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REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT

on the implementation of Regulation (EC) No 1013/2006 on shipments of waste

Generation, treatment and transboundary shipment of hazardous waste and other waste in the Member States of the European Union and the United Kingdom 2016-2019

{SWD(2023) 56 final}

1. INTRODUCTION

The European Union ("EU") is a party to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal of 22 March 1989 ("the Convention"). The Convention serves to protect human health and the environment against the adverse effects of hazardous wastes.

Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on Shipments of Waste ("the Regulation") transposes the Convention into EU law.[1] In November 2021, the Commission proposed to replace this Regulation with a new Regulation[2]. This proposal is being discussed by the European Parliament and the EU Member States.

Each calendar year, every Member State submits a report on the implementation of the Convention on the previous calendar year to the Convention Secretariat. A copy of this report ("the Basel report") is also sent to the Commission, along with additional information as required via Annex IX of the Regulation ("the EU questionnaire").[3]

Every three years, the Commission draws up an implementation report based on the Basel reports and the EU questionnaires. This is the sixth implementation report covering the period 2016–2019; this four-annual report is an exception to the usual three-year reporting schedule. Details of the Member State reports can be found in the accompanying staff working document.

The Convention uses the terms 'import' and 'export' for shipments into or out of Parties to the Convention. Under EU law, these terms apply only to shipments into or out of the EU. In this document, the terms are used in accordance with the Regulation.

This implementation report presents information on shipments of notified wastes, i.e. wastes that are subject to the procedure of prior written notification and consent as per the requirements of the Regulation. This covers waste shipments categorised as hazardous waste[4], other notified waste[5], and unlisted waste[6]. It does not cover waste, which are classified as "green-listed" waste[7], as Member States are not required to report on trade in such waste. The report therefore does not provide an overview of the overall amount of

[1] Regulation (EC) No 1013/2006 on Shipments of Waste (OJ L 190, 12.7.2006, p.1)

[2] https://ec.europa.eu/environment/publications/proposal-new-regulation-waste-shipments_en

[3] Article 51 (1) and (2) of Regulation (EC) No 1013/2006.

[4] The Regulation defines hazardous waste by reference to Directive 91/689/EEC on hazardous waste, which in turn refers to a list of hazardous wastes to be drawn up; this list was created via the Europe List of Wastes (LoW), on which hazardous wastes are denoted with an asterisk. Non-hazardous waste is defined as waste, which is not classified as hazardous waste. As the Regulation is compliant with the Convention, all waste classified as hazardous by the Convention is classified as hazardous by the Regulation.

[5] "Other notified waste" refers to non-hazardous waste listed in Annex II of the Convention. This includes wastes collected from households (Y46) and residues arising from the incineration of household wastes (Y47). These categories of waste are subject to controls similar to those placed on hazardous wastes under the Convention.

[6] Although data on the generation of unlisted waste is as such not available, unlisted wastes will be captured in either the hazardous or other notified waste categories.

[7] "Green listed waste" concern the majority of non-hazardous wastes which can be shipped for recovery without prior written notification or consent from the competent authorities.

waste shipped within the EU, exported from the EU and imported into the EU. 'All figures in this report are approximate and have been rounded up.

2. REPORTING BY MEMBER STATES

Twenty-six Member States completed reports pertaining to the Convention for all four years of the 2016–2019 reporting period (pursuant to Article 51 (1) of the Regulation). Some Member States submitted reports after the deadline. Further details on which Member States submitted reports late can be found in the accompanying annex document.

Twenty-five Member States completed reports pertaining to the Regulation for all four years of the 2016–2019 reporting period (pursuant to Article 51 (2) of the Regulation). Some Member States submitted reports after the deadline. Further details on which Member States submitted reports late can be found in the accompanying annex document.

Discrepancies in the amounts of waste reported as shipped from and to EU Member States were observed for both hazardous and all notified waste. For all notified waste, the least accurate reporting year was 2018, where amounts shipped out of Member States were 3.7 million tonnes higher than the amounts shipped to Member States. For hazardous waste the least accurate year was 2016, where amounts shipped out of Member States were 1.1 million tonnes higher than amounts shipped to Member States.

