

COMMISSION OF THE EUROPEAN COMMUNITIES

SEC(89) 1455 final

Brussels, 27 September 1989

REPORT FROM THE COMMISSION

on the implementation by the Member States of the Community waste
Directives 75/442/EEC, 75/439/EEC and 78/319/EEC

**REPORT FROM THE COMMISSION
ON THE
IMPLEMENTATION BY THE MEMBER STATES
OF THE COMMUNITY WASTE DIRECTIVES
75/442/EEC, 75/439/EEC AND 78/319/EEC**

JULY 1989

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I. Introduction

1. In a joint answer¹ to Written Questions No 1029/84, No 1039/84, No 1043/84 and NO 1045/84, the Commission undertook to provide Parliament with information on the implementation by the Member States of Council Directive 75/442/EEC of 15 July 1975 on waste,² Council Directive 75/439/EEC of 16 June 1975 on the disposal of waste oils,³ Council Directive 76/403/EEC of 6 April 1976 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCBs/PCTs)⁴ and Council Directive 78/319/EEC of 20 March 1978 on toxic and dangerous waste.^{4a}
2. These four Directives require Member States to submit a situation report to the Commission every three years on waste disposal in their respective countries. Only a few Member States have partially complied with this obligation, namely Denmark, the Federal Republic of Germany, Ireland and the United Kingdom. For this reason, the Commission does not have complete information at its disposal to prepare a summary of the national reports for submission to the Council and Parliament.
3. In order to obtain a clearer picture of progress made by the Member States in implementing the four Directives on waste, the Commission has financed several studies designed to assess Member States' waste disposal policies. Given the lack of available data, these studies provided invaluable information on the actual implementation of the Community texts in the individual Member States. In addition, the Commission has been able to obtain some information on implementation at the meetings of the Waste Management Committee.

¹ OJ No C 93, 15.4.1985, p.10.

² OJ No L 194, 25.7.1975, p.39.

³ OJ No L 194, 25.7.1975, p.23.

⁴ OJ No L 108, 24.4.1976, p.41.

⁵ OJ No L 84, 31.3.1978, p.43.

Consequently, the Commission's Directorate-General for the Environment, Consumer Protection and Nuclear Safety sent questionnaires to the Member States in the last quarter of 1985 requesting supplementary information on implementation of the four Directives and setting a deadline of three months for replies, i.e. January/February 1986. By May 1988 seven Member States had replied to the Commission's questionnaire, namely France, Greece, Ireland, Italy, the Netherlands, the Federal Republic of Germany and the United Kingdom. The Member States were then sent a preliminary version of this report and five - France, Ireland, Luxembourg, the Federal Republic of Germany and the United Kingdom - have informed the Commission of their observations.

4. The Commission, rather than await any supplementary information from all the Member States, considered it opportune to proceed with writing this report on the current situation in each Member State regarding transposition of the four abovementioned Community Directives into national legislation. The report is based on the information at the Commission's disposal at the beginning of 1988, derived mainly from the situation reports and the replies to the questionnaires furnished by some Member States, but also from the Commission studies and the Member States' reactions to the preliminary version of this report.

The report covers only ten Member States as the Directives did not enter into force in Spain and Portugal until 1 January 1986 and the report for these States was therefore not yet due at the beginning of 1988. The report analyses the Member States' approach to implementing the Directives and identifies a number of areas where Member States have adopted provisions liable to reduce the effectiveness of the Directives. Irrespective of lack of information on some Member States, no report of this kind could ever be exhaustive. For instance, certain Articles in the Directives which go beyond the scope of waste management and touch on areas such as the "polluter pays" principle and emergency measures were not dealt with systematically. Also, in this first report, the aim was to avoid getting bogged down in technical detail: this would distract the reader's attention from the general principles with which Member States are required to comply. Finally, this report concentrates on the transposition of the Directives into national law rather than on their practical implementation.

