



NEW STEPS TOWARDS ENVIRONMENTAL PROTECTION – TRANSFORMING HOUSEHOLD WASTE INTO FERTILIZER

1. General background

It is already notorious that upon accession to the European Union (“EU”), Romania has assumed a series of responsibilities, constantly evolving, in the spirit of the Community objectives. Among them, the one which lately has the strongest impact is represented by environmental protection and fight against global warming. Thus, a step in this direction was taken by Romania on August 20, 2020, when in the Official Gazette was published Law no. 181/2020 on the management of compostable non – hazardous waste (“**Law 181/2020**”), which will enter into force on February 20, 2021.

According to EU Directive no. 2018/851 of the European Parliament and of the Council of May 30, 2018 amending Directive 2008/98/EC on waste, among the obligations set for the Member States, are the separate collection of bio-waste¹ until 2023, as well as recycling of at least 55% of municipal waste until 2025, respectively 65% until 2035. However, at this moment, Romania recycles only 13.9% of the total municipal waste. Consequently, without a proper legislation regarding selective collection of waste and its recycling in a beneficial way both for the environment and from an economic perspective, Romania will not be able to reach the targets set by the European Union.

Therefore, in addition to the social reasons for protecting the environment and soils, the adoption of Law 181/2020 was also based on an economic motivation. Accordingly, its major purpose is to provide the legal framework for production of compost from non – hazardous, household waste and, implicitly, for sale.

¹ Bio-waste represents the biodegradable waste from gardens and parks, food waste or that from private household kitchens, offices, canteens, restaurants, wholesale, from catering companies and retail stores, or similar waste from food processing units.

Yet, it is important to note that the new legal provisions do not have an independent application, as they will be supplemented by the Technical Regulations (“**Regulations**”), which will be jointly issued by order of the Ministry of Environment, Waters and Forests and Ministry of Agriculture and Rural Development, within six months from the entry into force of Law 181/2020.

In a nutshell, the aspects regulated under Law 181/2020 concern the following:

- (i) categories of waste that can be composted and the conditions of their use;
- (ii) categories of compost and modalities of use;
- (iii) obligations and compliance measures for the actors involved in this process.

2. Compostable waste

As presented above, Law 181/2020 establishes the framework for the transformation of non – hazardous waste into compost, which is a fertilizer for the soil. The concept of non – hazardous waste means that the waste does not have one or more of the hazardous properties provided under Commission Regulation (EU) no. 1357/2014 of December 18, 2014, among which we mention those of not being explosive, oxidizing, flammable, irritating, carcinogenic and others².

According to Law 181/2020, compost can be obtained by the composting process or by anaerobic digestion, both representing processes of controlled decomposition of biodegradable materials.

Although the compliance criteria for the waste to be composted are to be defined in the Regulations, Law 181/2020 gives us a glimpse on the conditions that must be cumulatively met by the waste allowed for composting, as follows:

- (i) was separately collected; and
- (ii) has a certificate of conformity for the raw materials that enter the composting process³.

As regards biodegradable packaging, this one must meet other essential requirements for the composting process, as follows:

- (i) it must be produced in such a way that the packaging waste treated for composting is sufficiently biodegradable; or

² The complete list of properties of waste which render it hazardous can be found in the Commission Regulation (EU) no. 1357/2014 of December 18, 2014 replacing Annex III to Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives.

³ The certification methodology of the raw materials that enter the composting and anaerobic fermentation process will be established by the Regulations.

- (ii) it must be produced in such a way as to allow physical, chemical, thermal or biological decomposition, so that most of the material is transformed into carbon dioxide, biomass and water.

3. Use of compost

According to the legal provisions, the compost obtained upon the biological waste treatment process can be classified in three categories, as listed below:

- (i) category A – very good quality product;
- (ii) category B – good quality product;
- (iii) category C – inferior quality product.

The resulting product that does not meet the requirements of the categories listed above can be subjected to composting again. If, after repeating the process, is still non – compliant, it shall be disposed of in accordance with environmental legislation.

According to these categories of use, each type of compost will be subject to different regulatory requirements, in order to be commercialized. Thus, the product of category A is subject to the procedure provided under Regulation (EU) no. 2019/1009 of the European Parliament and of the Council of June 5, 2019 and means that is an “*EU fertilising product*”, namely a fertilising product which is “*CE marked*”⁴ when made available on the market. For the products having categories B and C, the standards for free movement on the internal market will be established by the Regulations.

With respect to the use of compost, this also must be done in accordance with the category in which the product is classified, in the following areas:

- (i) category A – agriculture and horticulture;
- (ii) category B - urban and rural green spaces;
- (iii) category C – according to the destination established by the Regulations.

4. Obligations and compliance measures

With respect to carrying out the composting activity, the economic operators which collect and transport biodegradable waste, as well as those which produce compost must receive an approval in this regard from the National Agency for Environmental Protection. In addition, they must comply with a series of strict measures throughout the technological process, including:

⁴ The letters “*CE*” appear on many products traded on the extended Single Market in the European Economic Area (“*EEA*”). They signify that products sold in the EEA have been assessed to meet high safety, health, and environmental protection requirements.

- (i) having specially designed spaces for the storage of compostable waste;
- (ii) avoiding forming waste or compost stocks;
- (iii) using exclusively the categories of waste that can be composted, according to the Regulations;
- (iv) receiving compostable waste accompanied by certificates of compliance with the quality of compostable material.

Moreover, Law 181/2020 also provides certain duties and observation measures to be implemented by the responsible authorities in the field of environment, agriculture and health.

5. Selective collection

In addition to the composting activity, among the most important provisions with immediate impact on environmental protection is the one on selective collection. In this regard, Law 181/2020 establishes that, starting with January 1, 2021, local authorities must implement the system of separate collection of biodegradable waste, extend the separate door-to-door collection of biowaste in urban areas and encourage individual composting in rural households, all of these measures being consolidated by ensuring the compliance with the principle *“pay as you throw”*⁵.

Nevertheless, these environmental protection measures shall be implemented through the joint efforts of the authorities and citizens, the latter having the obligation to deposit the generated biodegradable waste in the indicated spaces or to hand it over to the authorized operators for collection.

⁵ The economic instrument *“pay as you throw”* is already implemented in Romania by Government Emergency Ordinance no. 74/2018 of July 17, 2018 for the amendment and completion of Law no. 211/2011 regarding the waste regime, of Law no. 249/2015 regarding packaging and packaging waste management and of Government Emergency Ordinance no. 196/2005 regarding the Environmental Fund.



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