

# Current situation and implementation of the waste framework directive in Germany

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## 1 Current situation of Waste Management in Germany

The current situation of waste management in Germany has technical, economic and legal aspects. Technically and organisationally Germany has reached a high standard in waste management including environmentally sound capacity for almost all kinds of wastes. This is reflected in the evolution of imports and exports esp. in hazardous wastes.

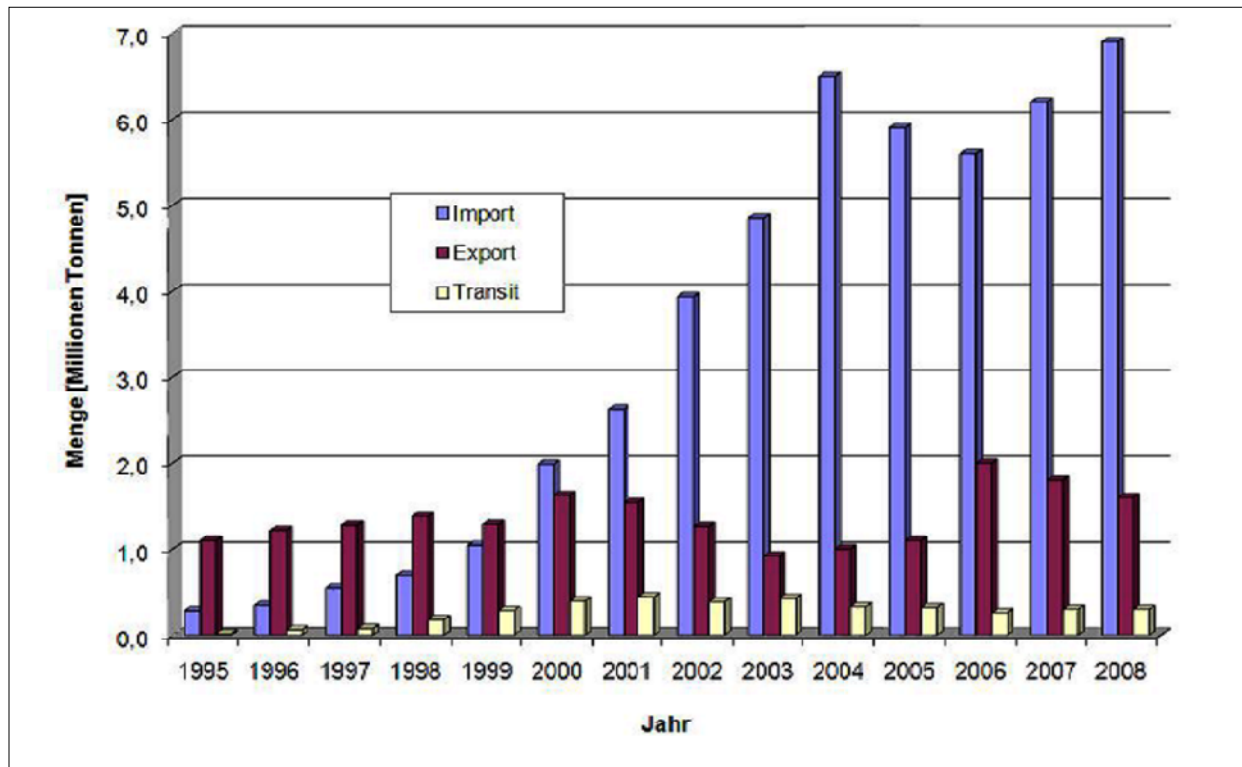


Figure 1 Import, Export and Transit of hazardous waste

The economic situation is currently effected by the global economic crisis, but the trend to return resources and energy from waste to the economic cycle is still positive. The legal discussion is mainly about the revision of the Circular Economy Act to transpose the Waste Framework Directive into national legislation; connected to this is the question of private and public responsibility for the waste management.