II. Transposition of the Directives into national legislation

5. All the Member States except Belgium have adopted the key provisions of the four Community Directives. Belgium has neither framework legislation on waste in general, nor special provisions on the disposal of waste oils. Furthermore, existing Belgian legislation on the disposal of toxic waste is considered not to transpose correctly the provisions of Directives 76/403 and 78/319⁶ into national law, particularly in respect of the Brussels region. The fact that waste management policy in Belgium is a regional rather than a national responsibility has been presented as a factor impeding the incorporation of the Directives into national legislation. In the case of Greece, following the opening of infringement proceedings by the Commission for failure to communicate the national implementing measures, the Greek authorities proceeded in October 1985 and July 1986 to adopt the initial measures necessary for transposition of the Directives. These measures of a legislative nature should be followed by others leading to transposition at the practical level.
6. Legislation in Member States such as Denmark, the Federal Republic of Germany, the Netherlands and the United Kingdom, which predates or was adopted contemporaneously with the Community Directives, already contained the provisions of the Directives or was amended accordingly.
7. In most cases, therefore, a single national law transposes at least two, if not three, of the Community Directives. Only Ireland and Luxembourg have separate legislative instruments transposing each of the four Community Directives. From the point of view of environment policy as a whole, the application of a comprehensive law to more than one type of waste has certain advantages although it occasionally causes particular difficulties when it comes to verifying whether Directives have been transposed.

⁶Toxic and dangerous waste.

8. The national legislation transposing Directive 76/403 (PCBs/PCTs) is an excellent case in point. Five Member States (Belgium, Denmark, Italy, the Netherlands and the United Kingdom) regard wastes containing PCBs/PCTs as chemical waste; in France, disposal of PCBs/PCTs is regulated by framework legislation on wastes, while in the Federal Republic they are classified as waste oils and treated as such. Consequently, it is difficult to identify national measures concerned specifically with the disposal of PCBs/PCTs. Although the "polluter pays" principle is stated in all the directives on waste, it has become so much a general principle of the Member States' overall environment policy that it is not specifically mentioned in all national laws implementing the Community Directives.
9. The manner in which each of the Directives has been incorporated into national legislation by Member States is summarized below.

(a) Directive 75/442/EEC on waste⁷

10. This is a framework Directive on the disposal of waste in general, including domestic, commercial and industrial wastes. With the exception of Belgium - specifically, the Brussels Region - all Member States have transposed Directive 75/442 into their national legislation. The Brussels Region considered it sufficient to declare in a decree that "Directive 75/442 shall apply".
11. The key provision of the Directive which has not yet been transposed in full by the Member States concerns the establishment of waste disposal plans. These plans must specify in particular (a) the type and quantity of waste to be disposed of, (b) the general technical requirements to be respected, (c) suitable disposal sites and (d) any special arrangements for particular wastes. Apart from Belgium (the Brussels Region) all the Member States have made provision for such plans and are either preparing, or have finalized, their waste disposal plans.

⁷OJ No L 194, 25.7.1975, p.39.

art.6

12. Elsewhere in the Community the competent authorities, generally the regional or provincial authorities, have been charged with the responsibility of preparing waste disposal plans. So far no Member State has comprehensive waste disposal plans. Disposal plans for domestic waste have been drawn up in France and the Netherlands as well as in the Flanders region of Belgium. Only the Federal Republic has disposal plans for industrial waste covering the whole of its national territory. In the other Member States the plans are either non-existent, in preparation or cover only part of the country (e.g. in Ireland, Italy and the United Kingdom).
13. The Directive requires the Member States to take the necessary measures to reduce the amount of waste produced and encourage the recycling and reutilization of waste. On this point the Member States have adopted different approaches; some have introduced laws, others have turned to promotion with a voluntary basis.

art.3

14. In the Belgian Regions of Flanders and Wallonia and in Denmark, France, the Netherlands and the Federal Republic of Germany measures have been adopted which make recycling compulsory. These measures provide that the use of materials for manufacturing and packaging products can be restricted if it appears that the materials may pose particular disposal problems. One of the better known examples of such action is to be found in Danish legislation on drinks packaging.
15. The other Member States' legislation on waste disposal does not contain specific proposals making recycling compulsory. However, recycling is encouraged and the competent authorities conduct information campaigns and support R&D activities. One of the most significant activities concerns selective waste collection.

