 800,000 tons of packaging waste generated every year is unofficially recycled.⁸

The basic legal instruments on waste management in Greece are the following:

- Article 12 of Law 1650/1986 on the Environment which lays down the principal obligations in relation to waste management.
- Joint Ministerial Decision 50910/2727/2003 on the management of waste - which transposes the Directive into national law and includes the National Waste Management Plan - introduces the tool of Regional (and Inter-regional) Waste Management Plan as the operational tool for waste management planning, determines the obligations of the management authorities and the Regions, regulates the permits of waste management operators and sets a time limit for the eradication of uncontrolled dumping.

Commerce and Industry, Athens 6/10/2005 and Answer Nr. 2140B/11-4-05 of Minister of the Environment, Planning and Public Works to Parliamentary Question 8912/18-3-05, Ministry of Environment, Planning and Public Works, *Final Report of the Working Group on Uncontrolled Dumping Sites*, Athens 2005.

⁶ Ministry of Environment, Planning and Public Works, *Final Report of the Working Group on Uncontrolled Dumping Sites*, Athens 2005.

⁷ National Waste Management Planning, *supra* note 5.

⁸ *Ecopolis* 2005, p.3

- Joint Ministerial Decision 29407/3508/2002 on sanitary landfill of waste, transposing Council Directive 99/31 on landfill of waste.⁹ The Decision *inter alia* sets strict operational guidelines for Sanitary Landfill Sites; mandatory processing of waste both at a national and at Landfill Site level, establishes targets for reducing the amount of waste deposited by landfill and provides for planning and licensing.
- Law 2931/2001 and associated Presidential Decrees for the recycling of packaging waste, transposing Council Directive 94/62/EC on packaging waste and related Directives on other wastes (used tyres, end of life vehicles, waste oils, electrical and electronic waste and batteries). Quantitative targets are set for recovery and their enactment is primarily an implementation of the ‘polluter pays’ principle, since producers of products and producers of waste are obligatorily involved in the set up and management of relevant Alternative Management Systems.¹⁰

III. Implementation of the Directive in national law

1. Historical background

The first attempt to transpose the Directive in Greece was in 1986, with the instrument of Joint Ministerial Decision.¹¹ In practice, the 1986 Joint Ministerial Decision was never implemented nor enforced, a fact

⁹ Official Gazette, 3572 B 2002, Council Directive 1999/31 on the landfill of waste OJ 1999 L 182/1.

¹⁰ See *infra* Section III and *infra* footnote 52.

¹¹ Joint Ministerial Decision 49541/1424/1986 (Official Gazette, B 444/1986).

indirectly affirmed *inter alia* by the judgment of the European Court of Justice in relation to the uncontrolled dumping of waste (including hazardous waste) and the total absence of waste management in the area of Chania, in Crete.¹²

In the same year, the Law on the Environment was adopted, which, together with the provisions of the Greek Constitution Article 24, introduced the hierarchic ‘top level’ provisions in relation to the rights and duties of the State in relation to the environment in general and waste management in particular.¹³

Following the enactment of Council Directive 91/156,¹⁴ and three years following the transposition period, in 1996, Greece repealed the 1986 Joint Ministerial Decision and replaced it with a new one, which was the basic framework legislation in relation to waste management until 2003.¹⁵ From the beginning, the new set of rules established under this Joint Ministerial Decision (hereinafter the “1996 Joint Ministerial Decision”) was criticised by both academia and the courts as overcomplicated, poorly understandable, overwhelmingly technical in nature and most likely not capable of application in practice.¹⁶

In December 2003, the legal framework relating to waste management changed for a third time, still opting for the replacement of the 1996 Joint

¹² Supra note 1.

¹³ In particular article 12 of Law 1650/1986 (Official Gazette, A 160/1986).

¹⁴ Council Directive 91/156/EEC amending Directive 75/442/EEC on waste, OJ 1991 L 78/32.

¹⁵ Joint Ministerial Decision 69728/824/1996 (Official Gazette, B 358/1996) (Hereinafter the “1996 Joint Ministerial Decision”).

¹⁶ Sinodinos, “Waste Management. Is our national legislation in accordance with the relevant Framework Directive”, in Environment and Law 1998, pp.20-40, Giannakourou, supra note 3.