The latest data on waste management describe the situation in the waste management sector in 2007. The data come from the Federal Statistical Office, the Federal Environment Agency and other sources. The data show that waste management in Germany has continued its positive development with regard to environmental protection - a trend reflected in practically all the figures. In economic terms too, there are encouraging findings behind these developments: investments, employment and turnover in the waste management sector still have potential for growth.

A particularly positive aspect is the role of waste management in resource conservation and climate protection: recycling and other recovery procedures have significantly increased the share of recoverable material in the materials cycle. For example, in 2007 around 62% of household waste was recycled - in 1990 it was just 13%. Recovery rates of other waste types have also increased considerably in recent years. It is equally evident that a modern waste management industry contributes substantially to climate protection by harnessing the energy in waste and avoiding climate gases from landfills.

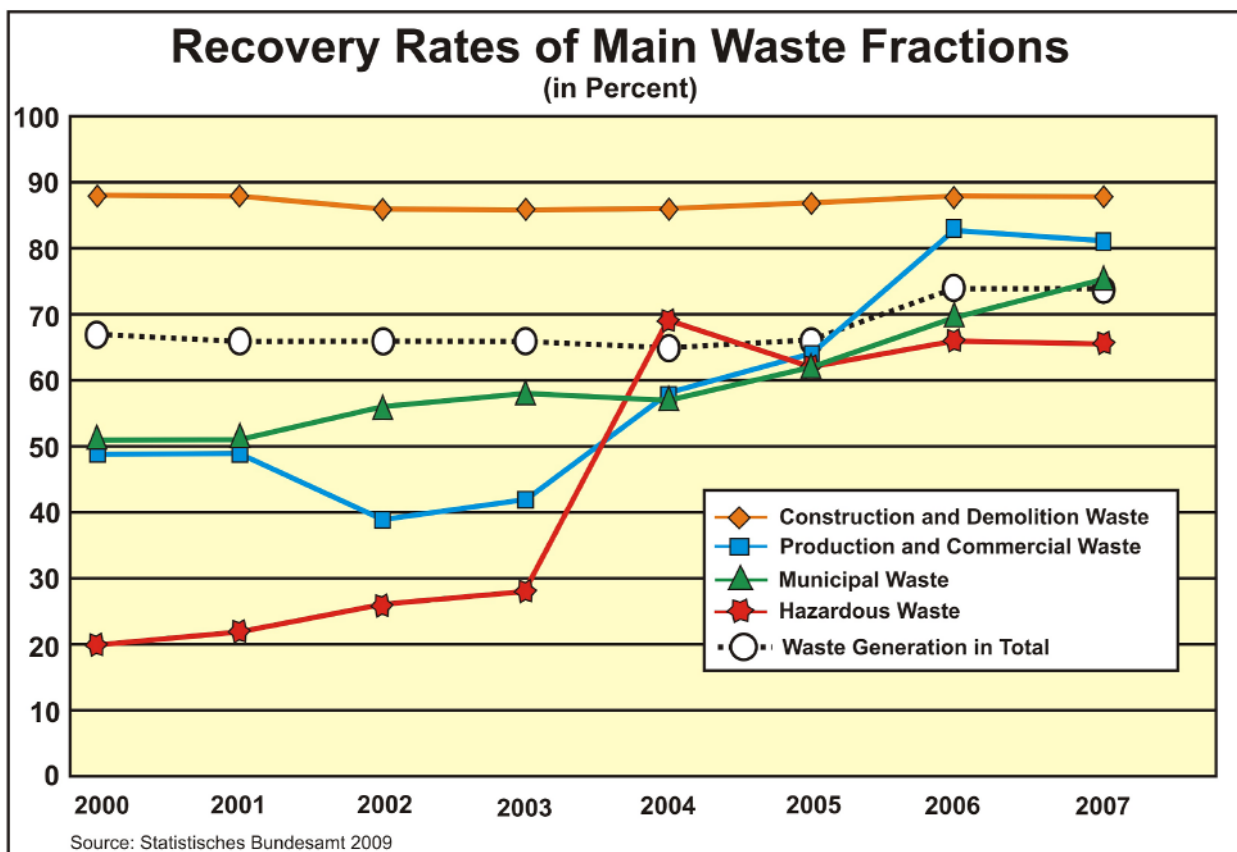


Figure 2 Recovery Rates of Main Waste Fractions

Positive developments can even be seen in the field of waste prevention, which will become a key issue over the next few years due to the provisions of the amended Council Directive on Waste: there is a decline in both waste intensity - i.e. the volume of waste per inhabitant - and waste generation in relation to economic growth

(decoupling). Statistically unclear until now are the effects of the global economic and financial crisis in 2008 and 2009 in respect to these trends.