16. A well-organized system of selective collection for glass and/or paper exists in all Member States except Greece. Even if not provided for in national legislation, such collections are frequently conducted by the local or regional authorities, or, in some cases, by non-governmental organizations. In some Member States, selective collection has been promoted either by means of financial aid or by voluntary arrangements with the paper and glass industries. However, even in Member States where selective collection takes place, it does not always cover the whole country.

17. France has set up a government department to assist in implementing the policy on waste, determined by the Minister for the Environment and designed both to reduce the total volume of waste produced and to promote recycling of existing waste. This body is the "Agence Nationale pour la Récupération et l'Élimination des Déchets" (ANRED = National Waste Recovery and Disposal Agency) which was set up in 1976. Recycling in the United Kingdom has been facilitated by the creation of the "United Kingdom Reclamation Council" on which the major waste producers and government officials are represented. There is also the "Local Authority Recycling Advisory Committee" and a Minister of State with responsibility for recycling policy. Ireland has its "Environmental Awareness Bureau" with the task, among other things, of supplying general information to the public on waste recycling.

18. Another area in which there are differences between the provisions adopted by the Member States concerns the permits to be granted to installations or undertakings engaged in waste disposal. All Member States have adopted provisions requiring installations disposing of waste for third parties to be licensed. Germany, France, Italy, Luxembourg, the United Kingdom and the Flanders and Wallonia Regions of Belgium also require undertakings disposing of their own waste to have a permit (but there is still no implementing decree for Wallonia). In the other Community countries, the disposal of such waste simply needs to be conducted in conformity with the legal provisions on avoiding pollution likely to represent a hazard to human health and the environment.

art.3-5

art.8

art.10

19. With regard to the provision of the Directive concerning supervision of waste collection and transport undertakings, the Flanders Region of Belgium, Italy, Luxembourg and the Netherlands have gone further than the Directive and require such undertakings to be licensed. The United Kingdom is considering a system of compulsory registration. In the other Member States, such undertakings are subject to controls but the nature and extent of these controls are not precisely known.
20. Finally, Member States have adopted divergent provisions regarding the keeping of records on waste by disposal undertakings. The Directive requires undertakings collecting, transporting, storing, treating and disposing of waste to supply details of their disposal activities to the authorities of their country to enable the authorities to satisfy the Commission's requirements by supplying the reports in question. Only the Flanders Region of Belgium and France, Ireland and Italy have adopted provisions making record-keeping compulsory in undertakings engaged in waste disposal. Waste accounting in Denmark is facilitated by the requirement that all generators of waste must notify the competent authorities at the various stages of disposal of this waste. In the United Kingdom, anyone handling waste must be capable of supplying information to the competent authorities on request. In the Flanders Region of Belgium and in Ireland, all information on waste disposal has been stored in a data bank.

(b) Directive 75/439/EEC on the disposal of waste oils⁸

21. All Member States except Belgium (for the Brussels Region) have transposed the Community Directive into their national legislation.
22. However, the provisions of the Directive have not been transposed in the same fashion in all Member States and some provisions have not been applied as originally intended. In order to resolve these difficulties, the Directive on the disposal of waste oils was amended in December 1986.⁹
23. With regard to environmental controls on the disposal of waste oils, no Member State, with the exception of Denmark and Ireland, has adopted specific provisions to prohibit uncontrolled discharge of waste oils and to require that they be disposed of in an environmentally safe manner.

art.4

⁸OJ No L 194, 25.7.1975, p.23.