Ministerial Decision with a new one (hereinafter the “2003 Joint Ministerial Decision”).¹⁷ Therefore, at present, there is a note of relative optimism. The administration has taken into account the basic shortcomings of the legacy of the first and second attempts and at least as far as the legal dimension of the issue is concerned, some positive developments can be expected.¹⁸ As an annex to the 2003 Joint Ministerial Decision, the National Waste Management Plan was adopted.¹⁹

2. The principal provisions of the Directive in national law

In this section, the basic provisions of national waste management law are going to be examined, namely the terminology used, the priorities set, the principles on which waste management is based and the provisions relative to waste management planning, envisaged in the 2003 Joint Ministerial Decision.

a. Terminology

The terms “waste”, “producer”, “holder”, “disposal”, “recovery” and “collection” are correctly transposed in the 2003 Joint Ministerial Decision together with the waste categories excluded from the scope of

¹⁷ Joint Ministerial Decision 50910/2727/2003 (Official Gazette, B 1909/2003). (Hereinafter the “2003 Joint Ministerial Decision”).

¹⁸ Haidarlis, M., *Spatial and environmental planning and waste management (some thoughts on the case of Attica)*, in Popov, V., Itoh, H., Brebbia, C., A., et al. (eds) *Waste Management and the Environment II*, Southampton, Boston 2004, pp.541-547.

¹⁹ 2003 Joint Ministerial Decision, Annex 2.

the Directive.²⁰ In relation to the definition of “management”, the 2003 Joint Ministerial Decision maintains two further categories; “reload” and “temporary storage”.²¹ Reload is a management phase for waste that is transported to a unit where it is compacted for further transport. Temporary storage is a Greek novelty in waste management and envisaged as a response to the abovementioned real and unique issue of illegal dumping sites.²² Both activities are treated as disposal activities.

b. Priorities

In addition to the measures envisaged under Article 3 and 5 of the Directive, which were adopted in the same order as they appear in the Directive, the 2003 Joint Ministerial Decision adds:

- The environmentally acceptable and safe disposal of waste that is not subject to recovery and waste remnants processing, with the aim of sustainability,
- The encouragement of rational organization and integrated waste management, and
- The drawing up of national waste statistics, in accordance with Regulation 2150/2002/EC, so that with the complete registering of the quantities of waste the maximisation of recovery and safe disposal is secured.²³

²⁰ Which was also the case under the regime envisaged under the 1996 Joint Ministerial Decision. See Sinodinos, *supra* note 16.

²¹ Already present in the 1996 Joint Ministerial Decision.

²² Balias, *The problem of waste: Notes on the specific case of “temporary storage”*, in www.nomosphysis.org.gr.

²³ Article 5.1 v, vi and viii of the 2003 Joint Ministerial Decision.

It should be mentioned that the measures provided for in the Directive have not been given sufficient emphasis and priority equivalent to that afforded to them by the Directive and the already replaced former 1996 Joint Ministerial Decision. Under those provisions, priority was given to the drawing up of a general framework for the establishment of the methods of waste management and of suitability tests and relevant provisions for the choice of the most appropriate disposal sites. As such, until the replacement of this instrument in 2003, the dominant waste management approach in Greece was the ‘appropriate disposal site’ approach.²⁴ Now, disposal has been downgraded in terms of priority and been placed as the fifth recital, rather than the second, and the measures envisaged in the Directive (i.e. development of clean technologies, product design, recovery and energy) have been upgraded to the first paragraph.

Article 4(a) of the Directive is included in the 2003 Joint Ministerial Decision but it is provided for that the conditions envisaged in the Directive for recovery and disposal are applicable to waste management in general.²⁵

c. Principles

It is worth noting that in the 2003 Joint Ministerial Decision an explicit inclusion of the principles of waste management is provided for in the body of the relevant legislation, namely the principles of precaution and prevention, the ‘polluter pays’ principle, the principle of proximity, the principle of recovery for damage to the environment, the principle of a

²⁴ See Balias *supra* note 22, Haidarlis *supra* note 18 and Sinodinos *supra* note 16.

²⁵ Article 4.1 of the 2003 Joint Ministerial Decision.

high level of protection for the environment and public health and the principle of self-sufficiency.²⁶ In this way, the 2003 Joint Ministerial Decision adopts *en masse* as legally binding principles in relation to waste management all principles of European Environmental Law and technical-managerial principles.²⁷ One would have expected that the inclusion of such principles should have taken place in a hierarchically superior legal instrument, such as the Law on the Environment or the Constitution, and not at the level of a Ministerial Decision.²⁸ Nevertheless, it is understood that this paradox is not to be interpreted as simple verbalism but rather as a genuine effort to improve and upgrade the legal framework on waste management in Greece.²⁹

d. Planning

One of the major achievements of the reform of waste management law in Greece in 2003 is the clarification, simplification and rationalisation of the planning stage of waste management.³⁰

Planning operates at two levels. Firstly, the National Waste Management Plan, annexed to the 2003 Joint Ministerial Decision, which sets out the general priorities in relation to waste management. The operational plan, however, is set at the regional level. The objective of the Regional Waste Management Plan is to specify the general directions of the National Plan

²⁶ Articles 1, 4.2 and 5.1.vii of the 2003 Joint Ministerial Decision.