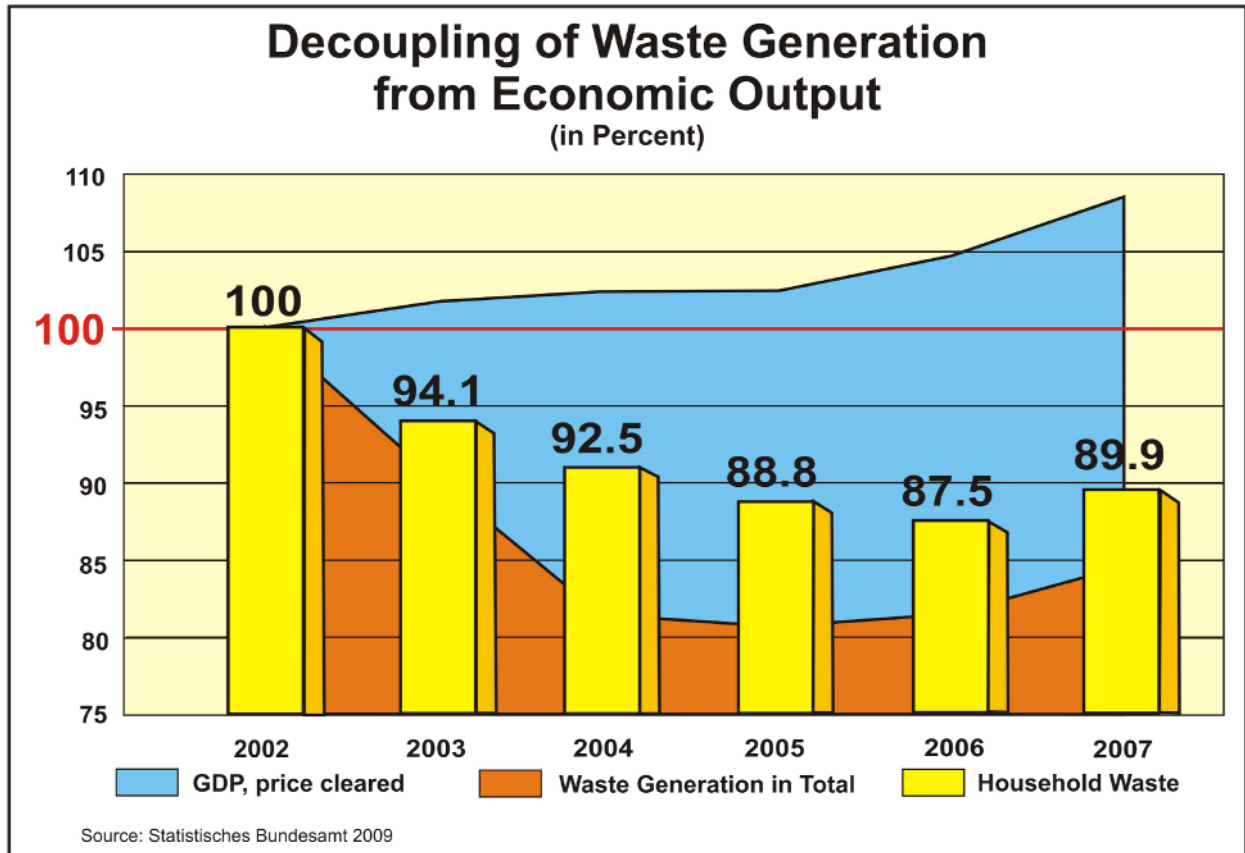


Figure 3 Decoupling of Waste Generation from Economic Output

Besides the global objectives of environmental policy with regard to resources and climate, the data also describe the original tasks of the waste industry with regard to the protection of human health through the prevention of infection, and the conservation of environmental media through air, water and soil protection: thus the number of landfills is steadily falling while recirculation of nutrients and soil improvers from bio-wastes is constantly increasing.

Nevertheless, too many valuable materials are still being lost because of inadequate waste management - waste electrical appliances, end-of-life vehicles, bio-wastes and plastics are just some examples of areas where further global action is needed. To a great extent rare metals, which are irreplaceable for modern technology, are lost after consumption. These strategic resources will shortly be the focus of the waste and resource management sector. In Germany too, which is considered a model in the field of waste management, there is still potential for considerable improvements in efficiency.

Economically we face a concentration process in the waste management sector accompanied by the call of the private sector to privatize mayor parts of the public

waste management infrastructure. The resistance of the public sector concerning economic services of general interests, which are left to the definition of national legislation by the EU-legislation, is mainly based on the perception, that security of environmentally sound waste management esp. in the municipal sectors (including littering, road cleaning, etc.) can only be assured by a strong role of the public sector in this field.

On the other hand more than 60 percent of the municipal waste collection and management are carried out by private companies by order of municipalities. The relationship between private and public sector in the field of waste management is approved for long and does need in relation to effectiveness and security probably just adjustments and clarifications. Mayor changes just in benefit of the private sector seem to be problematic.

## **2 Waste Framework Directive**

The intensive revision of the Council Directive on Waste, the so called Waste Framework Directive (WFD) has been in progress for many years. In December 2008 finally it came into force. Before that agreement was reached in the second reading of the European Parliament through a legislative resolution. The revision of the WFD towards a modern and sustainable waste policy had already been decided through political agreement in the first reading under the German EU Presidency in 2007.