⁹OJ No L 42, 12.2.1987, p.43.

art.4

24. While it is prohibited, for example, to discharge waste oils into water bodies and drainage systems in Belgium, Denmark, France, the Federal Republic, Italy and Greece, specific legislation on waste oil discharges from incineration facilities exist only in the Walloon Region of Belgium, in France and in the Federal Republic. In practically all the Member States, uncontrolled discharge of waste oils has been prohibited indirectly, for example in the form of general environmental protection measures or the requirement that waste oils be disposed of in authorized undertakings. However, in Italy the practice of issuing temporary authorizations permitting 'uncontrolled' discharges until such time as an authorization system is established is causing problems.

art.7

25. Some Member States have qualified the obligation on holders of waste oils, who are unable to ensure environmentally safe disposal, to make the oils available to authorized disposal undertakings. In Ireland, for example, a producer of waste oils who is unable to dispose of them in the required manner need only call on the services of an authorized disposal undertaking if the quantity of oil concerned exceeds 500 litres per year. In Denmark, a producer of waste oils need only inform the local authorities of the existence of this waste if the quantity exceeds 150 litres.

art.5

26. In other Member States, i.e. France, Luxembourg and the Netherlands, officially approved collectors of waste oils need only remove quantities exceeding 200 litres or 400 litres. The result has been that waste oil collection has mainly been a success where large quantities are involved. Belgium and the Federal Republic are the only Member States to have effectively taken action to facilitate the collection of waste oil from small producers. Mineral and synthetic oil retailers in Belgium are required to take back waste oils free of charge. In France a major system of selective collection from the general public (non-trade users of very small quantities) has been established. In the United Kingdom and Ireland, the competent authorities have been encouraged to provide containers at collection points where small quantities of waste oil can be deposited. Also, in the United Kingdom, competition between large numbers of small businesses ensures that all the waste oils capable of being collected economically are indeed being collected, without action by the authorities.

art.3

27. With regard to recycling or re-use of waste oils, the Directive requires each Member State to ensure that, as far as possible, the disposal of waste oils is carried out by regeneration and/or combustion other than for destruction. Provisions on recycling exist in all Member States except for Belgium and the United Kingdom. In the latter, however, the objective of reusing the oil is achieved indirectly by prohibiting the inappropriate disposal of waste oils (e.g. by illegal dumping down the sewage system), and by efficient collection.

art.3/5

28. France, Italy and, to a certain extent, the Federal Republic and Luxembourg have adopted provisions designed specifically to promote waste oil regeneration.¹⁰ Up to 1985 the procedure used in France was to require the authorized collectors to sell the waste oils to recycling undertakings that carry out regeneration at a predetermined price. The pricing policy resulted in an artificial drop in the price of waste oils and the creation of a black market in the supply of waste oils as fuel. In Italy, collectors authorized by a national body are allocated areas in which they may collect waste oils for regeneration. A further organization is responsible for collecting waste oils intended for combustion (with or without energy recovery). Special permission is required in Luxembourg from the competent authorities for the disposal of waste oils which does not involve regeneration or recovery. In the other Member States, waste oils are generally destroyed by combustion, occasionally with heat recovery. It has not been considered necessary in the Netherlands, the United Kingdom and Ireland to licence collectors in specified areas.

art.8

29. Only the Irish legislation makes specific provision to comply with the provisions of the Directive on the separate handling and storage of waste oils.

¹⁰ The amendment to the Directive referred to in paragraph 22, laying down a requirement to this effect, will not be in force until 1990.

The legislation elsewhere in the Community is more general. In the Netherlands and the United Kingdom, the requirements regarding separate handling and storage may be linked with the permit issued by the local authorities. In France, Italy and Luxembourg, waste oils must be stored in such a way that different categories of waste oils are not mixed and such oils are not mixed with other wastes or substances. Finally, in the Netherlands, those authorized to mix waste oils with other oils must comply with specific conditions.

art.6

30. The Directive requires that installations disposing of waste oils must obtain a permit. In all Member States apart from Belgium (the Brussels Region), disposal undertakings handling waste oils for third parties must be licensed. In-house disposal of waste oils must be authorized or approved only in Denmark, France, Germany, Italy and the Netherlands.