²⁷ See Haidarlis, *Waste management in Attica and legislative environmental policy*, in www.nomosphysics.org.gr.

²⁸ Haidarlis supra note 18 and Giannakourou, supra note 3 are of the opinion that reform of waste management law in Greece should be based on a new specialized Law on waste management or reform of the Law on the Environment 1650/86.

²⁹ See Rizos, *Waste Management in Greece: Absence of law and absence of infrastructures* in Hlepas, N., K., Giannakourou, G., Oikonomou Th., *Waste Management*, Athens 2004, pp. 105-113.

³⁰ Haidarlis supra note 18.

and identify priorities and measures to be taken at the regional level. There is also a provision for inter-regional plans, if the competent regions decide on this option.³¹ Whereas the 2003 Joint Ministerial Decision set an explicit deadline of two years for existing Regional Waste Management Plans to be updated, at this moment, only one has been approved, one is ready and nine more are still pending.³²

2. Competent Authorities, licensing obligations and exceptions

In principle, the responsibility and liability in terms of waste management activity in Greece is at local government level and lies within the competence of the Municipalities.³³ In terms of waste management law, municipalities are named “Waste Management Authorities” (WMA). They are responsible for the collection, transport, temporary storage, reload, recovery and disposal of waste.³⁴ In principle, the law gives a priority to waste management as a public service, although it also recognises the shortcomings of a totally public-centered approach in practice, especially in relation to collection and transport, and therefore provides for the private sector to be active, in particular, as (a) subcontractors of the WMA and/ or, (b) in order to fulfill the duties of the holders of waste, excluding the holders of household waste, when the WMA is unable to provide collection and transport services for them. Collectively, persons other than WMA that are active in waste management are called “waste managers”.³⁵

³¹ Article 6 of the 2003 Joint Ministerial Decision.

³² Answer Nr. 2140B/11-4-05 supra note 5.

³³ Article 12 of Law 1650/1986 and Article 7 of the 2003 Joint Ministerial Decision.

³⁴ With the exception of waste management in ports and national highways where the Port Authorities and the Highway Authorities are respectively competent.

³⁵ Article 12 Law 1650/1986 and Article 7.1.b and 7.6 of the 2003 Joint Ministerial Decision.

In relation to the collection and transport of waste both the WMA and waste managers, in order to operate lawfully, must be holders of a license. This license is issued by the competent Prefecture or Region depending on the geographical extent of their activity. A license is issued following an application accompanied by an assessment of the collection and transport organisation and operation and provided that it is in line with the Regional Waste Management Plan.³⁶

In relation to the disposal, recovery, temporary storage and reload of waste, the law requires, as a *sine qua non* condition for the issue of a license, a prior environmental impact assessment which leads to an approval of environmental terms.³⁷ A license, valid for five years, is then issued by the competent Prefecture, following an application accompanied by an assessment of the establishment's organisation and operation and provided that it is in line with the Regional Waste Management Plan.³⁸

Establishments, such as those identified under Article 11 of the Directive, may be exempt from the obligation of holding a license. This is documented by a relevant decision of exemption by the Prefecture communicated to the Ministry of the Environment, Planning and Public Works for registration. In order for this exemption to be granted, the operation of the establishment must be in accordance with its approved

³⁶ Article 8.1 of the 2003 Joint Ministerial Decision.

³⁷ In accordance with Articles 3 and 4 of Law 1650/1986 and Joint Ministerial Decisions 15393/2332/2002 (Official Gazette, B 1022/2002), 25535/3281/2002 (Official Gazette, B 1463/2002) and 11014/703/2003 (Official Gazette, B 332/2003). For a discussion see Florou, *The new system of environmental assessment and imposition of environmental terms*, in www.nomosphysis.org.gr.

