

# Waste Management

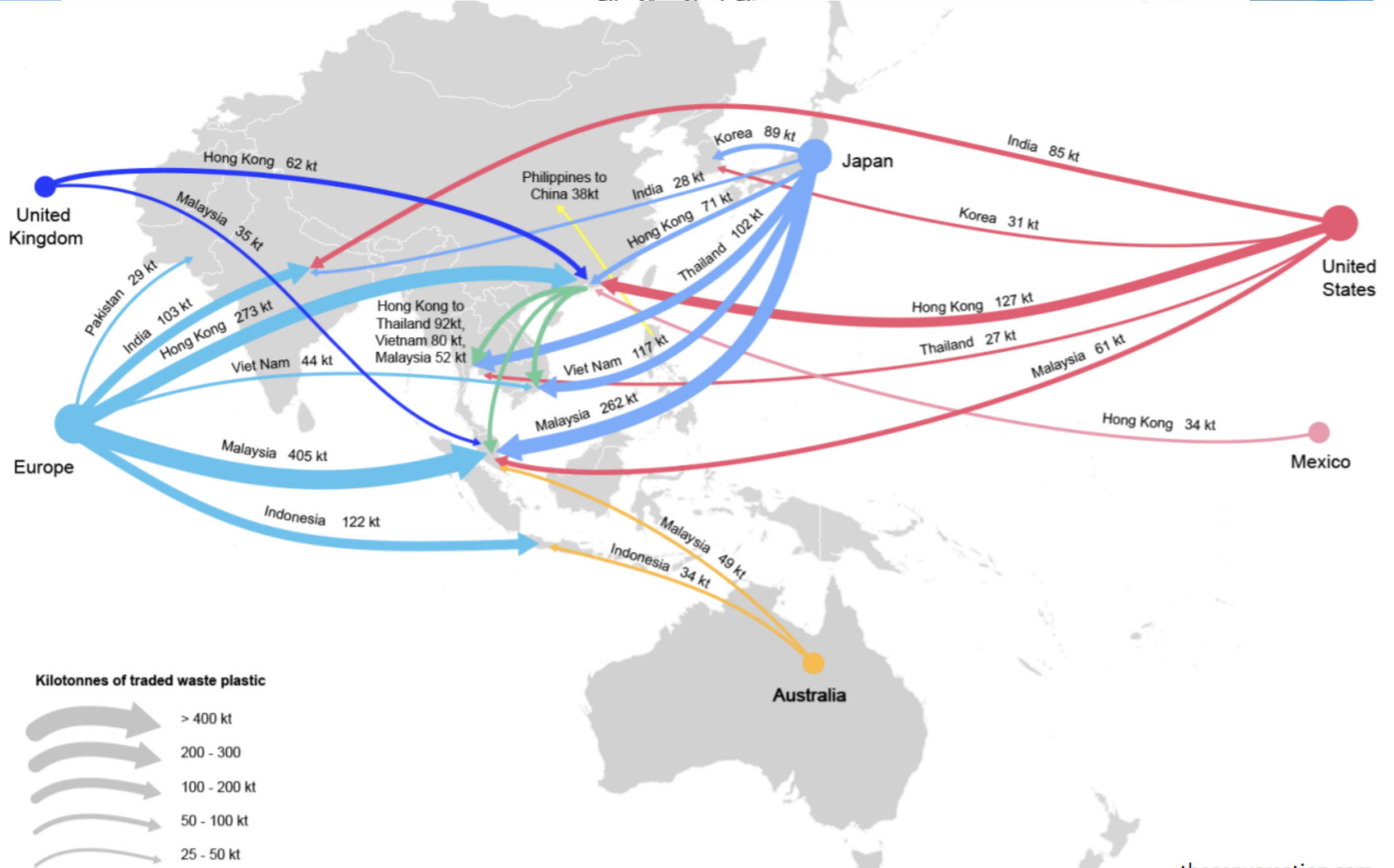
Jiri Vodicka, Ph.D.