Already in 1999 the EU-member states started a process of five workshops (until 2004) with the Commission to identify the practical and legal problems connected to the WFD. A lot of possible solutions were discussed and elaborated during these workshops (in Aachen, Mechelen, Rotterdam, Vienna and Leipzig) which found their way into the revised WFD. The proposal of the Commission of December 2005 included most of these workshop's results, others were included during the legislative process.

The most important issues negotiated in the Council were:

- the scope of the Directive (in particular the exclusion of immovable objects)
- criteria for determining by-products and the cessation of waste status
- definition of the term "recovery"
- distinction between recovery and disposal, in particular with respect to waste incineration plants
- the principle of self-sufficiency and proximity for mixed household waste and waste destined for incineration

- waste hierarchy and how it will be applied
- provisions on waste oil, hazardous waste and bio-waste
- waste management plans and waste prevention programs.

At the end of its EU Presidency Germany successfully concluded the negotiations in the Environment Council on the first reading of the Council Directive on Waste with a political agreement. Twenty-seven Member States agreed on common principles of waste management policy in a highly complex and far-reaching legal matter. After additions to the recitals and a legal review of the wording, the Council adopted the Common Position on 20 December 2007. Decisions on the proposals to amend the Commission draft had already been taken in the European Parliament on 13 February 2007. The European Parliament's proposals were in part incorporated by the Council.

In February 2008 the European Parliament started the second reading of the revised Council Directive on waste. The Rapporteur of the European Parliament, Ms Jackson, presented her [recommendations for the second reading](#) on 5 February 2008, accepting the overall concept and a large number of the core elements of the Council's Common Position. In its legislative resolution of 17 June 2008 the European Parliament adhered closely to these recommendations. However, problematic additions and tightening of provisions (such as linking the term of recovery to ecological requirements which would lead to irresolvable legal problems in practice) were not included. In the light of the formerly opposing position of the EP during the first reading, this must be considered as a major success for the Council.

