

REFORMS FOR ECONOMIC GROWTH AND BUSINESS RESILIENCE 2022

ENVIRONMENTAL COMMITTEE



AMCHAM SERBIA
A LEADER IN CHANGE

ENVIRONMENTAL COMMITTEE

OBJECTIVE 1: INCREASE RECYCLING RATES FOR PACKAGING AND PACKAGING WASTE ...BY CAREFULLY DESIGNING AND INTRODUCING A DEPOSIT RETURN SCHEME

CHALLENGE: Having recognised the importance of the circular economy and efforts invested by the Government of Serbia in laying the groundwork for effective waste management and ensuring that recycling objectives are met, we believe it is necessary to carefully design and introduce a deposit return scheme, after consultations with businesses and other stakeholders, comprehensive analyses and global experiences that will help the scheme be functional and sustainable, and following a transitional period for its entry into effect.

It is especially important to properly regulate any future Serbian deposit scheme as similar initiatives in European countries have successfully increased packaging recovery rates, but have also proven to be highly complex to implement and require significant investment from both businesses and the general public.

RECOMMENDATIONS: Given the complexity of the deposit scheme, two prerequisites must be met to ensure its success:

- **Legislate highly predictable future requirements for the general public and businesses** (this requires enacting the bylaws necessary for implementing the scheme no later than six months after the law is adopted and envisaging a statutory transitional period for the introduction of the deposit scheme of at least three years); and
- Duly acknowledge global experiences that suggest the **most efficient and sustainable deposit schemes are administered by non-profit deposit organisations set up, governed, and owned by the obliged industry and supervised by the government.** The role of the government in a deposit scheme is to set standards for the scheme's performance in the interest of the broader public (meeting recycling objectives for each type of material, with stakeholder involvement) and regularly supervise the efficiency of the system, whilst manufacturers should be responsible for designing and implementing recovery arrangements for the packaging they market. In addition, the government should also ensure the process is transparent and that all stakeholders in the recycling chain are accountable.

Examples of best practices employed by most countries with deposit schemes include:

- **Governance:** the scheme is governed by the obliged industry, with the Government playing a supervisory role.
- **Day-to-day operations:** a centralised, non-profit deposit organisation, comprising representatives of beverage producers/importers and the retail industry. Day-to-day operations are managed by a professional executive team supervised by a Board of Directors.
- **Financing:** producer fees + unclaimed deposits + revenue from materials collected.
- **Revenue:** deposit organisation owns the revenue and the materials collected.
- **Producer fees:** minimum amount required to cover remaining costs, with no cross-subsidies between different types of materials.
- **Handling fees:** fee payable to retailers for managing deposit operations at their points of sale.
- **Materials included:** single-use beverage packaging – the decision as to which materials to include in the scheme must take into account the need to meet circular economy objectives and comply with EU rules, as well as the financial sustainability of the scheme.
- **Packaging return infrastructure:** recycling objectives can be met if retail outlets are equipped with appropriate infrastructure to establish an efficient recovery network without compromising consumer convenience and efficiency of retail operations whilst ensuring the market is properly covered. Alternative packaging return points can be set up, especially in locations where retail outlets do not provide sufficient coverage.

...BY IMPROVING THE EXTENDED PRODUCER RESPONSIBILITY SCHEME

CHALLENGE: EU waste and packaging rules (the Circular Economy Package, or CEP, and Single Use Plastics Directive, otherwise known as SUP) have significantly raised the bar for reducing packaging waste by 2030, and Serbia will be required to follow suit in its EU accession process. Household packaging waste is currently not reused appropriately, and progress in achieving these more ambitious packaging waste objectives will depend on reforming how household packaging waste is collected. A universal, practical, well-designed, and appropriately communicated extended producer responsibility (EPR) scheme ought to increase recycling of household packaging waste, especially if implemented together with a deposit scheme.

