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**WK 1240/2025 INIT**

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#### **MEETING DOCUMENT**

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**From:** General Secretariat of the Council  
**To:** Working Party on the Environment

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**Subject:** Waste Framework Directive: WPE on 5 February 2025 – Presidency steering note

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Delegations will find attached a steering note prepared by the Presidency for the WPE meeting on 5 February 2025.

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WK 1240/2025 INIT

# PRESIDENCY STEERING NOTE

WORKING PARTY ON THE ENVIRONMENT (WPE)

**WASTE FRAMEWORK DIRECTIVE (REVISION)**  
2023/0234 (COD)

**5 FEBRUARY 2025**

At the meeting of the Working Party on the Environment on 5 February 2025, the Presidency aims to **prepare for the upcoming 2<sup>nd</sup> political trilogue** concerning the revision of the **Waste Framework Directive**. The trilogue, scheduled for 18 February 2025, will aim to conclude the negotiations. In view of this political trilogue, the revision of the Waste Framework Directive will be discussed in COREPER on 12 February 2025 to achieve a revised mandate covering the ongoing revision of the Directive.

Delegations are kindly invited to consult the updated **four-column table**, published in ST 5690/25. The document reflects the current state of technical negotiations with the European Parliament.

Further to the four-column table, this Steering Note outlines:

- the **outcomes of the technical negotiations** with the European Parliament;
- the **state of play** on outstanding sensitive issues; and
- the **possible way forward** to conclude the negotiations.

During the meeting, delegations will have the opportunity to inform the Presidency about their **flexibilities and sensitivities** in view of reaching the outcome of the interinstitutional negotiations. Results of the WPE discussion will guide the Presidency in identifying the **possible landing zones** for the negotiations with the EP.

## I. Outcomes of technical negotiations

Following the opening trilogue on 22 October 2024, the Presidency has engaged in constructive negotiations in a total of **eleven interinstitutional technical meetings** (ITMs). The final ITM takes place on 31 January 2025 and aims to conclude all open issues which are possible to solve at the technical level.

The discussions at the technical level resulted in a number of provisionally agreed provisions reflecting the positions of both co-legislators. In the discussions, all parties also identified discussions requiring political input which will be elevated to the trilogue on 18 February 2025.

With regards to provisionally agreed text, the Presidency would like to draw the delegations' attention to the following issues.

### A. Food waste

#### Food waste reduction measures

##### **Art. 9a(1)**

Both co-legislators provisionally agreed on compromise wording concerning the non-exhaustive list of measures aiming to lower food waste. The Presidency showed openness to the Parliament's addition related to 'ugly fruits and vegetables' and agreed with a limited addition concerning the promotion of innovative solutions preventing food waste, without an explicit reference to packaging and labelling regulated elsewhere [rows 71-77a].

#### Food waste prevention programmes

##### **Art. 29(2a)**

The Parliament accommodated the Council's request to ensure that Member States with existing waste prevention programmes can incorporate the food waste prevention measures as part of the existing more general programmes [row 204a].

## B. Waste textile

### Online platforms and their obligations

#### **Art. 22a(7)**

The technical level found a common ground with respect to the obligations of online platforms, largely mirroring the provisions introduced by the Council in Art. 22a as well as in the corresponding recitals [row 109].

### Fulfilment service providers and their obligations

#### **Art. 3(4ea) and Art. 22a(9), (10) and (11)**

The Parliament accepted the Council's addition of obligations for the fulfilment service providers, along with their definition [row 65a]. The provisions aim to ensure that identically to the online platforms, fulfilment service providers are obliged to fulfil the obligations for online platforms laid down in the Digital Services Act (2022/2065) [rows 112a-f].

### End user

#### **Art. 3(4g)**

The Parliament accepted the Council's proposal to add the notion of 'end user', where appropriate. The Directive now provisionally includes the definition in Art. 3(4g) [row 66a].

### Social economy entities and their reporting obligations

#### **Art. 3(4h) and 22c(11a) and (11b)**

In an important concession to the Council, the Parliament agreed with the Council's position concerning the social economy entities in two aspects. Firstly, the definition of these entities is based on the Council's broader 'social economy entity' definition [66b-e], rather than the Parliament's initial 'social enterprise' definition [68a]. Secondly, the technical discussions also allowed for the provisional text to reflect the need for those important social economy entities to report to the competent authorities. The relevant provisions in Art. 22c(11a) introduce a simplified set of reporting obligations which, however, largely mirrors the obligations set out in the Council General Approach [158a-d].