13. 12. 2023

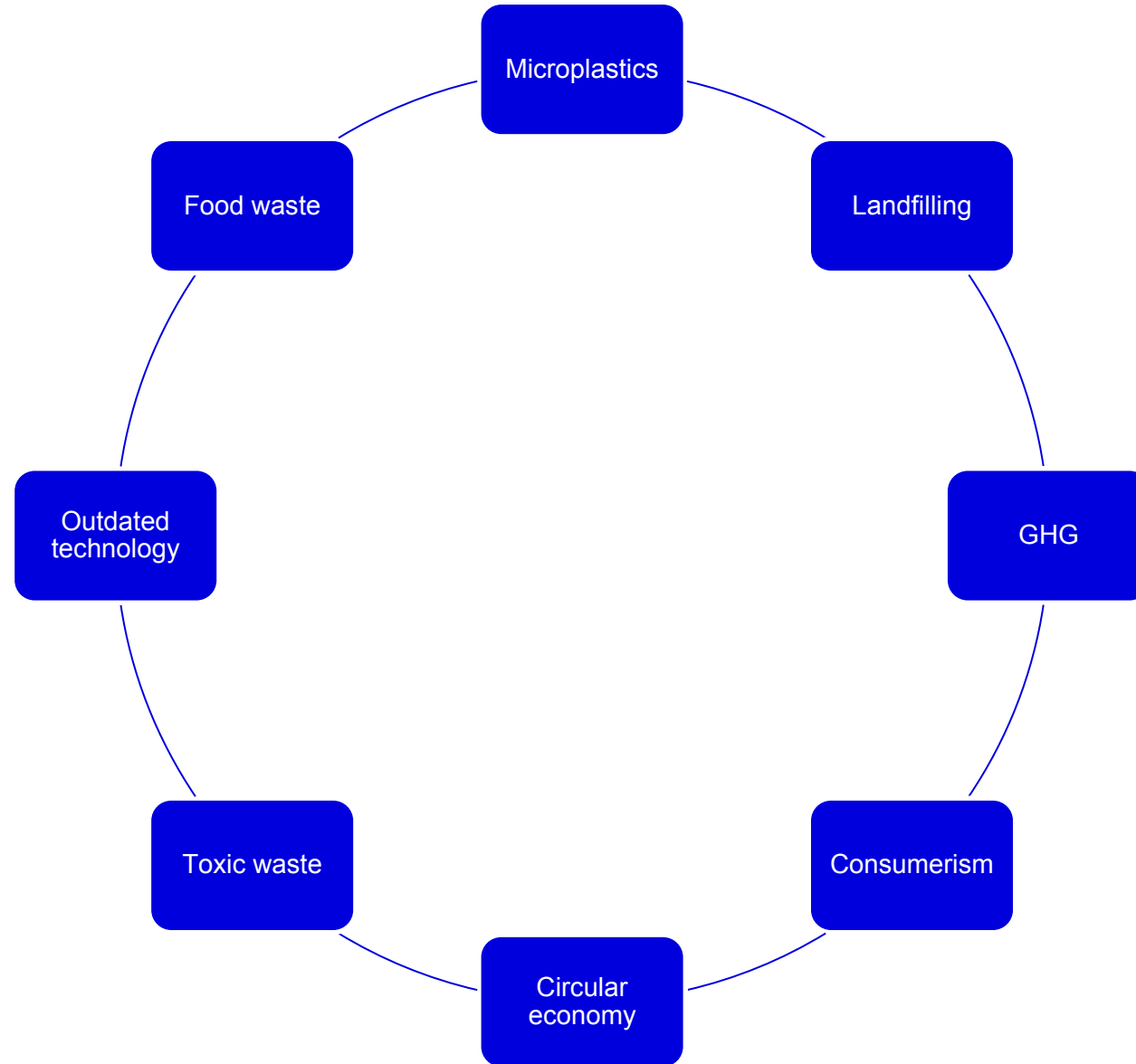
# Structure

- Introduction
- Current Issues
- Sources of Law
- Waste Framework Directive
- Green Deal