31. Although the Directive does not require undertakings collecting waste oils to be authorized, they nevertheless have to obtain a permit or official approval in Belgium, France, Luxembourg, the Netherlands and the Federal Republic. Compulsory registration with the authorities is soon to be introduced in the United Kingdom.

art.10

32. The Directive requires establishments producing, collecting and disposing of at least 500 litres of waste oil per year (or less if thus specified by a Member State) to keep records and/or submit a report to the competent authorities. According to the information available, only the Federal Republic, Ireland, Italy, Luxembourg, the Netherlands and Belgium require these establishments to keep such records. In the Brussels region of Belgium only collectors are required to keep records. In France and Belgium, producers must obtain receipts when they surrender waste oils to collectors (collectors must also provide such receipts in Luxembourg and the Netherlands). In the United Kingdom, anyone handling waste oils must be capable of supplying information to the competent authorities on request.

art.10

33. Where Member States require records to be kept the provisions they have adopted are not generally very similar. The Directive requires that information be provided on the quantity, quality, origin and location of waste oils as well as on their receipt and despatch. Yet it is only in the Federal Republic, France, Italy, Luxembourg, the Netherlands and the Flanders and Wallonia Regions of Belgium that the data recorded by the collectors must indicate the quantity of waste oil collected, its destination or location. Similarly, only collectors in the Flanders and Wallonia Regions of Belgium, in Luxembourg and in Italy are required to indicate the date on which they received or handed over the waste oils.

In the Federal Republic, the total PCB and halogen content of waste oils has to be recorded.

(c) Directive 76/403/EEC on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCBs/PCTs)¹¹

art.2

34. The general manner in which Directive 76/403 has been transposed into national legislation has already been indicated, i.e. that only three Member States - France, Ireland and Luxembourg - have adopted legislation specifically concerning disposal of PCBs/PCTs. Only Ireland and Luxembourg have adopted specific provisions to prohibit uncontrolled discharges of PCBs/PCTs. In Ireland, this takes the form of the obligation to inform the authorities of any quantities of PCBs and/or PCTs held, and in Luxembourg that of disposing of PCBs/PCTs through authorized undertakings.

art.3

35. Only the Irish legislation provides for compulsory disposal of any equipment containing PCBs/PCTs and/or of any stored PCBs/PCTs. This provision does not appear to have been clearly transposed into national legislation in the other Community countries. With the exception of France, Ireland and Luxembourg, disposal of PCB/PCTs in the Member States is covered by the legislation on the disposal of toxic waste in general or that on waste oils (Federal Republic).

¹¹ OJ No L 108, 24.4.1976, p.41.

art.2

This legislation provides less specifically for a prohibition of uncontrolled discharges of PCBs/PCTs. In Italy the problem of provisional authorization referred to in paragraph 24 also applies to PCBs and PCTs. Furthermore, Italian legislation prohibits the discharging of PCBs/PCTs on public, but not on private land.

art.5

36. As the regeneration of PCBs/PCTs in particular is no longer considered a viable objective in any Member State, there are no national provisions actively designed to promote such regeneration. The absence of such a policy can in part be attributed to the fact that the development of acceptable substitutes for PCBs has greatly reduced demand for the use of regenerated PCBs/PCTs.

37. Recycling of waste (including PCBs/PCTs) is compulsory in Italy when justified for economic reasons and for reasons of effectiveness. In the Federal Republic PCBs must be either regenerated or destroyed, but neither of the options is given priority. By contrast, in Luxembourg the only accepted means of disposal is by destruction. Regeneration is accepted as a means of disposal in Belgium and the United Kingdom, but it is not encouraged in any special way. In some Member States, e.g. the Netherlands, there is a limited trade in "retrofilling" of equipment containing PCBs/PCTs.