3. GENERATION OF HAZARDOUS AND OTHER NOTIFIED WASTE

The most recent and relevant figures on the generation of hazardous waste in the EU can be found in publications and databases held by the European Commission[8]. According to the data reported by the Member States under the waste shipment regulation, the EU generated 95 million tonnes of hazardous waste in 2016 and 102 million tonnes in 2018. The generation of hazardous waste per capita in the EU was 197kg in 2016 and 210kg in 2018.

In 2016, 2.2 billion tonnes of notified waste were generated in the EU in 2016 and the same amount in 2018.

4. WASTE SHIPMENTS OUT OF MEMBER STATES

Hazardous waste

In 2016-2019, the average annual amount of all notified waste shipped from the EU27 was 19.3 million tonnes, of which an average of 6.9 million tonnes (36%) were hazardous. From 2001 to 2019, the total amount of hazardous waste shipped both within and outside of the EU has doubled.

65% of the hazardous waste shipped out of EU Member States in 2016–2019 was treated in a recovery operation (i.e. recycled or treated in another recovery operation). The 2016–2019 65% figure is lower than for the 2013–2015 reporting period, for which it was 76%. As the proportion of hazardous waste shipped out of Member States and treated in a recovery operation had previously been fairly constant between the 2010–2012 and 2013–2015 reporting periods, the lower figure for 2016–2019 represents a change in the trend.

[8] See https://ec.europa.eu/eurostat/databrowser/view/env_wasgen/default/table?lang=en

Meanwhile, the proportion of hazardous waste shipped for disposal has remained almost constant: 21% in 2016–2019 compared to 22% in 2013–2015. Over the same period, there has been an increase in the proportion reported as shipped for "mixed" treatment (i.e. a combination of disposal and recovery) (2% to 13%).

Table 1 shows the waste management operations for which hazardous waste was shipped out of Member States.

Table 1. Hazardous waste shipped out of Member States by waste management operation, (1000 tonnes)

	2016	**2017**	**2018**	**2019**
Disposal	1,594	1,710	1,477	1,299
Recovery	688	847	602	677
Recycling	3,012	4,107	3,723	4,279
Mix	802	907	1,059	878
Not Specified	1	0	1	0

As in previous reporting periods, France and Italy were the two Member States that shipped out the largest amounts of hazardous waste in 2016–2019, with 6.8 million tonnes and 3.9 million tonnes respectively across the four-year period. Germany was the Member State shipping out the third largest amount, with 3.6 million tonnes.

Export from the EU

In the reporting period 2016-2019, 10% of hazardous waste were exported from the EU. These wastes were exclusively exported to OECD countries, as their export to non-OECD countries is prohibited.

Other Notified Waste

Table 2 shows other notified waste shipments by waste type. Note that Y46 waste (i.e. waste collected from households) and Y47 wastes (residues arising from the incineration of household waste) are subsets of the "other notified waste" category.

Table 2. Other notified waste shipped out of Member States, 2016–2019 (1000 tonnes)

	2016	**2017**	**2018**	**2019**
Other notified waste	10,462	11,960	10,927	9,693
Y46	*1,268*	*1,355*	*872*	*826*
Y47	*639*	*546*	*646*	*739*

From 2001 to 2019, the total amount of other notified waste shipped to both within and exported from of the EU increased by 463%. Table 3 shows other notified waste shipments by waste management operation.

Table 3. Other notified waste shipped out of Member States by waste management operation, (1000 tonnes)

	2016	2017	2018	2019
Disposal	508	542	410	350
Recovery	3,113	3,342	2,460	2,714
Recycling	6,223	7,539	7,397	6,451
Mix	617	528	660	178
Not Specified	0	9	0	0

Unlisted Waste

This section presents data on shipments of unlisted waste. This waste is included in either the data on shipments of hazardous waste or the data on shipments of other notified waste, based on either classification by a code in the EU List of Waste (LoW) or else by other reported information in the shipment data that identifies shipments as hazardous or non-hazardous. In the period 2016-2019, an average of 9.5 million tonnes of unlisted waste was shipped. Most of that was destined for recovery operations.

5. WASTE SHIPMENTS INTO MEMBER STATES

All Member States submitted information on waste shipped into their territory pursuant to Article 51(1) of the Regulation for all four years of the 2016–2019 reporting period. Twenty-six Member States reported such waste shipments during 2016–2019, with only Malta reported not having received any hazardous or other notified waste shipment.