RECOMMENDATIONS:

- Strengthen current extended producer responsibility arrangements by amending the Waste Management Law and the Packaging and Packaging Waste Law to **clearly assign roles and responsibilities to all stakeholders in the waste management system and introduce effective implementation systems** to ensure recycling objectives are met. This entails retaining local authorities' key roles in collecting and sorting household packaging waste (given the existing collection and sorting infrastructure and arrangements), but with major improvements to these processes and services:
 - **Collection:** all local authorities' collection services ought to be aligned with the national service standard (coverage by the scheme, minimum collection frequency, and the like), and collectors should be expected to deliver materials meeting minimum quality standards to sorting facilities. Incentives could include devolving responsibility for meeting recycling objectives from national to local authorities and providing full financial compensation to local authorities that prove the most effective in collecting waste or recover the highest quality materials.
 - **Sorting:** local authorities should also remain responsible for sorting waste, but they can delegate this responsibility to EPR bodies. Investment must be made in developing sorting facility infrastructure throughout Serbia to ensure good geographical coverage and up-to-date, efficient broad fraction spectrum sorting that delivers quality results. This is particularly pertinent for mixed waste recycling facilities which are currently not available in Serbia. These units must be expected to deliver materials suitable for further processing as their final products.
 - **Sales of materials:** producers should own the materials and be responsible for organising its sales, since this drives prices up and provides better opportunities for co-ordination in the secondary raw materials market to ensure an adequate supply and meet producer requirements.
 - **Revenues and capital expenditures:** packaging producers should cover the full net costs of managing packaging waste, in accordance with the EU's Waste Framework Directive, by determining the 'necessary costs' payable to local authorities (benchmarking or modelling can be used for this costing exercise). Cost coverage could also be assessed per tonne of each type of packaging collected to promote recycling.
- A comprehensive packaging recycling system should be **accessible to all Serbian households**, including those in rural areas, where a door-to-door collection system ought to be set up (with households receiving individual waste containers), which will greatly enhance recycling performance and help attain objectives.
- Efforts should be invested to **raise household awareness** of the importance of recycling and promote **actions to limit the use of residual recyclable waste containers**. Practical examples include introducing landfill and/or incineration fees, payment at time of waste disposal (limiting the effective weekly quantity of waste households can dispose of and requiring payment for any waste disposed of in excess of this quantity), communicating the use of recycling services to the public, and the like.

OBJECTIVE 2: ENSURE SUSTAINABLE ENVIRONMENTAL FINANCING

...BY USING THE POLLUTER PAYS PRINCIPLE TO ASSESS ENVIRONMENTAL FEES

CHALLENGE: Inconsistent use of the widely accepted 'polluter pays' principle, according to which environmental fees constitute a primarily corrective mechanism and large polluter companies ought to pay greater fees than those which invest in clean technologies and so reduce their emissions.

RECOMMENDATIONS:

- Reform the current environmental protection and improvement fee by:
 - Merging the environmental protection and improvement fee with the pollution fee, so that the pollution fee is made up of two components: a fixed part, based on the number of substances subject to emissions monitoring, and a variable part, based on the quantity of SO₂, NO₂, PM, NH₂, and non-methane volatile organic compound (NMVOC) emissions and the quantity of waste produced or disposed of.
 - Broadening the list of substances subject to the ammonia and NMVOC fee and extending reporting requirements to comprise all stakeholders (rather than only those subject to mandatory IPPC permitting).
 - Gradually increasing emission fees (by 10 percent over the three subsequent years).
 - Retaining the hazardous substances transport fee (currently a component of the environmental protection and improvement fee).
 - Increasing the share of revenues accruing to local authorities to 50 percent from the current 40 percent.
 - Set up a single register of polluters (at both the national and the local level) to keep track of all entities subject to emissions monitoring for regulated substances and the locations of facilities that generate emissions.
- Improve the transparency of and alignment between regulations governing protected natural areas and fees for using public resources located in those areas. A detailed revision is required of the currently more than 80 various grounds for paying fees for use of protected areas. One result of this revision ought to be a clear categorisation of payment grounds based on the desired effect of the fee (either corrective or revenue-generating), whereby fees for services provided by entities managing the protected areas will be clearly distinguished from those for use of a resource or protected area.

...BY SPENDING THE COLLECTED FUNDS TRANSPARENTLY

CHALLENGE: Dedicated funds are rarely used for investment in environmental protection and waste management. Proceeds of the charges collected by the Environmental Protection Agency and local governments are seldom reinvested into environmental safeguards but rather used for wholly unrelated purposes.