# Current issues



**Figure 2. Municipal waste recycling rates in Europe by country**



# Sources of Law - International

- International customs
- General widely recognised principles of law
- Bilateral Agreements
  - Bilateral Preferential Trade Agreement between Japan & China (2008)
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (1989)
- Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region (Waigani Convention)

# Sources of Law - EU

- CJEU case-law
- Regulation No. 1013/2006 on shipment of waste
- Directive 2008/98/EC on waste (FWD)
- Directive 1999/31 on the landfill waste
- Directive 2010/75 Industrial emissions directive

General framework

Specific waste  
management

# Sources of Law - EU

## Specific waste streams

- Directive 2000/53 End-of-life Vehicles directive
- Directive 2006/66 Batteries directive (new regulation is coming)
- Directive 2009/125 Ecodesign directive
- Directive 2012/19 Waste Electrical and Electronic Equipment (WEEE)
- Directive 2015/720 Plastic Bags directive
- Directive 2018/852 Packaging and Packaging Waste directive
- Directive 2019/904 on the reduction of the impact of certain plastic products on the environment (single use plastic) *etc..*



# EU waste management framework

- Since 1975
- 3 governing principles
  - Prevention principle
  - Self-sufficiency
  - High level of protection
- Reduce generation of waste
- Limit hazardous substances in waste
- Waste as a resource



Precautionary principle

Prevention principle

Polluter pays principle

Integrated protection

Disposal at source

Aims

## Specific policies

**EU**

### Batteries and accumulators

EU rules on batteries and accumulators.

---

**EU** **End-of-life vehicles**

EU measures to prevent and limit waste from vehicles once they come to their end-of-life.

---

Imp

Sti

Lin

### Packaging waste

EU rules on packaging and packaging waste, including recycling targets and recycled content.

---

Ge

### Sewage sludge

EU rules regulating the use of sewage sludge, and promoting its use in agriculture.

---

### Waste oil

EU rules on collecting and treating waste oils.

### Biodegradable waste

EU measures on treating bio-waste, including by limiting the amount sent to landfill.

---

### Landfill waste

EU rules to reduce the amount of waste sent to landfill, as this is the most polluting way to deal with waste.

---

### Polychlorinated biphenyls and polychlorinated terphenyls (PCBs/PCTs)

EU rules on the safe disposal of PCBs and PCTs.

---

### Ships

EU rules on making ship recycling greener and safer.

---

### Waste shipments

EU rules on transporting waste within and beyond EU borders.

### Construction and demolition waste

EU rules on the management of construction and demolition waste.

---

### Mining waste

EU rules on the proper management of mining waste.

---

### Restriction of Hazardous Substances in Electrical and Electronic Equipment (RoHS)

EU rules restricting the use of hazardous substances in electrical and electronic equipment (RoHS).

---

### Waste containing POPs

EU rules on waste containing persistent organic pollutants (POPs).

---

### Waste from Electrical and Electronic Equipment (WEEE)

EU rules on treating waste electrical and electronic equipment (WEEE).

# Framework Directive on Waste 2008/98 (FWD)

General Directive

*x specific streams of waste*

Key concepts

Major principles

*x specific waste management*

Allocation of responsibilities

# FWD - Waste management hierarchy

1. The following waste hierarchy shall apply as a priority order

- (a) prevention;
- (b) preparing for re-use;
- (c) recycling;
- (d) other recovery, e.g. energy recovery; and
- (e) disposal.