art.6

38. All Member States require PCBs/PCTs to be disposed of by authorized undertakings. However, it should be pointed out that substantial destruction of PCBs/PCTs is in fact only carried out in three Member States: France, the Federal Republic and the United Kingdom. The other countries such as Belgium, Denmark and Ireland export practically all their waste PCBs/PCTs. As a rule, the provisions in national legislation make no distinction between permits issued to in-house facilities in the undertaking producing PCBs/PCTs and those issued to facilities operating on behalf of third parties.

art.9

39. While there is only indirect provision in the Directive for undertakings engaged in PCB/PCT disposal to keep records of these operations, several Member States have incorporated special provisions on record-keeping in their national legislation. The most comprehensive specifications exist in the Federal Republic, France, Italy and Luxembourg, where firms collecting and disposing of waste PCBs/PCTs must keep records. In addition, disposal of PCBs/PCTs is subject in Belgium, Denmark, France, the Netherlands and the United Kingdom to the same requirements regarding the keeping of records and notification as apply to toxic and dangerous wastes.

40. The Netherlands has a programme to promote the replacement of old equipment containing PCBs/PCTs. Until the end of 1988, the Government will pay a subsidy to operators exchanging or "retrofilling" equipment containing PCBs/PCTs. Luxembourg has also set up a programme under which the disposal and early replacement of electrical equipment containing PCBs/PCTs will be subsidized until 31 December 1992 and the use of equipment containing, or contaminated with, PCBs/PCTs will be prohibited as from 1 January 1994.

(d) Directive 78/319/EEC on toxic and dangerous waste¹²

art.1

41. The main point on which there are differences concerns the definition of toxic and dangerous waste. Different terms and definitions are used in the Member States to classify the wastes defined as toxic and dangerous by the Community. The terms "special" and "chemical" wastes are widely used in the Member States. The legislation of the Benelux countries and Italy uses the level of concentration as a waste classification factor. In the United Kingdom wastes are defined as special on the basis of tests establishing their noxiousness, or of origin (medicinal products). What is more, the levels of concentration applied to define the same chemical substance may differ from one Member State to the next. Denmark, the Federal Republic, France, Italy, the Netherlands and the United Kingdom take account of the origin

¹² OJ No L 84, 31.3.1978, p.43

of wastes in order to determine whether they are toxic and dangerous. Finally, virtually all the Member States apply the provisions on toxic and dangerous wastes to a larger number of substances than provided for in the Directive. Luxembourg, for example, names 82 substances and the Federal Republic 86.

art.6

42. While, with the exception of Greece, which intends to do so, all the Member States have designated special authorities to be responsible for the planning, organization, authorization and supervision of operations for the disposal of toxic and dangerous waste, this responsibility has generally been entrusted wholly or partly to the regions, provinces, etc. This delegation of responsibilities has led to the drafting of supplementary regional legislation in Italy and Belgium. Problems have resulted in the form of delays in completely transposing the Directive and the need to coordinate the measures adopted by the individual regions, etc.

art.5

43. With regard to the legislative provisions designed to ensure safe collection and disposal of toxic and dangerous waste, only Belgium, Denmark, Ireland and the Netherlands have adopted specific provisions prohibiting uncontrolled discharge of toxic and dangerous waste. In the other Member States, the corresponding provision is contained either in the basic legislation on wastes or in general legislation on environmental protection. Similarly, only the Greek, French and Italian legislation states explicitly that danger to human health and the environment must be avoided when disposing of toxic and dangerous waste. Although all Member States require toxic and dangerous waste to be disposed of by authorized undertakings, only Ireland, Luxembourg, the Federal Republic and the United Kingdom oblige holders and producers of toxic and dangerous waste to hand their waste over to authorized undertakings if they have not been permitted to dispose of it on their own account. A similar provision exists in Denmark which requires producers to dispose of their waste through authorized disposal channels.