In 2001, 7 million tonnes of all notified waste were shipped into EU Member States, while in the period 2016–2019; the mean average amount of such notified waste shipments per year was 24 million tonnes. This is an increase of 231% from 2001 to 2016–2019. While the amount does fluctuate from year to year, the average for 2013–2015 was 22 million tonnes, so there has been a 10% increase compared to the last reporting period. Furthermore, 2016 (26.1 million tonnes) and 2017 (26.6 million tonnes) show the highest levels of shipments into Member States since 2001. This continues a general trend of incoming waste shipments increasing over time.

As in previous reporting periods, Germany was the Member State where the biggest amount of notified waste was destined to, shipping in 24 million tonnes over 2016–2019. France was second over the four-year period, shipping in 18 million tonnes, while Sweden was third, shipping in 12 million tonnes.

Continuing a trend seen over previous reporting periods, almost all of the hazardous and other notified waste shipped into EU Member States in 2016–2019 came from within the EU or from EFTA countries. Together, these two sources accounted for 99% of all such notified waste shipments.

Hazardous Waste

In 2016-2019, an annual average of 10.2 million tonnes of hazardous waste (43% of "imported" notified waste) was shipped to Member States. Member States and EFTA

countries together accounted for 98% of the hazardous waste shipped into EU Member States in 2016–2019, a small increase compared to 2013–2015, in which they accounted for 97%.

The amount of hazardous waste imported from non-OECD third countries as a proportion of the total incoming waste shipments varies between 1 and 2% over the years.

The amount of hazardous waste shipped into the EU increased by 265% from 2001 to 2019, somewhat higher than the percentage increase for all notified waste shipped into Member States (214%).

In 2016–2019, Member States shipped 2.6 million tonnes of hazardous waste out of the EU while over the same period 11 million tonnes were shipped into the EU by third countries. Therefore, the EU remains a net importer of hazardous waste.

France was the top destination for hazardous waste over 2016–2019 (17 million tonnes), while Germany was second (10 million tonnes).

In 2016–2019, 78% of the hazardous waste shipped into Member States was treated in a recovery operation and 16% in a disposal operation, while 6% was classified as undergoing "mixed" treatment. The proportion reported as destined for disposal has decreased slightly since 2013–2015 (by 3%), while the proportion reported as destined for recovery has increased slightly (by 1%).

In 2016–2019, 53% of all hazardous waste shipped for disposal in the EU was destined to Germany. This is an increase compared to 2013–2015, in which 46% of all hazardous waste shipped for disposal was destined to Germany. The proportionally high amount of hazardous waste for disposal destined to Germany is likely due to the country possessing a proportionally greater number of hazardous waste disposal facilities compared to other Member States.

49% of hazardous waste shipped for recovery was destined to France. This is a large increase from 2013–2015, in which France – while still the destination where the largest amount of hazardous waste for recovery was shipped to – received 32% of waste for this purpose.

Other Notified Waste

59% of all notified waste shipped to Member States were other notified waste. From 2001 to 2019, the total amount of other notified waste shipped to Member States has increased by 189%.

6. Illegal Shipments, Inspections and Enforcement Measures

Illegal Shipments

There were 5,502 illegal shipments of waste reported by the Member States in 2016–2019, with an increase in the number of illegal shipments being reported per year compared with the previous reporting period. While for 2013–2015 there were 933 illegal shipments reported on average per year, for 2016–2019 1,376 illegal shipments were reported per year.

There has been an improvement in reporting on the number of spot checks/inspections made compared with the previous reporting period. For 2013–2015, only eleven Member States reported in the format provided by the EU questionnaire, while for 2016–2019, twenty-seven Members States used the correct format.

The illegality of shipments reported ranges from what could be genuine administrative mistakes to clear environmentally harmful behaviour. Among administrative issues, Member States commonly report shipments lacking the required accompanying documentation in Annex VII of the Regulation. Denmark in particular reports many instances of fines being issued for incomplete Annex VII forms. Another reported issue is the lack of proper notification. Both France and Germany (two of the Member States with the highest reporting of illegal shipments) report many cases of transports without notification.