RECOMMENDATIONS:

- Set up a system for local authorities/bodies managing protected areas to uniformly report annual revenues from environmental fees, in total and for each fee, and annual environmental protection expenditures, both cumulatively and by programme. This would significantly improve budget outturn reporting and so enable clear identification of the volume and structure of environmental expenditures and ensure comparability of data from different levels of government.
- Introduce disincentivising fees and charges for polluters, such as a landfill charge, to prevent recyclable materials being sent to landfills and encourage waste sorting and recycling.

...BY DEVELOPING A MODEL TO PROMOTE SUSTAINABLE CO-OPERATION BETWEEN THE PRIVATE SECTOR AND MANAGERS OF PROTECTED AREAS

CHALLENGE: Collaboration between managers of protected areas and private businesses operating in or around these natural reserves is neither sufficiently close nor consistently aimed at improving the state of the areas. This leads to the proliferation of activities harmful to the protected areas whilst not providing enough incentives for sustainable operations to promote nature conservation and causing frequent policy changes that make doing business in and around protected areas unpredictable.

RECOMMENDATION:

- Explore best practices of regulating co-operation between managers of protected areas and businesses operating in these reserves to identify models best suited to Serbian circumstances. Use the findings to train managers and promote models of co-operation with the private sector and consistently foster this collaboration on a sustainable footing.

OBJECTIVE 3: USE FOOD SURPLUSES RESPONSIBLY AND TREAT BIODEGRADABLE WASTE

...BY DONATING FOOD SURPLUSES

CHALLENGE: There is no statutory framework, support, or infrastructure for responsible management of food surpluses, which may include donating unsold food to charities, soup kitchens, zoos, and the like.

The latest amendments to the Food Safety Law differentiate between 'use by' and 'best before' dates for food products. The period between these two dates is when the products can be donated. Tax incentives are lacking that could induce entities with suitable food stocks to donate the products to those most in need without such transactions being subject to VAT.

According to the United Nations Environment Programme (UNEP), 726,000 tonnes of food are thrown away in Serbia every year, the equivalent of **nearly two million kilogrammes every day**. Moreover, 2019 figures revealed that 480,000 Serbians (7 percent of the population) were unable to meet their basic needs.

Apart from the direct social and financial losses (food cost and VAT, waste disposal costs), unused food that ends up as municipal waste poses a huge environmental burden.

RECOMMENDATIONS:

- Amend the Value Added Tax Law to allow food products near their expiry date to be donated without being subject to VAT and entitling the donor to claim input VAT. Adopt a Government Order on donation of food near its expiry date to regulate that such transactions are not considered trade in goods.
- The Government Order on donation of food near its expiry date should be modelled after the Government Order on shrinkage, waste, and breakage losses not subject to value added tax (*Official Gazette of the Republic of Serbia* No. 124/2004) to ensure that the new order is simple enough to be deployed effectively by the Tax Administration and understandable to taxpayers. The regulation should also contain well-designed checks and balances, including limiting the value of annual food donations to 1 percent of the taxpayer's total goods and services turnover in the preceding fiscal year and mandating comprehensive records accessible at all times to both the donor and the grantee.
- As this is an issue of huge social, economic, and environmental importance, and since the likely loss of VAT revenue would amount to no more than 18.4 million dinars annually, the societal benefits from such assistance to those most in need will far exceed any cost to the government. Estimates suggest this initiative would increase annual food donations by 157.7 million dinars.
- Moreover, this recommendation is aligned with the EU *acquis*: 20 of the 27 EU Member States do not charge VAT on food donated close to its expiry date, and the EU VAT Committee also endorses this view. Hence, implementing this recommendation would have a positive impact on Chapter 16 in Serbia's EU accession negotiations.

...BY RECOGNISING BIODEGRADABLE WASTE AS A RESOURCE

CHALLENGE: Current regulations envisage no specific separation, disposal, transport, and processing requirements for biodegradable waste, which accounts for some 50 percent of all municipal waste. This means that biodegradable waste puts a significant strain on existing waste storage capacities and may pollute soil and air.

RECOMMENDATION: Amend regulations to set out clear procedures for managing biodegradable waste whilst developing infrastructure for its collection and treatment.