art.9

art.10

- art.12 44. Only the Federal Republic has completed drawing up plans for the disposal of toxic and dangerous waste. In the other Member States, such plans are either in preparation or have been adopted, but only in certain regions as is the case in parts of Ireland, Italy, the United Kingdom and France. Legislation in the Netherlands makes no specific provision for a disposal plan but an indicative multi-annual programme on wastes was set up in 1985.
- art.7 45. A further provision of the Directive which most Member States have not yet incorporated into national law concerns the separate storage, labelling and identification of toxic and dangerous waste. So far only the Federal Republic, with its law on wastes, and Luxembourg and Ireland have made such provision. But it should be said that the provision on separate storage in the Directive is qualified by "where necessary".
46. Other Member States such as France, Italy, the Netherlands and the United Kingdom have regulated storage and labelling either in the conditions governing permits or in the legislation on labelling and transport of dangerous products.
- art.9 47. Although all Member States require the installations carrying out treatment and disposal of toxic and dangerous waste to hold a permit, there is some doubt regarding the application of this requirement to the disposal of waste in the waste-producing undertaking itself. In Belgium, France, Ireland, Italy, Luxembourg, the Netherlands, the Federal Republic and the United Kingdom, every installation storing toxic and dangerous waste must have a permit. In France, Italy, the Netherlands and the United Kingdom, installations at which toxic and dangerous wastes are stored, even temporarily, must also hold a permit. Four Member States, (Belgium, Luxembourg, the Netherlands and the Federal Republic) impose more stringent conditions than the Directive, requiring every undertaking carrying out the transport of toxic and dangerous waste to be in possession of a permit.
- art.15 48. Little information is available regarding the extent of inspections to which disposal undertakings are subject. While all Member States have adopted provisions regarding checks on the activities of such undertakings, the nature and extent of these checks have generally not been defined in detail. Denmark, the Netherlands and the United Kingdom take the

necessary measures to improve implementation of national legislation; primarily by avoiding disparities between the policies adopted by the competent authorities of the individual regions, provinces, etc. In Belgium, Ireland, France and the Federal Republic data on toxic and dangerous waste is stored on computer.

14 49. A final point in respect of which none of the Member States appears as yet to have transposed all the provisions of the Directive concerns the keeping of records by undertakings engaged in the production, centralizing or storage or disposal of the materials. In the Flanders Region of Belgium, in France, the Federal Republic, Ireland and the United Kingdom these records are based on the data contained in the identification forms which must accompany all consignments of toxic and dangerous waste. All Member States except Belgium (other than the Flanders Region) use identification forms. Independently of such a system, producers of waste in all Member States are required to keep a register of their activities or to supply to the competent authorities any information requested. In addition, the register has to be preserved for a period of five years in the Netherlands, for ten in Luxembourg and three in the Federal Republic. In France, Ireland, Greece and Luxembourg undertakings which store toxic and dangerous waste are required to keep a register. In France registers have to be kept by all those producing, transporting and disposing of waste and by those storing it as their line of business, whilst the accompanying documents have to be kept for at least three years.

III. Community action to ensure transposition of the Directives into Member States' national legislation

50. As already described, Belgium has not transposed all the Directive into national legislation. In 1981, the Commission initiated proceedings against Belgium before the Court of Justice for failure to notify the Commission of the measures adopted to implement Directives 75/442, 75/439 and 76/403 in its national legislation. The Court declared in its judgment of 2 February 1981¹³ that Belgium had failed to fulfil its obligations under the EEC Treaty by not having taken any steps to

¹³ Cases 69-71/81, ECR 1982, p. 163-182.

transpose the Directives into national legislation. As Belgium still did not inform the Commission of corresponding measures, further infringement proceedings were initiated in 1984 and three new actions were brought before the Court in July 1985. In its judgment of 14 January 1988 the Court found that, in persistently neglecting to introduce measures to implement these Directives, Belgium had failed to meet its obligations under the Treaty.¹⁴ The Commission also opened proceedings against Belgium on this occasion concerning incorrect application of Directive 78/319. In its judgment of 2 December 1986 the Court had reached the same conclusion.¹⁵

51. The Commission also initiated proceedings before the Court against France in 1983¹⁶ for failure to fulfil its obligations under Article 34 of the EEC Treaty (quantitative restrictions on exports and measures having an equivalent effect) with regard to trade in waste oils. The Court's judgment of 7 February 1985 established that the French Decree on the disposal of waste oils prohibited their export and thus contravened the provisions of Article 34 of the Treaty. The French authorities subsequently amended their national legislation in March 1985 to comply with the Court's decision. This is only one example as, in principle, this report does not cover infringements of internal market or competition rules.