Furthermore, given the initial strong concern of the European Parliament, the current wording of Art. 22c(11b) provides for more flexibility to Member States to exempt social

economy entities for the reporting obligations to avoid imposing disproportionate administrative burden [row 158f].

### **Cost coverage of municipal waste**

#### ***Art. 22a(4) and (4a)***

The Presidency insisted on the flexibility for Member States to decide on the cost coverage of waste textile by producers of textile. Whilst the list of costs to be covered by the producers of textile was agreed as a closed list [row 97], Member States maintain the flexibility to decide that producers of textile cover the collection and other waste management of waste textile ending up in mixed municipal waste [row 106b].

### **Involvement in the implementation of Extended Producer Responsibility schemes**

#### ***Art. 22a(3a)***

The Presidency was open to a compromise with the Parliament concerning the involvement of relevant actors in the implementation of the EPR schemes. However, the resulting text reflects the Presidency's opposition to problematic wording initially included in the Parliament's amendments ("fully involved" and "decision-making"). The current provision sets out a non-exhaustive list of relevant actors who shall be involved in the implementation of the EPR schemes, providing Member States with the necessary flexibility [rows 96a-96g].

### **PPE, mattresses and carpets**

#### ***Art. 22(1a) and (1b) [EP]***

The Parliament's amendment to introduce EPR obligations for PPE [row 94a] as well as mattresses and carpets [row 94b] was accommodated in a new explanatory recital 19a [row 29a], which reflected the concerns raised by the Council related to the scope of the ongoing revision.

## **II. State of play on outstanding sensitive issues and way forward**

### **A. Food waste**

## Food donation

### **Art. 9a(1), second subparagraph**

The Presidency was not able to accept the Parliament's amendment making food donation mandatory for economic operators [row 78].

***Given the importance of this issue for the Parliament, the Presidency asks the delegations to share their flexibility on this issue.***

## Food waste reduction targets and related issues

### **Art. 9a(4) and other provisions**

The co-legislators did not find a common ground on the issue of food waste reduction targets [rows 81-83]. The Presidency maintained its concerns about the Parliament's proposal and its feasibility, stressing the Council's commitment for an ambitious policy which, however, must remain achievable.

***In view of the Parliament's positioning, the Presidency invites the delegations to consider on which of the following issues they could be flexible:***

- a) **Reference year(s):** the Parliament introduces an 2020-2022 annual average as the reference period for the food waste reduction targets [rows 82-83, 84].
- b) **Correction factor for tourism:** the Council's addition raises concerns for the Parliament due to concerns of undermining the set food waste reduction targets [row 84a].
- c) **Correction factor for production levels:** whilst this addition raises similar concerns as the previous factor, the Parliament also questioned its implementability and practical benefits [row 84b].
- d) **Primary production review:** whilst both institutions address the role of primary production in their positions, the Parliament's addition requires the review to result in setting primary production targets [rows 86b and 86c].
- e) **Edible and inedible food waste review:** the Parliament opposes the Council's addition due to the possible undermining of the ambition of the food waste reduction targets [rows 80 and 86].
- f) **Future food waste reduction targets:** during the ITMs, the Presidency opposed the Parliament's addition for a 2027 review of possible 2035 targets of 30% and 50%

for food processing and manufacturing, and for retail and other distribution respectively [row 86d].

## **B. Waste textile**

### **Inclusion of microenterprises in the definition of 'producer of textile, textile-related and footwear products listed in Annex IVc'**

#### **Art. 3(4b)**

The Council's inclusion of microenterprises under the definition of the producer falling under the scope of the Extended Producer Responsibility schemes was not received well by the European Parliament. The Parliament warned against imposing unnecessary administrative burden on microenterprises in order to maintain a positive business environment for textile producers in the EU. Despite the Presidency's arguments about the necessity to include as large a number of producers as possible to develop a comprehensive understanding of the textile market, the technical discussions did not reach an agreement on this issue.