The following details should be mentioned:

- exclusion of immovable objects from the scope of the Directive (waste law therefore restricted to movable objects)
- provisions on definition of by-products
- cessation of waste status
- producer responsibility
- distinction between recovery and disposal in waste incineration plants based on energy efficiency formula
- ensuring self-sufficiency in the disposal of household waste, provision to protect against imports
- provisions on bio-waste

- concept for authorisation and notification requirements
- tasks assigned to Commission under comitology rules

The main changes introduced by the European Parliament during the second reading concern waste disposal and recovery. In addition to a mandate for the Commission to develop further instruments of waste prevention, recycling quotas for certain waste flows and guidelines for several articles were included in the directive.

The new directive (Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives) strengthens waste prevention, the key objective of modern waste policy, through new instruments such as producer responsibility and waste prevention programs. It also supports the recovery of waste by introducing obligations to separate waste and recycling quotas for certain types of waste. Furthermore, it defines the term waste more clearly, which ensures legal certainty and improves the acceptance of quality recycling products. It also clarifies the long debated distinction between energy recovery and disposal of waste by introducing a more specific definition and energy efficiency criteria. All these measures will go into the direction of saving resources and protecting the climate. At the same time the directive will protect national waste incineration infrastructure from being overburdened.

### **3 Implementation of the WFD into German Legislation – Revision of the Circular Economy and Waste Management Act (Kreislaufwirtschafts- und Abfallgesetz)**

The revision of the German waste act in the first line is necessary to transpose and implement the WFD. Article 40 of the WFD gives member states time until 12th of December 2010 to do this transposition. Additionally a development and modernisation of the German waste management regulations is foreseen. The principal approach of the revision process is to keep the established structures and approved rules of the current Circular Economy and Waste Management Act and to transpose the requirements of the WFD in a new Circular Economy Act (the term ‘waste management’ in the title of the act is proposed to be deleted due to the development into a resource related act). Most of the requirements are foreseen to be transposed unmodified in substance.

Main elements of the published working paper for discussion are:

- New terminology (waste definition, by-products, end-of-waste property, recovery, recycling, disposal)
- Introduction of the new five-step waste management hierarchy

- Legal basis for Waste Prevention Programs
- Introduction of recycling quota for municipal waste (65% instead 50% in WFD) and for C&D-waste (80% instead of 70% in WFD) from 2020 on
- Introduction of an area-wide separate collection of bio-waste (from 2015 on)
- Legal basis for the introduction of a recycling bin (collective collection of packaging and similar non-packaging wastes)
- Safeguarding of the “dual responsibility” of private and public waste management
- Debureaucratisation
- Improvement of the qualification of waste management enterprises

The working paper is a basis for the discussion with stakeholders. It's not the agreed position of the Federal Government. Next steps will be the agreement process in the Federal Government and the legislative process through EU-notification, Parliament and Federal Council (second chamber representing the Federal States).

In addition several other works have to be done:

The elaboration of the Waste Prevention Program needs a substantial and comprehensive analysis of the existing and possible measures available to the public sector. In a first step we study (Wuppertal Institute and Öko-Institute) the existing knowledge about waste prevention measures, in a next step benchmarks and possible indicators will be used to evaluate the found measures in relation to their environmental impacts and benefits. Finally a political evaluation has to take place taking into account the economic and social implications of different environmentally beneficial measures.

On EU-level the

- guidelines on the interpretation and practical use of the Energy-recovery-definition in Annex 2 operation R1,
- calculation methods of recycling quotas for household waste and C&D-waste, and
- End-of-Waste criteria for special waste streams becoming Commission Decisions following the procedure laid down in Article 39 of the new WFD

are under elaboration.