1. The following shall be excluded from the scope of this Directive:

- (a) gaseous effluents emitted into the atmosphere;
- (b) land (in situ) including unexcavated contaminated soil and buildings permanently connected with land;
- (c) uncontaminated soil and other naturally occurring material excavated in the course of construction activities where it is certain that the material will be used for the purposes of construction in its natural state on the site from which it was excavated;
- (d) radioactive waste;
- (e) decommissioned explosives;
- (f) faecal matter, if not covered by paragraph 2(b), straw and other natural non-hazardous agricultural or forestry material used in farming, forestry or for the production of energy from such biomass through processes or methods which do not harm the environment or endanger human health.

2. The following shall be excluded from the scope of this Directive to the extent that they are covered by other Community legislation:

- (a) waste waters;
- (b) animal by-products including processed products covered by Regulation (EC) No 1774/2002, except those which are destined for incineration, landfilling or use in a biogas or composting plant;
- (c) carcasses of animals that have died other than by being slaughtered, including animals killed to eradicate epizootic diseases, and that are disposed of in accordance with Regulation (EC) No 1774/2002;
- (d) waste resulting from prospecting, extraction, treatment and storage of mineral resources and the working of quarries covered by Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries ( <sup>1</sup> );

▼M4 ↓

- (e) substances that are destined for use as feed materials as defined in point (g) of Article 3(2) of Regulation (EC) No 767/2009 of the European Parliament and of the Council ( <sup>2</sup> ) and that do not consist of or contain animal by-products.

# FWD

Substances and objects which are capable of economic reutilisation are not excluded from the concept of waste.

Joined cases C-206/88 and C-207/88 *Vessoso and Zanetti*

‘discard’ must be interpreted in light of the aim of the FDW and that the concept of waste cannot be interpreted restrictively.

Joined Cases C-418/97 and C-419/97 *ARCO Chemie Nederland and Others*

Discarding does not even have to involve an intentional act.

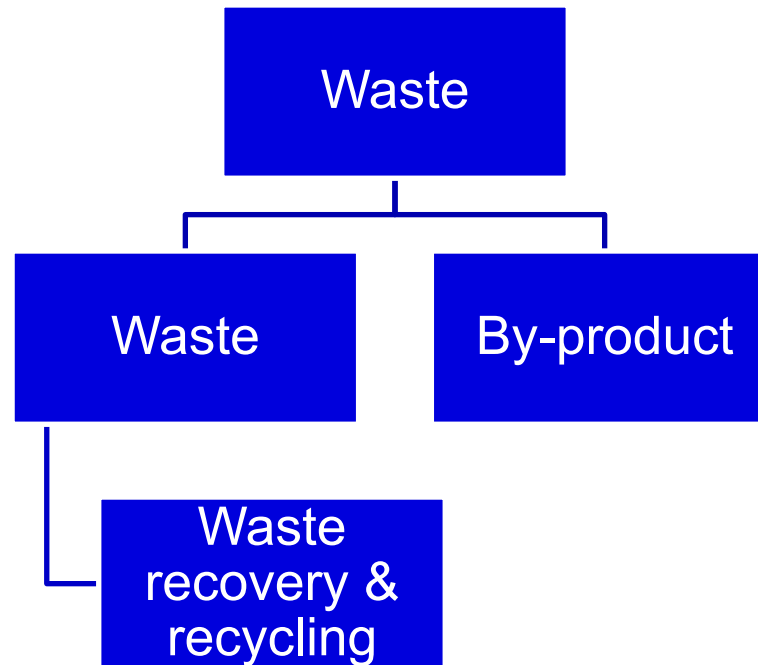
C-252/05 *Thames Water Utilities*

Hydrocarbons accidentally spilled at sea following a shipwreck have also been deemed to have been (involuntarily) discarded.

Case C-188/07 *Commune de Mesquer*

# FWD - Waste or not?

- Important is perspective of producer (holder) of product/waste
  - Only the holder of the products can prove that he intends not to discard those products (C-113/12)
  - Waste needs to be interpreted widely not restrictively!
- Criteria based on case law





It is for the legal systems of the Member States to determine upon whom rests the burden of proof as to fulfilment of the criteria for by-product status. However, national rules must not result in it being excessively difficult to prove that substances must be regarded as by-products.

