

Analysis Albanian Legal Framework in Light of EU Legal Framework on Waste Management

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Abstract

Waste management and disposal forms a crucial element in the conservation of the environment both internationally and nationally. The paper delves on the legislative framework of the European Union on the management and disposal of waste among the member states and candidate states. Albania is presented as a candidate state and her waste management and disposal legal framework as well as policy framework discussed saliently in light of existing EU legislation on the same parlance. The state of the waste management and disposal in Albania is also discussed depicting an uncoordinated system tainted with improper practices in contravention of EU legislation. The various laws, policies and decisions of council ministers are discussed herein to show the steps taken, if any, in the realisation of EU legislation on waste management. The study also gives recommendation on what should be done by Albania to achieve full realisation of EU legislation on waste management, particularly WEEE. The paper concludes opining that failure of Albania to take into consideration the recommendations thereof has the effect of making Albanian's dream and mission of Accession to EU unachievable.

Keywords: WEEE, waste, legislation, EU, environment.

Introduction

Waste management is one of the most challenging tasks in Albania with the adoption of a myriad of programs and policies aimed at advancing the cause of waste management. The conservation of the environment largely depends on the management of waste products inter alia, waste electronic and electrical equipment (WEEE). It is noteworthy that the advancement of technology has increased the waste production in relation to electronic and electrical equipment as the fast and bulk production of electronic devices directly leads to more WEEE hence the need for a robust system which ensures compliance with environmental requirements on the management of waste. Also, waste emanates after the lifespan of the electronic devices has lapsed. Albania has experienced challenges in the implementation of a better Waste management system in line with the EU guidelines and legislation on the management of WEEE. Specifically, Albania has effected several changes in their national legislation in compliance with the EU law of management of WEEE.¹ The steps taken by Albania are inadequate and insufficient in addressing WEEE management within the country and there is a pressing need to advance and further adoption of policies and legislation which fosters and ensures compliance with EU

¹ Isernia, R, 2019, 'The Reverse Supply Chain of the E-Waste Management Processes in a Circular Economy Framework: Evidence from Italy', *Sustainability*, 11(8), 2430; <https://doi.org/10.3390/su11082430>.

law for accession to the EU to be effective. This paper seeks to show the current legal status of Albania in relation to waste management (WEEE) as well as an espousal of the salient features depicting what should and ought to be done to achieve better management of waste and compliance with EU law.

Current Status of Waste Management in Albania

The waste management system in Albania is controlled by the local governments with funding emanating from the central government. The local government man and oversee the collection of waste in their respective jurisdiction with the help of policy formulations and laws within that sphere of influence.² The central government is responsible for transposing EU law into the Albanian law thus giving effect to the vast chapter 27 of EU law on environmental conservation. There are more than 1200 waste collection agencies in Albania that aid in the management of waste and the disposal of e-waste. With an influx into the cities after the 1991 collapse of the communist party, the level of waste in urban areas has increased tremendously with emission of waste corresponding to the population in the urban areas.³ The system signifies uncoordinated and poor service delivery in connection with the waste management system in Albania. Most of the waste collection agencies in Albania operate in lieu of permit thus flouting the existing laws and regulation in the management of waste and in particular the management of e-waste. The state of management of waste electrical and electronic equipment in the country is appalling with compliance to key EU laws been a challenge to the waste management agencies as well as the government of Albania. However, at the fall of the communist party in 1992, Albania begun a journey of implementing various legislative framework towards the achievement of a better environmental conservation mechanism. Albania seems to be taking a path towards the increase of the use of incineration as a method of waste disposal in WEEE management system. At this time, it is worth noting that the EU Regulation 2012/19/ EU advocates for the use of incineration as a measure of last resort and discourages its use whatsoever.⁴ There are more than 189 landfills that are not compliant to the environmental requirements and standards within Albania and the same are yet to be closed down by the government. This is an indication of the appalling situation on waste management subsisting in Albania despite its candidate position to the European Union.

² McMahon, Kathleen, Michael Johnson, and Colin Fitzpatrick. "Enabling preparation for re-use of waste electrical and electronic equipment in Ireland: Lessons from other EU member states." *Journal of Cleaner Production* 232 (2019): 1005-1017.

³ Mihai F.C., Gnoni M.G., Meidiana C., Ezeah, C., Elia V., 2019. Waste electrical and electronic equipment (WEEE): Flows, quantities and management, a global scenario.

⁴ Chapter 1 in Prasad M.N.V. and Vithanage, Meththika (Eds). *Electronic Waste Management and Treatment Technology* pp 1-34 doi: <https://doi.org/10.1016/B978-0-12-816190-6.00001-7> Elsevier Science & Technology Books. ISBN: 978-0-12-816591-1.

The Legal and Policy Framework

Albania transposed Directive 2002/96/EC which was the existing EU legislation on Waste electrical and electronic management. The directive was in existence and binding to EU member states for ten years from 2002 until the issuance of Regulation 2012/19/EU which provided changes to the earlier directive and repealed the same.⁵ The policy framework laid down by Albania during the era of transposed Directive 2002/96/EC with the National Solid Waste Management system coming in force to supplement the provisions of the directive and give life to the existing EU legal framework on the conservation of the environment. The NSWMS is also responsible for the formulation of policies which oversee and govern the collection of solid waste for which WEEE is part thereof.⁶