³⁸ Article 8.2 of the 2003 Joint Ministerial Decision.

environmental terms and its waste management in line with the Regional Waste Management Plan.³⁹ The conditions under which such an exemption can be granted under 11(1)(b) of the Directive are presently not expressly stated although they were explicit under the replaced 1996 Joint Ministerial Decision.⁴⁰ While the approval of environmental terms provides a safeguard as to the proper waste management of an establishment in accordance with the conditions of Article 4 of the Directive, this cannot be equated to an absence of an obligation to draw up general rules for each type of activity.⁴¹ National Law has not transposed the Directive properly in our understanding on this point.

IV Legal framework for waste recovery in Greece

1. Packaging and packaging waste

The legal framework for waste recovery in Greece began to take shape in mid 2001 with the adoption of Law 2939/2001 (hereinafter the “Law”).⁴² With this Law, Greece transposed Directive 94/62/EC on packaging and packaging waste.⁴³

The principal objective of this Law is, in accordance with Article 1, “the establishment of measures that for the management of packaging are targeted at reuse or recovery of their waste”. The principles, under which the system established should operate, are; (a) the principle of prevention of waste generation through management of their volume and dangerous

³⁹ Article 8.5 of the 2003 Joint Ministerial Decision.

⁴⁰ Article 10.6 of the 1996 Joint Ministerial Decision.

⁴¹ Article 11.1.b.i of the Directive.

⁴² Official Gazette, A 179/2001.

⁴³ OJ 1994 L 365/10.

substances therein, (b) the polluter pays principle, (c) the principle of responsibility of all the involved economic actors, both public and private and (d) the principle of publicity vis-à-vis the users and consumers of the measures adopted, so that their role is enhanced as contributors in the reuse and recovery of packaging.⁴⁴

The Law establishes that “all those who manage packaging, and are called ‘managers’,⁴⁵ are under an obligation to organise [private] or participate in [collective] Alternative Management Systems (AMS) in relation to their activity.”⁴⁶ An AMS is an organisation, whether private or collective, for the collection, reuse and recovery of packaging and packaging waste.⁴⁷ Participation in a collective AMS is accompanied by the deposit of a fee with the AMS on behalf of the interested manager and a monetary contribution. The value of the contribution is specified in the accession contract and in return the AMS gives the manager the right to mark his products with a special sign, as proof of his participation in the AMS. In this way the liability of managers for their obligations under the Law is covered.⁴⁸ AMSs are licensed by the ‘National Organisation for the Alternative Management of Packaging and Other Waste’ (NOAMPOP), a not-for-profit entity, established under private law and under the supervision and control of the Ministry of Environment, Planning and Public Works.⁴⁹ AMSs are authorised by NOAMPOP for a

⁴⁴ Article 4 of the Law.

⁴⁵ Management is defined as supply, production and trading of packaging. Article 2.16 of 2939/2001.

⁴⁶ Article 7 of the Law.

⁴⁷ Article 2.19 of the Law.

⁴⁸ Skordilis, supra note 5.

⁴⁹ Articles 24 seq. of the Law. The Authority has not yet been established and in the interim period, it is the ‘Office of Alternative Management of Packaging and other Products’ that performs its functions. The Office is subordinate to the Directorate for the Environmental Planning of the Ministry of the Environment, Planning and Public Works. Article 24.11.1 of the Law.

period of six years, when, following an evaluation of their targets and methods, their license may be renewed or revoked. Three such AMSs (two collective and one private) are licensed as of today.⁵⁰ In terms of the targets - which were set at (a) 50-65% for recovery, (b) 25-45% for recycling and (c) 15% by weight for each packaging material by the end of 2005 - recent estimates suggest that the targets in relation to (a) recovery and (b) recycling will be met for 2005 for the geographical cover of the AMSs in operation, which is approximately 8% of the Greek territory.⁵¹

2. Other waste products

The five Presidential Decrees published in early 2004, targeted a series of waste categories other than packaging waste, in relation to their recovery and their management is regulated *mutatis mutandis*.⁵² They include waste oils, used tyres, end of life vehicles, accumulators and batteries, and waste from electrical and electronic equipment.⁵³ Six collective

⁵⁰ There is one collective AMS authorised for packaging waste, one collective AMS for packaging waste of waste oils and a large supermarket chain's private AMS. There are criticisms, in particular of the collective AMS for packaging waste, being in essence a monopoly. See Papademetriou, Papakonstantinou, *Collective Systems for Alternative Management of Packaging*, in Environment and Law 2005, pp.51-54.

⁵¹ Article 10 A 1 a & b of the Law, Skordilis, supra note 5, and *Ecopolis* supra note 8.