***The Presidency therefore asks the delegations whether they could support:***

- a) postponing the application date of the provisions laid down in this Directive for micro-enterprises by 24 months after the establishment of the Extended Producer Responsibility schemes; or***
- b) removing microenterprises from the scope of the Directive.***

### **'Making available on the market' definition**

#### **Art. 3(4c)**

The negotiating teams' views on this definition do not align, with the Parliament insisting on the initially proposed definition of 'making available on the market' referring to the 'Union market', in contrast to the Council's proposed change to refer to the 'market of a Member State'.

***The Presidency asks the delegations for their flexibility with regards to a compromise option explored at the technical level to alleviate the concerns of the Council:***

- maintaining the reference to the 'Union market' in definition (4c) [row 63] whilst introducing a new definition (4ca) 'making available on the territory of the***

***Member State' [row 63a] which would refer to the supply of a textile and textile related product in Annex IVc for distribution, consumption or use on the territory of the Member State in the course of a commercial activity, whether in return for payment or free of charge. Additionally, a clarification recital (21a) is added [row 31a].***

## **EPR implementation deadline**

### **Art. 22a(8)**

The Presidency rejected the Parliament's suggestion to shorten the implementation period for the Extended Producer Responsibility schemes from the proposed thirty months to eighteen months, given strong reservations about the possibility to establish such a scheme in eighteen months [row 112].

***The Presidency invites the delegations to share their flexibilities in relation to this point.***

## **Commercial re-use operators' contribution to the EPR schemes**

### **Art. 22a(6)**

The Presidency explained the sensitivity behind this provision, which the Council introduced to ensure that in Member States with high share of used textile on their market, commercial re-use operators can be requested to contribute with a lower fee to the Extended Producer Responsibility scheme [row 108]. Despite this reasoning, the Parliament did not accommodate this addition based on the concerns of putting additional burden on a sensitive sector important for circularity of textiles.

***Against this background, the Presidency asks the delegations whether they would be able to show flexibility on:***

- a) inserting a review clause regarding the possibility for PROs to require commercial re-use operators to contribute with a fee, preceded by a monitoring period, assessing whether such a contribution is necessary for the financing of the Extended Producer Responsibility scheme; or***

***b) delaying the provision to allow Member States to first assess the dynamics of the Extended Producer Responsibility financing before introducing the requirement of a fee for commercial re-use operators.***

### **Authorised representative**

#### **Art. 22(1a) [Council]**

During the technical discussions, the Council's added provision introducing the authorised representative [row 94c] has not been accepted by the Parliament due to concerns of administrative burden on producers as well as competent authorities.

***The Presidency invites the delegations to indicate their flexibility on the authorised representative provision, particularly on the following possible compromise solutions:***

- ***maintaining the authorised representative for large producers, whilst allowing the flexibility for SMEs to rely on producer responsibility organisations to carry out the relevant obligations.***

### **Fast-fashion**

#### **Art. 22(6)**

Whilst both co-legislators share the concern of environmental impacts caused by fast-fashion practices, the agreement on the particular way to tackle this issue has not been agreed at the technical level.

***The Presidency invites the delegations to indicate their position in regards to Art. 22c(3)(a) and 22c(4) [rows 141 and 144], particularly with respect to the possibility to address the issue in an implementing act laying down the fee modulation criteria by the Commission.***

### **Review clause**

#### **Art. 11(6a) and (6b), Art. 42a and 42b**

In the technical discussions, it became clear that both co-legislators introduce several review clauses on a number of different aspects under the Waste Framework Directive. The technical level explores the possibility to include a number of reviews under one Article to provide for legal certainty and clarity. The discussions about the scope and timing of this review clause continue at the technical level.

***The Presidency would therefore like to invite the delegations to indicate their flexibilities regarding the possible general review provision. In particular, the review would include at least:***

- a) the assessment of setting waste prevention, collection, preparing for re-use and recycling targets for waste textile (Art. 11(6a)) [rows 88c-d];***
- b) the assessment of financing of the Extended Producer Responsibility schemes (Art. 11(6b)) [88e-f];***
- c) the evaluation and review of the Waste Framework Directive and the Landfill Directive in Art. 42a and 42b [rows 220-f].***