OBJECTIVE 4: REDUCE PAPERWORK AND EXCESSIVE RED TAPE

...BY ESTABLISHING MORE UNIFORM ELECTRONIC RECORD-KEEPING

CHALLENGE: The waste management system is unduly burdened by red tape, in particular the requirement to keep extensive records of waste movements for each delivery date and separately for each type of waste, transporter, and recipient. These records must be kept daily on a prescribed set of forms, and annual reports must also be produced. Lastly, documents must also be retained on paper, which directly contravenes the stated aim of protecting the environment.

RECOMMENDATION: Establish a uniform electronic record-keeping system for waste movements and reduce reporting frequency whilst holding stakeholders accountable for the accuracy of any data reported.

OBJECTIVE 5: HAVE CLEAR ENVIRONMENTAL RULES AND RESPONSIBILITIES

...BY CONSISTENTLY INTERPRETING ENVIRONMENTAL REQUIREMENTS FOR TELECOMMUNICATIONS INFRASTRUCTURE

CHALLENGE: The inconsistency and arbitrary interpretation of environmental regulations, as well as insufficient clarity over the status of the country's critical telecommunications infrastructure, have long posed significant problems for the telecommunications industry. These issues adversely affect the siting and construction of cell towers that use existing technologies (2G/3G/4G), which, in turn, jeopardises the stability and operation of mobile telephony networks, which have proven to be a key resource in the age of global pandemics. This issue is particularly pressing in urban areas, and failure to address it will deny Serbia all the opportunities and benefits of 5G technologies.

The main causes for these difficulties have been: 1) arbitrary interpretation of the Law on Protection from Non-Ionising Radiation and ability of local environmental protection secretariats to define sources of non-ionising radiation of particular importance; 2) use of minimum distances in meters between cell towers and adjacent buildings in local authorities' planning documents; 3) environmental impact assessment procedures different from those used in EU countries; and 4) thresholds set by the Regulation on limits for exposure to non-ionising radiation that are 2.5 times more restrictive than those applicable in the EU.

RECOMMENDATION: Cell tower construction issues require a response first and foremost from the Ministry of Environmental Protection, with support from the Ministry of Trade, Tourism and Telecommunications, the telecommunications regulator RATEL, and other institutions. Here, Serbian environmental regulations should be aligned with EU rules and those of EU Member States. Local officials should also be given training in how to interpret the regulations to ensure the rules are applied consistently.

Lastly, a new piece of legislation could also allow digital contracts with users and foster a framework that enables resource sharing and better utilisation, which would be conducive to improving services and promoting growth of the telecommunications market.

OBJECTIVE 6: IMPROVE MANAGEMENT OF SPECIAL WASTE STREAMS

...BY INTRODUCING EXTENDED PRODUCER RESPONSIBILITY

CHALLENGE: The current legal framework that governs special waste stream management does not recognise extended producer responsibility. This means that producers in effect have no responsibility for their products that become waste after use, and their responsibility ends with the payment of their fee and filing a report with the Environmental Protection Agency. One key issue is the amount of special waste stream fees payable by companies that market these products, and another is the lack of an appropriate mechanism to assess compliance, which has facilitated the emergence of informal businesses in this segment that constitute unfair competition. No less important is the fact that Serbia is denied substantial public revenues that could otherwise be invested into improving the waste collection and recycling system.

RECOMMENDATIONS:

- Align existing regulations, primarily on waste management, with EU Directives as quickly as possible and introduce extended producer responsibility for special waste streams. This would establish a sustainable system of financing by producers working together as a collective operator, leading to investment in network collection, addressing issues with the financing of the recycling industry, and making more funds available to the government for funding other environmental protection initiatives.
- Create links between the responsible authorities – Ministry of Environmental Protection, Environmental Protection Agency, Customs Administration, and inspection bodies – and develop a single information system to monitor collection of special waste stream fees.
- After the range of fee payers has thus been broadened, reduce fees to promote voluntary compliance.

CHALLENGE: Producers and importers are often unclear as to whether a particular product attracts the environmental charge for special waste streams or which category it belongs to, or even if a product is even deemed to become special waste after use. This confusion is due in part to the inadequate and vague descriptions of product categories when compared to the variety of products imported and manufactured.

RECOMMENDATION: Include customs tariff numbers matching existing product descriptions in each category and assess charges based on these customs tariff numbers.