52. The Commission continues taking decisions on opening infringement proceedings against Member States that have not appropriately implemented the directives, for instance concerning the transmission of the questionnaire addressed to them.

53. Some measures adopted or proposed by the Community since summer 1984 may lead Member States not only to incorporate the provisions of the four Directives on waste into their national law where they have not yet done so, but also to reduce discrepancies between existing national provisions.

¹⁴ Cases 228/85 (75/442), 229/85 (75/439) and 230/85 (76/403) not yet published.

¹⁵ Case 239/85, not yet published.

¹⁶ Case 173/83; ECR 1985, p. 491.

54. The amendments to the Directive on the disposal of waste oils¹⁷ will, among other things, oblige Member States to ensure as far as possible that the disposal of waste oils is effected by regeneration rather than combustion. Large installations authorized to burn waste oils will have to comply with the requirements relating to emissions of specific substances, e.g. lead and sulphur dioxide, whilst small installations will be subject to appropriate controls. Other amendments will require undertakings collecting waste oils to be registered and subject to appropriate supervision by the national authorities and where appropriate, a system of authorization. There are also amendments calling on Member States to take measures to avoid the mixing of waste oils with oils containing PCBs/PCTs or toxic and dangerous wastes. In addition, in order to increase public awareness of the need to dispose of waste oils in an appropriate fashion, the Member States must conduct information or promotion campaigns designed to ensure that waste oils are collected where possible. The result of these amendments should be that a greater quantity of waste oil is collected, particularly from small producers, and that this oil is disposed of in an environmentally sound manner. The amendments must enter into force by 1 January 1990 at the latest.
55. Growing incentives to recycle certain wastes will result from implementation by Member States of Directive 85/339/EEC on containers of liquids for human consumption.¹⁸ To comply with this Directive, Member States must draw up programmes for reducing the tonnage and/or volume of containers of such products that find their way into household waste and have to be finally disposed of.
56. Member States are required by the Directive to take various measures to promote recycling and the re-use of such containers, e.g. consumer education programmes, selective waste collection and the introduction of deposit systems.

¹⁷ OJ No L 42, 12.2.1987, p.43.

¹⁸ OJ No L 176, 6.7.1985, p.18

57. Other legislative measures taken by the Community to ensure that Member States implement better waste management policies include Directive 84/631/EEC on the supervision and control within the European Community of the transfrontier shipment of hazardous waste.¹⁹ A report on the implementation of this Directive will be drafted this year.
- 58 In conclusion, the Commission is currently awaiting up-to-date-information from each Member State on the measures they have taken to transpose Directives 75/442/EEC, 75/439/EEC, 76/403/EEC and 78/319/EEC into their national legislation. When it is in possession of this information, the Commission will be in a better position to assess what further measures are needed to ensure implementation of these Directives by Member States. As the Member of the Commission Mr Clinton Davis, indicated, the Commission will not hesitate to initiate infringement proceedings based on Article 169 of the EEC Treaty against the Member States if this information is not forthcoming.

¹⁹ OJ No L 326, 13.12.1984, p. 3 as amended by Commission Directive 85/469/EEC of 22 July 1985 adapting to technical progress Council Directive 84/631/EEC (OJ No L 272, 12.10.1985, p. 1); by Council Directive 86/121/EEC of 8 April 1986 (OJ No L 100, 16.4.1986, p.20); by Council Directive 86/279/EEC of 12 June 1986 (OJ No L 181, 4.7.1986, p.13); and by Commission Directive 87/112/EEC of 23 December 1986 (OJ No L 48, 17.2.1987, p.31).