As regards criminal cases, waste electronic and electrical equipment (WEEE) and end-of-life-vehicles (ELVs) are frequently mentioned. For example, the majority of Belgium's reported illegal shipments are of hazardous WEEE, while Czech Republic reports WEEE misidentified as electronic and electrical equipment (EEE) for reuse (non-waste); Czech Republic also reports ELV that are shipped under the guise of second-hand cars.

In 2016–2019, Germany reported the highest total number of illegal shipments overall with 1,850 cases, constituting 34% of the total number of cases reported in the EU from 2016 to 2019. However, this is including a high number of 'minor violations' and approximately 480 cases of repatriation of waste[9]. When these minor violations and cases are excluded, Germany's illegal shipments for 2016–2019 fall to 163 cases (4% of total cases).

Belgium is the Member State with the second highest number of illegal shipments, with 952 cases, representing 25% of the total number of cases reported in the EU from 2016 to 2019. France reported the next largest number with 625 cases (16%).

Belgium reported the highest number of illegal shipments for 2013–2015, the Netherlands reported the second highest number in that reporting period. As the Netherlands did not report for 2018 and 2019, it is not possible to give a total number of illegal shipments for the reporting period of 2016-2019. However, for 2016 and 2017 the Netherlands reported high figures, making it the fourth highest reporting Member State for 2016–2017 (after Germany, Belgium and France).

Inspections

By 2019's reporting, twenty Member States (of the twenty-six Member States that provided information) reported inspections using the new format by reporting inspections disaggregated by, firstly, physical checks of establishments, undertakings, brokers and dealers, related to shipments of waste, and secondly, by inspections of shipments of waste, including physical checks. Most of these Member States provided a basic level of information and reporting numbers for the two inspection categories, while some provided more detailed information.

Cases of Member States providing more detailed information include

[9] Incidents of repatriation of waste are considered as minor cases as long as there is no significant penalty.

- Germany, which disaggregated inspections of shipments of waste by federal and state inspections;
- Belgium, which provided numbers for roadside inspections;
- Finland disaggregated inspections by the different national authorities undertaking them;
- Greece, which reported the number of data crosschecks; and
- Portugal, which stated that inspections of shipments of waste include inspections of both vehicles and single administrative documents.

The inconsistency in reporting, and the fact that, even when the new format is used, it is not clear what types of inspections Member States are including in their reporting, means that the numbers of inspections reported vary greatly across Member States, and that it is not possible to compare numbers of inspections across Member States. Furthermore, there is still no common understanding of which enforcement activities should be counted as 'spot checks[10]'.

Enforcement Measures

Thirteen Member States provided details of the penalties that can be issued under their national laws, including financial penalties (Belgium, Croatia, Czech Republic, Estonia, France, Ireland, Italy, Latvia, Malta, Poland, Slovakia and Slovenia) and prison sentences (Belgium, Croatia, Estonia, France, Germany, Italy, and Malta). There do not appear to have been significant changes since the previous reporting period in the penalties imposed.

The highest level of financial penalty reported remains the same as in the 2013–2015 reporting period, that being Czech Republic's €2 million fine, which can apply to both natural persons and legal entities. The longest prison sentence mentioned also remains the same, this being Germany's sentence of 10 years imprisonment for causing grave environmental damage. Just as in 2013–2015, a two-year sentence is a common penalty.

The data are not robust enough to draw conclusions with regards to whether higher fines and longer prison sentences act as a deterrent to the illegal shipment of waste. It also remains the case that Belgium has both the highest total number of illegal shipments and the second and third highest fines (up to €500,000 in Flanders and up to €1,000,000 in Wallonia) and the imposition of prison sentences (five years).

7. NEXT STEPS

The Commission published an evaluation of the Regulation on 30 January 2020[11]. Further to this, the Commission has tabled a proposal for a new regulation on waste shipments on 17 November 2021. This proposal is currently considered by the co-legislators in the European Parliament and the Council.

[10] Regulation (EU) No 660/2014, which amends Regulation No 1013/2006, replaced the term 'spot check' with the term 'inspection' in the Regulation . This took effect as of January 2016.

[11] https://ec.europa.eu/environment/pdf/waste/shipments/SWD_2020_26_F1_SWD_EVALUATION_EN_V4_P1_1064541.pdf