*C-113/12 Brady*

## By-product needs to fulfill criteria:

- Further use is certain
- The substance **can be used directly** without any further processing other than normal industrial practice
- Not primary production intention but is an integral part of producti
- Further use is legal

## Toxic x non-toxic





# FWD - Waste or not?

- Recovery of waste (end-of-waste criteria):
  - The substance or object is commonly used for specific purposes
  - A market or demand exists for such a substance or object
  - It fulfils the technical requirements for the specific purposes and meets the existing legislation and standards applicable to products
  - Its use will not lead to overall adverse environmental or human health impacts



# FWD - Waste or not?

COUNCIL REGULATION (EU) No 333/2011 establishing criteria determining when certain types of scrap metal cease to be waste under Directive 2008/98

COMMISSION REGULATION (EU) No 1179/2012 establishing criteria determining when glass cullet ceases to be waste under Directive 2008/98

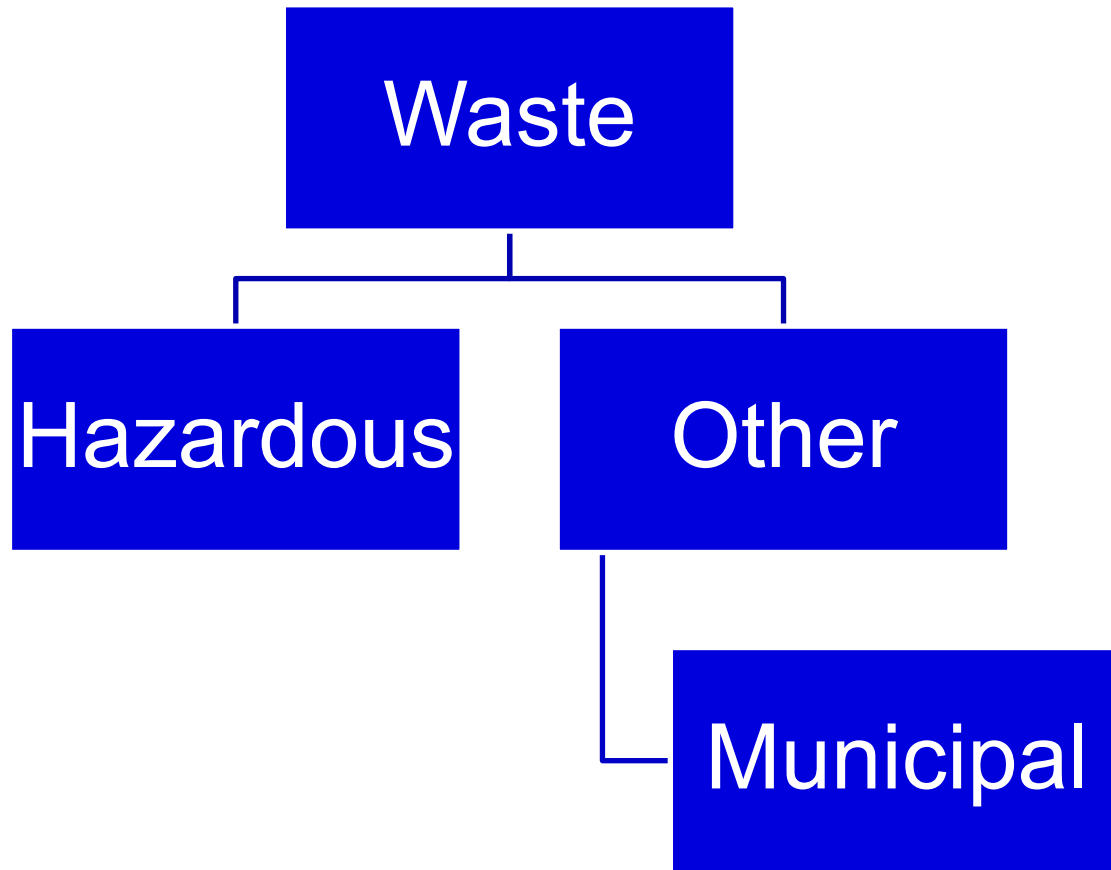
COMMISSION REGULATION (EU) No 715/2013 establishing criteria determining when copper scrap ceases to be waste under Directive 2008/98