⁵² Under the Law 2939/2001 the issue of Presidential Decrees to regulate *mutatis mutandis* 'other products' is foreseen. See Article 17.4 of the Law. See also Sifakis, *The establishment of an institutional framework for "other products" towards completion*, in Environment and Law 2004, pp.50-51.

⁵³ Presidential Decree 82, Official Gazette A 64/2004 (waste oils), Presidential Decree 109, Official Gazette A 75/2004 (used tyres), Presidential Decree 115, Official Gazette A 80/2004 (batteries and accumulators), Presidential Decree 116, Official Gazette A 81/2004 (end of life vehicles) and Presidential Decree 117, Official Gazette A 82/2004 (waste from electrical and electronic equipment), transposing Directives 87/101, OJ 1987 L 42/43 (waste oils), 91/157 OJ 1991 78/43, 93/86 OJ 36/38, 98/101 OJ 1998 L 1/1(accumulators and batteries), 2000/53 OJ 2000 L 269/34 (end of life vehicles),

AMSs have already been established since the summer of 2004 covering all the above mentioned categories.⁵⁴ Since the establishment of these AMSs some data is available for each category: The End of Life Vehicles record is quite good, the percentage of recycling of the officially registered 30,000 end of life vehicles is 25-30% and the recycling of lead batteries stands at around 55%. The record is still poor in relation to used tyres (9%), waste oils (10%), electrical batteries (almost 0%) and electronic and electrical waste where data is still lacking.⁵⁵ Finally, the equivalent specific legal framework in relation to demolition waste, while foreseen in the Law, is still at the consultation stage.

Conclusion

Most of waste management law in Greece follows the development of European waste management law. It is the transposition of Directives that shapes it. This characteristic, coupled with late transpositions and delays in implementation, often leads to inappropriate implementing measures that are soon outdated. In addition, a bizarre approach to the hierarchy of implementing measures can be seen, usually following acute pressure, either from the European Commission, or urgent local demands associated with waste management. The legacy of spectacularly fragmented and incomprehensible legislation is epitomised in the following two illustrative examples; (a) the Regional Planning for Attica was completed through the pre-choice of landfill sites by a special amendment in a Law in Parliament and (b) the Administration opted for

2002/96 OJ 2002 L 37/24 and 2002/95 OJ 2002 L 37/19 (waste from electrical and electronic equipment) .

⁵⁴ There are separate AMS for batteries and accumulators and one for each other waste category, see Sifakis, *supra* note 52 and Skordilis, *supra* note 5.

⁵⁵ Skordilis, *supra* note 5.

licensing a (public) waste processing unit as a ‘productive investment’ and not as a waste management facility.⁵⁶

In 2001, the basis for a legal framework on waste recovery was established in Greece. Well into 2005, even though there is still a long way to go in meeting the targets set by the relevant Directives, an improvement and increase in the amount of waste recovered and recycled, in particular in relation to packaging waste, has been recorded for each year. A combination of putting into effect the ‘polluter pays’ principle and a blanket legal obligation for all managers to participate in AMSs, provides revenue for AMSs and the gradual expansion of their operations. As of 2011, 80% of Greece’s population will presumably be covered by recovery and recycling services in relation to packaging waste.

The most recent reform of waste management law in 2003, improved the framework, but this will soon be in need of further reform. The provisions in relation to (a) access to environmental information, especially the requirements for active information and (b) the requirements of public participation in relation to strategic environmental assessment of plans and programmes are presently inadequate in view of the forthcoming transposition of Directives 2001/42 and 2003/4, the implementation deadlines of which Greece has already failed to meet.⁵⁷ To meet the

⁵⁶ Under Article 33 of Law 3164/220 (Official Gazette A 176/2003) and Council of State Decision 77/2001. Further in Haidarlis, *supra* note 18 and Giannakourou, *supra* note 3.

⁵⁷ Council Directive 2001/42 on the assessment of the effects of certain plans and programmes on the environment, OJ 2001 L 197/30 and Council Directive 2003/4/EC on public access to environmental information and repealing Council Directive 90/313/EEC OJ 2003 L 41/26.

According to a Press Release of the Ministry of Environment, Planning and Public Works, those Directives will be implemented by the end of 2005 (Press Release of 23/9/2005).

challenge, given the almost 20 years of development since its adoption, a substantial reform of Law 1650/1986 on the Environment should be undertaken in order to harmonise Greek waste management law in particular, and Greek environmental law in general, at the proper legislative level.