Further, the 2011 Law on integrated Waste management Law No 10463 advocated for the development of waste management systems which were in full compliance with the EU requirements and policy guidelines of environmental conservation.⁷ The law formed the gate pass for the adoption and transposition of Regulation 2012/19/EU which has never occurred. The assistance granted to Albania by the Director General of environmental conservation has been tremendous in Albanian's legislative and policy framework journey towards realisation of a robust waste management system within the country. The transposition of Directive 2002/96/EC influenced the adoption of the 2007 Regulation on treatment of construction and demolition waste from creation and transportation to disposal, a crucial legislative framework in the management of solid construction waste within Albania. In 2012, the Decision of Council Members No 178 on waste incineration was in effect advocating for the use of incineration as the last resort in waste management in Albania.⁸ This is in line with the EU Regulation 2012/19/EU, which stipulates that member states should put measures in place to ensure the proper disposal of WEEE and in particular the use of incineration should be resorted to as the last option since it does not adequately cater for the demolition of waste. In this regard, the policy decision adopted by Albania was aimed at creation of incineration centres for waste disposal and the safe conduction of such business.⁹ Since, its adoption, there has been a steady increase in the construction of incineration centres in Albania notwithstanding the hazards

⁵ O. Chimere May, van B. Peter M., V, Martina G , P. Willie J.G.M. Impact of informal electronic waste recycling on metal concentrations in soils and dusts. Vol/164/2018, Pages 385-394, (<https://doi.org/10.1016/j.envres.2018.03.002>).

⁶ Panariti, N., Bacca, P., S. Sheridan.N., Pearse, J. Implementation of Waste Framework Directive in Albania. file:///C:/Users/User/Downloads/Implementation_of_Waste_Framework_Directive_in_Alb%20(1).pdf

⁷ Pouikli.K., 2020, 'Concretising the role of extended producer responsibility in European Union waste law and policy through the lens of the circular economy' *ERA Forum* (2020) 20:491–508(<https://doi.org/10.1007/s12027-020-00596-9>).

⁸ Kathleen McMahon. K., at al., Enabling preparation for re-use of waste electrical and electronic equipment in Ireland: Lessons from other EU member states. *Journal of Cleaner Production*.

⁹ Khan, S.Ahmad 2016, 'E-products, E-waste and the Basel Convention: Regulatory Challenges and Impossibilities of International Environmental Law', *Review of European, Comparative & International Environmental Law*, Vol 25, Issue 2.

posed by the incineration of solid waste or WEEE.¹⁰ Additionally, the decision of council members No. 957 of 2012 on the management of waste electrical and electronic equipment is core to the study herein as it dissects the requirements of the governments in the disposal of WEEE which is critical to Regulation 2012/19/EU although not identical or in furtherance of the core tenets in the Regulation. The policy framework set forth in this decision of council members outlines the waste management and disposal mechanisms relating to WEEE and the steps to be taken by the government in ensuring the compliance with requisite continental and international law. However, the decision of council members does not affect the polluter pay principle as contained in Regulation 2012/19/EU.¹¹ This raise concerns on the preparedness of Albania in the journey towards the achievement and implementation of the EU legislative requirements before accession to the Treaty of European Union. This decision is critical in the study of the milestones and the current status of assessing the viability of Albania becoming a member of the European Union as implementation of EU laws is a prerequisite to becoming a member of the EU.

Recommendations for compliance with European Union Waste Management Legislation

The salient feature of European Union legislation on Waste Electrical and Electronic Equipment include the Regulation 2012/19/EU which is main guiding principle in the articulation of issues appertaining the disposal and management of e-waste. Regulation 2012/19/EU was issued by the European Parliament and the Council in 2012 to repeal and replace Directive 2002/96/EC which had been in existence for more than ten years and which was deemed insufficient in the management and disposal of WEEE. The main features of the Regulation are that it is directly binding to member states of the EU and showcases the principles upon which waste management is grounded or founded in the conservation of environment. The main features of 2012/19/EU are the imposition of polluter pays principle which is a principle of international environmental conservation which holds that the polluter should pay for the pollution caused and the damages to be caused to the other countries or individuals considered minor polluters.

The legislation of Albania should be amended or changed to reflect the polluter pays principle as it is the best and internationally accepted principle in environmental conservation matters hence the pressing need to amend legislation to be in line with Regulation 2012/19/EU.

Further, Albania should transpose Regulation 2012/19/EU as doing so ensures total compliance with European Union law. There is no justification for the state's failure, sluggishness and or unwillingness to transpose the Regulation 2012/19/EU as it serves the same purpose as the already transposed Directive 2002/96/EC. It is with this in mind, that this paper presents transposition of Regulation 2012/19/EU as the

¹⁰ Kiddee,P, et al,2013, 'Electronic waste management approaches: An overview', *Waste Management*, Volume 33, Issue 5, 2013, Pages 1237-1250.

¹¹ Kumar, A., Holuszko, M., Croce Romano Espinosa, D. (2017). E-waste: An overview on generation, collection, legislation and recycling practices, *Resources Conservation and Recycling*, 122, 32-42.

main point and step towards the realization of EU legislative framework on WEEE disposal and management system.¹²

Conclusion

This paper sought to espouse the salient features of the Albanian position, legal and policy, in relation to the implementation of EU legislative framework on environmental conservation citing recommendations of what the government of Albania need to do to ensure strict compliance with EU law before accession. In this regard, the background information on the status of Waste Electrical and electronic equipment is provided and saliently discussed. Further, the study delves on the provisions of the key legislative framework of EU, Regulation 2012/19/EU, which stipulates the guidelines of waste management and disposal. The current legal framework of Albania is provided with numerous legislations discussed as well as decisions of council ministers and the national strategic plan/ national action plan of waste management 2025. The upshot of the discussion and analysis of the various legislative framework existing in Albania was the conclusion that Albania need to do more to articulate change and conformity with EU law. Lastly, recommendations are offered on the steps to be followed for actual compliance with EU law with citation on need for policy and legal changes in the law of Albania as well as political willingness to spearhead changes in the environmental law of Albania. Unless, Albania adopts the above recommendations, the dream of compliance to EU law will forever remain unachieved.

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