# FWD - Waste recovery & recycling

- Recycling: *any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes*
- Recovery: *any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy*
  - Material recovery

# Types of waste



# FWD - Hazardous waste

- Properties: explosive, corrosive, carcinogenic, and ecotoxic
  - Annex III of FWD + Commission decision 2000/532 (only □ )
- Ban on the mixing of hazardous waste with other waste or substances
- Traceability from production to final destination
- Packaging and labelling requirements
- Hazardous waste may cease to be waste (recovery)

*Case C-358/11 Lapin luonnonsuojelupiiri*

# FWD - Waste management

treatment means recovery or disposal operations, including preparation prior to recovery or disposal

## Treatment of waste

- Waste producer
- Licensed person
- Public x private collector

## Responsibility problem

- Does the producer retain responsibility (for the whole chain) or can the responsibility be shared among actors of chain?

- Obligation of MS is to make sure that the permit system set up is in fact applied and complied with, in particular by conducting appropriate checks for that purpose and ensuring that operations carried out without a permit are brought to an end and punished. *Case C-196/13 Commission v Italy*

# FWD - Waste management

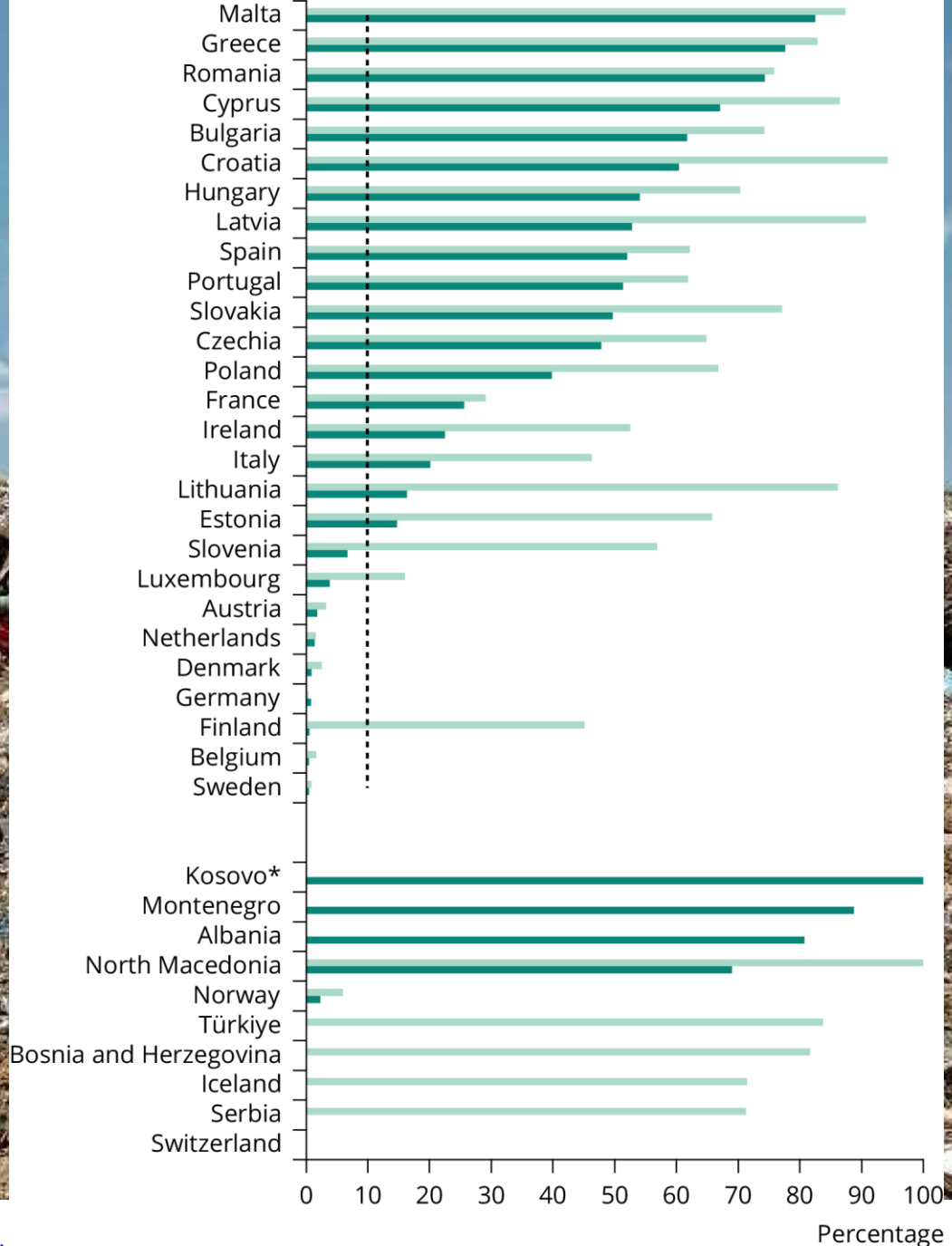
Broad discretion  
by MS

- Polluter-pays principle
  - Costs of waste management to be born by original waste producer
  - MS can decide that distributors share the costs
  
- MS can limit incoming/outgoing shipments
  - Environmental grounds

# General Targets

- Member States shall take the necessary measures to ensure that **by 2035** the amount of municipal waste landfilled is reduced to **10 % or less** of the total amount of municipal waste generated (by weight). *Landfill directive*
- Recycling target for municipal waste to 55 % by 2025; 60 % by 2030; 65 % by 2035 *FWD*
- Sustainable Development Goal: to reduce food waste to 50 % by 2030





land

Tato fotka od autora Neznámý autor s licencí CC BY

2010 2020 --- Landfill target 2035

# FWD - Extended producer responsibility

- Duties of producers of products from which the waste came
- Obligation to accept returned product
- Subsequent management of the waste and financial responsibility for such activities
  - Who bears the cost? Producer/distributor
- e.g. packaging waste, end of life vehicles, batteries, electric and electronic equipment

# Packaging waste

- packaging: „all products made of any materials of any nature to be used for the containment, protection, handling, delivery and presentation of goods“
- recycling targets for materials contained in packaging waste
  - collection systems - producer responsibility organisations
  - now: separate collection shall be set up for at least the following: paper, metal, plastic and glass (art. 11 WFD)
  - future: mandatory separate collection of bio-waste by 2024, textiles by 2025
  - obligation to offer re-usable packaging

# Plans, programmes, policies

## **Waste management plans**

- Obligation of MS
- WMP shall cover the whole territory of the MS
- Evaluation at least every sixth year -> review
- Targets & measures

## **Waste prevention programmes**

- Separate document, integral part of WMP or other environmental policy programme
- Description and evaluation of prevention measures
  - Annex IV WFD

# Shipment of waste

- Regulation 2. This Regulation shall apply to shipments of waste:
  - (a) between Member States, within the Community or with transit through third countries;
  - (b) imported into the Community from third countries;
  - (c) exported from the Community to third countries;
  - (d) in transit through the Community, on the way from and to third countries.

## Basel Convention

- Hazardous waste
- OECD x non-OECD countries (ban)



# Waste and Green Deal

## Objectives

Measures that will be introduced under the new action plan aim to

- make sustainable products the norm in the EU
- empower consumers and public buyers
- focus on the sectors that use most resources and where the potential for circularity is high such as: electronics and ICT, batteries and vehicles, packaging, plastics, textiles, construction and buildings, food, water and nutrients
- ensure less waste
- make circularity work for people, regions and cities
- lead global efforts on circular economy

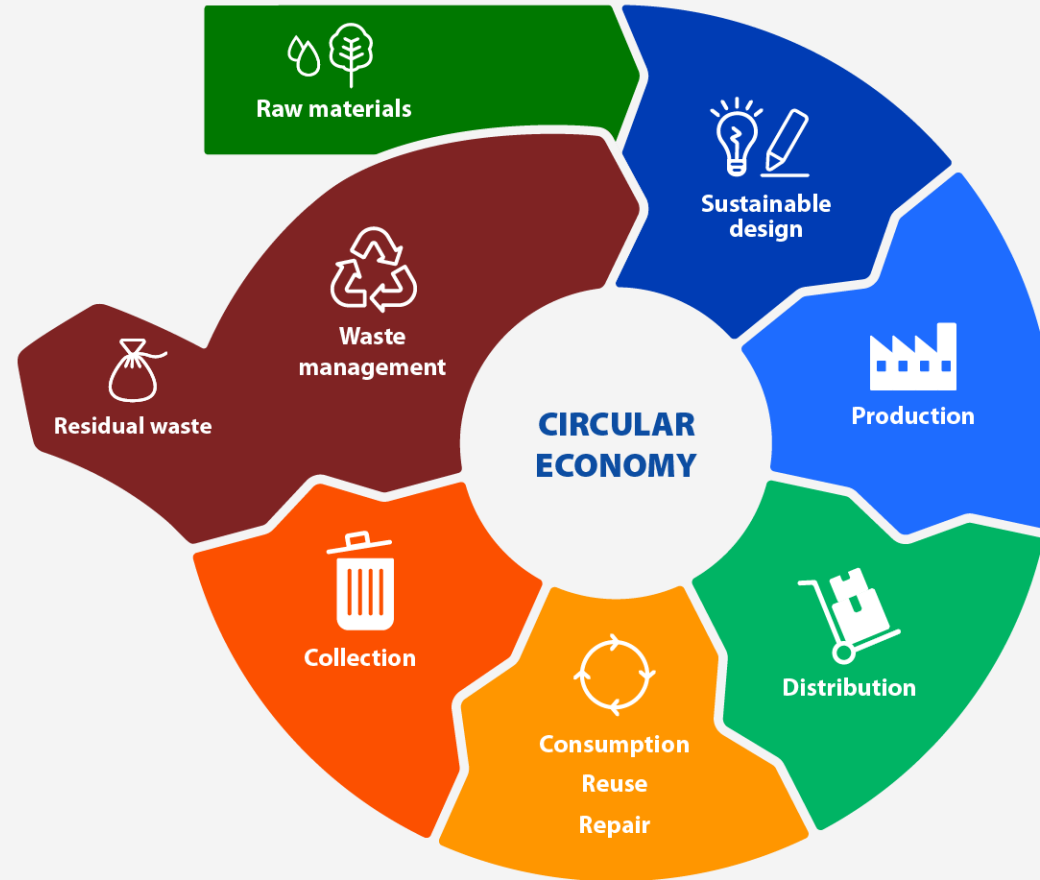
□ Right to „repair“

□ Radio Equipment Directive



# Circular Ec

**The circular economy model:**  
less raw material, less waste, fewer emissions





**QUESTION**

**DOES ANYONE HAVE  
QUESTIONS?**

makeameme.org



Thank you for your attention!

[Jiri.Vodicka@law.muni.cz](mailto:Jiri.Vodicka@law.muni.cz)

# Sources

- Hanak J., Waste management, MU, 2021.
- Langlet D., Mahmoudi S., EU Environmental Law and Policy, Oxford University Press, 2016.
- European Commission
- European Environment Agency